Appendix A
2007 Initial Study, Notice of Preparation (NOP), and NOP Responses

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Notice of Preparation

DATE: January 8, 2007

TO: Responsible Agencies and Interested Parties

FROM: City of Irvine

SUBJECT: **Notice of Preparation of a Draft Environmental Impact Report**

The City of Irvine will be the Lead Agency and will prepare an environmental impact report for the project identified below. We need to know the views of your agency as to the scope and content of the environmental information which is germane to your agency's statutory responsibilities in connection with the proposed project. Your agency will need to use the EIR prepared by our agency when considering your permit or other approval for the project.

The project description, location, and the probable environmental effects are contained in the attached materials. A copy of the Initial Study is attached. Additional information regarding the IBC Vision Plan and Mixed Use Overlay Zoning Code, including the full Initial Study may be found on the City of Irvine's IBC website at http://www.cityofirvine.org/depts/cd/planningactivities/ibc_graphics.asp

Due to the time limits mandated by State law, your response must be sent at the earliest possible date but ***not later than Thursday, February 22, 2007, at 5:00 p.m. (45-day extended review period)***

Please send your response to the City of Irvine at the address shown below. We will need the name for a contact person in your **agency**.

Project Title: Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36)

Project Applicant, if any: City of Irvine

Scoping Meeting: The City of Irvine will hold the following scoping meetings for stakeholders and the public:

• Public Stakeholder Meeting 1:	Tues., January 23, 2007	8-10 am	Conference and Training Center
• Planning Commission:	Thurs., February 1, 2007	5:30 pm*	Council Chambers
• Public Stakeholder Meeting 2:	Fri., February 16, 2007	9-11 am	Conference and Training Center
• Community Services Commission:	Wed., February 21, 2007	6:30 pm*	Council Chambers
• City Council:	Tues., February 27, 2007	4 pm*	Council Chambers

* Meeting start time. Actual start time for IBC discussion may vary based on scheduling of other items on the agenda

The Council Chambers and Conference and Training Center (CTC) are located at City Hall, One Civic Center Plaza, Irvine CA 92623.

Send Responses to: Bill Jacobs, AICP, Principal Planner, City of Irvine, P.O. Box 19575, Irvine, CA 92623-9575. Email: bjacobs@ci.irvine.ca.us. Telephone: (949) 724-6521. Fax: (949) 724-6440.

CITY OF IRVINE
INITIAL STUDY AND ENVIRONMENTAL EVALUATION

1. **Project Title:** Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code

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 and Phone Number:** Bill Jacobs, AICP, Principal Planner, (949) 724-6521

5. **Project Location:** The 2,800-acre Irvine Business Complex (IBC) is located within the western portion of the City of Irvine in south/central Orange County. More specifically, the IBC is generally bounded by the former Tustin Marine Corps Air Station (MCAS) to the north, the San Diego Creek channel to the east, John Wayne Airport and Campus Drive to the south, and the Costa Mesa (SR 55) Freeway to the west. (see Figure 1, Regional Location and Figure 2, Project Location).

6. **General Plan Designation:** Urban and Industrial

7. **Zoning: 5.0 IBC Mixed-Use,** 5.1 IBC Multi-Use, 5.2 IBC Industrial, and 5.3 (including 5.3 A-D for specific sites) IBC Residential

8. **Description of Project:** Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. (Attach additional sheets if necessary.)

   The proposed project consists of the following components:

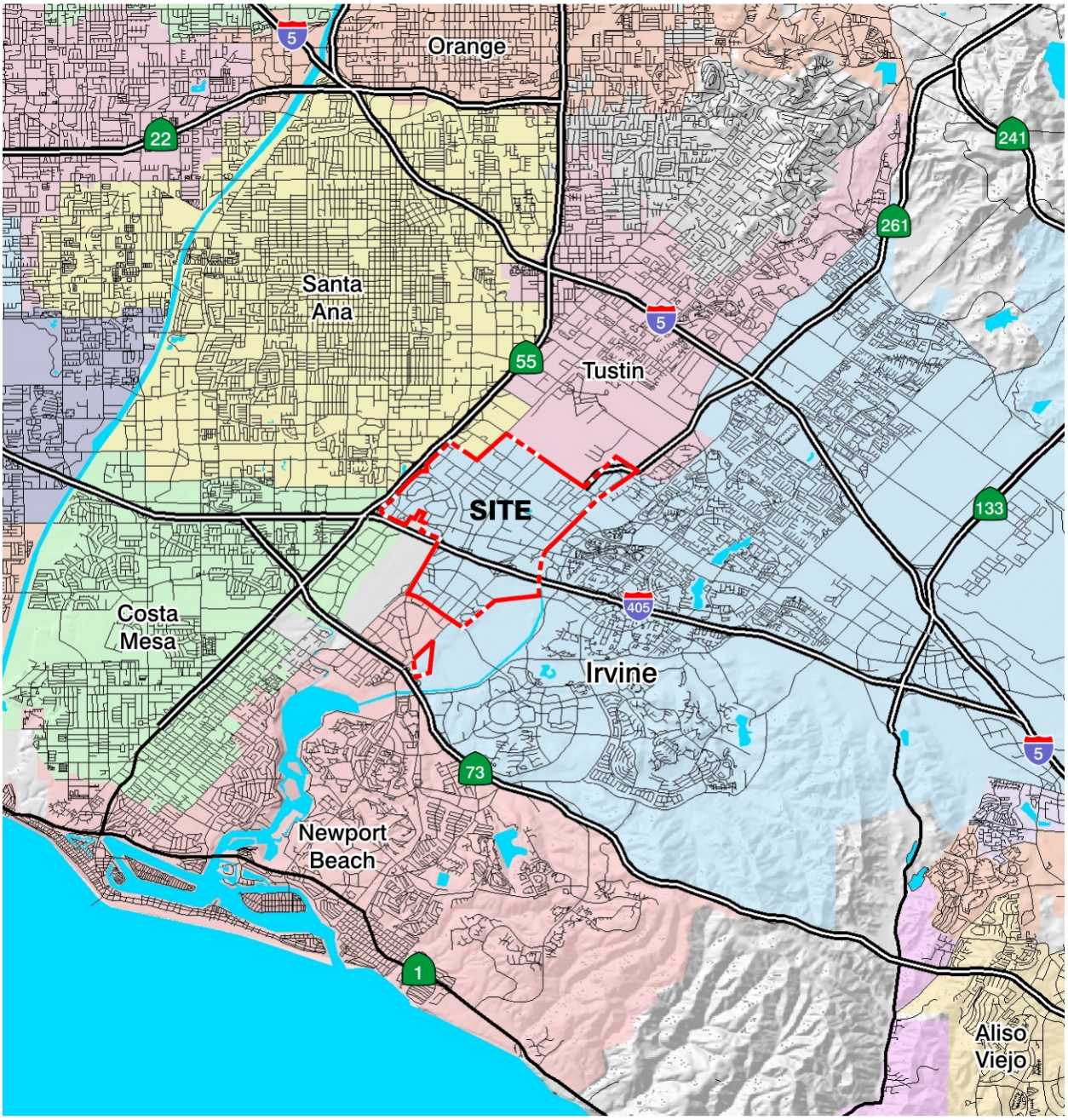
   - Irvine Business Complex (IBC) Residential Vision Plan, which outlines the City's policies and design guidelines for addressing the influx of residential development within the IBC (Figure 3, Vision Framework Plan)

   - IBC Residential Mixed Use Overlay Zoning Code, which defines regulatory zoning districts for properties within the IBC, and outlines a process for analysis of compatibility of residential development with adjacent businesses. (Figure 4, Overlay Zone Regulating Plan)

   - Infrastructure Improvements outlines to improve walkability and connectivity within the IBC, as considered by the City Council on July 25, 2006 (Figure 5, Proposed IBC Infrastructure Improvements)

   The EIR will also review alternatives relating to one or more proposed "Town Center(s)," in which higher densities would be permitted in conjunction with mixed use development as part of a neighborhood corridor.

Regional Location



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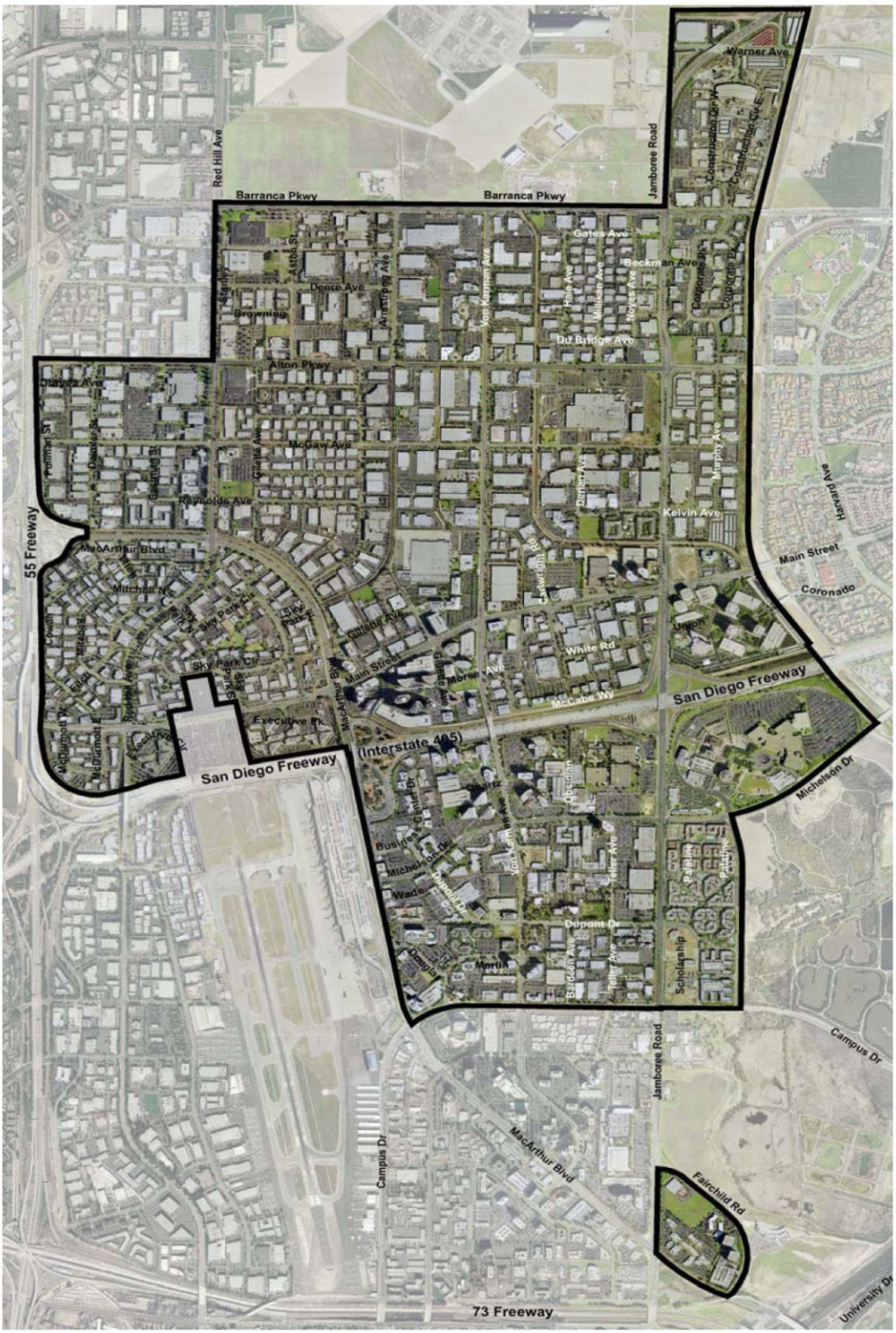
Project Location



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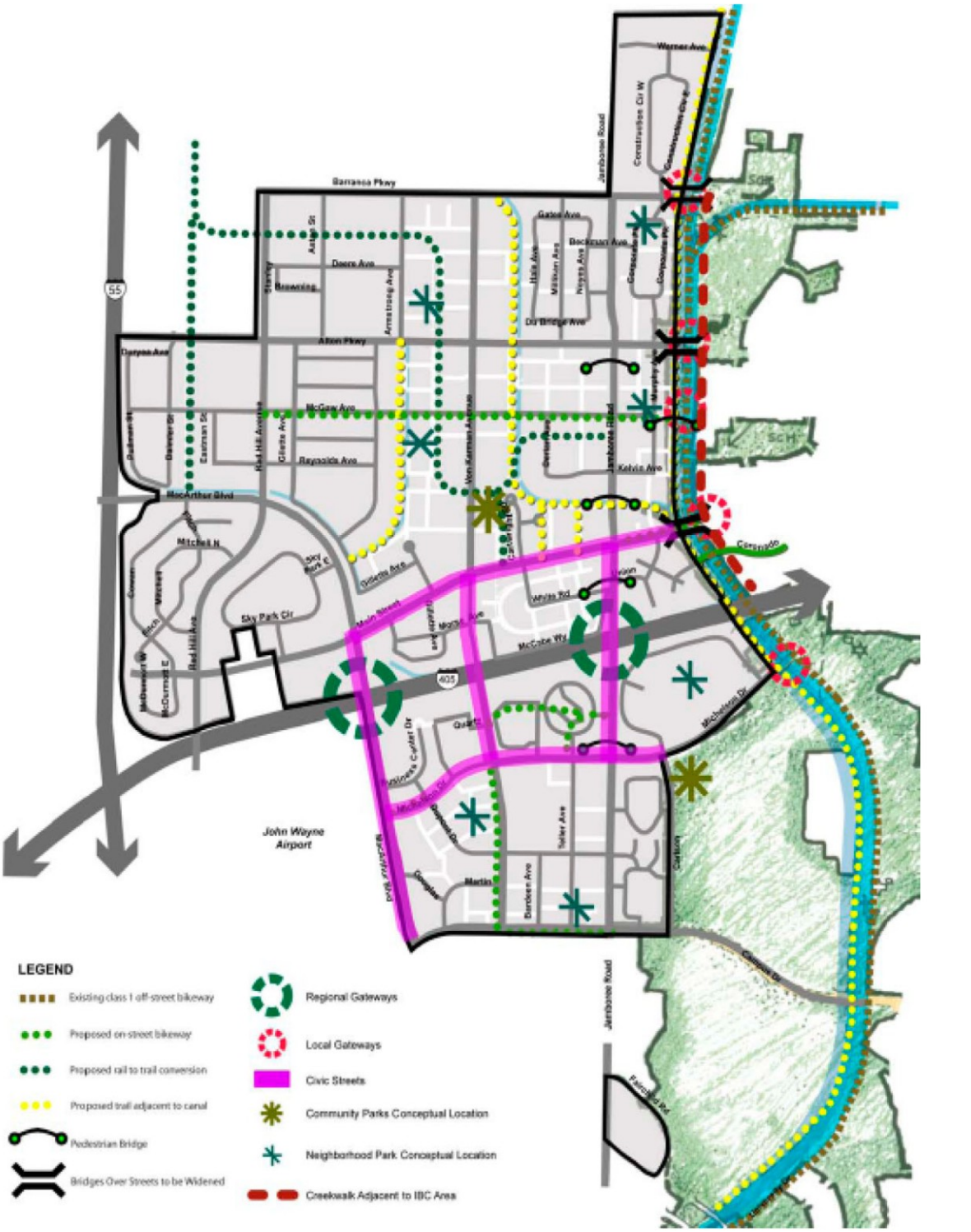
True North

Irvine North Reference

IBC Vision Framework Plan



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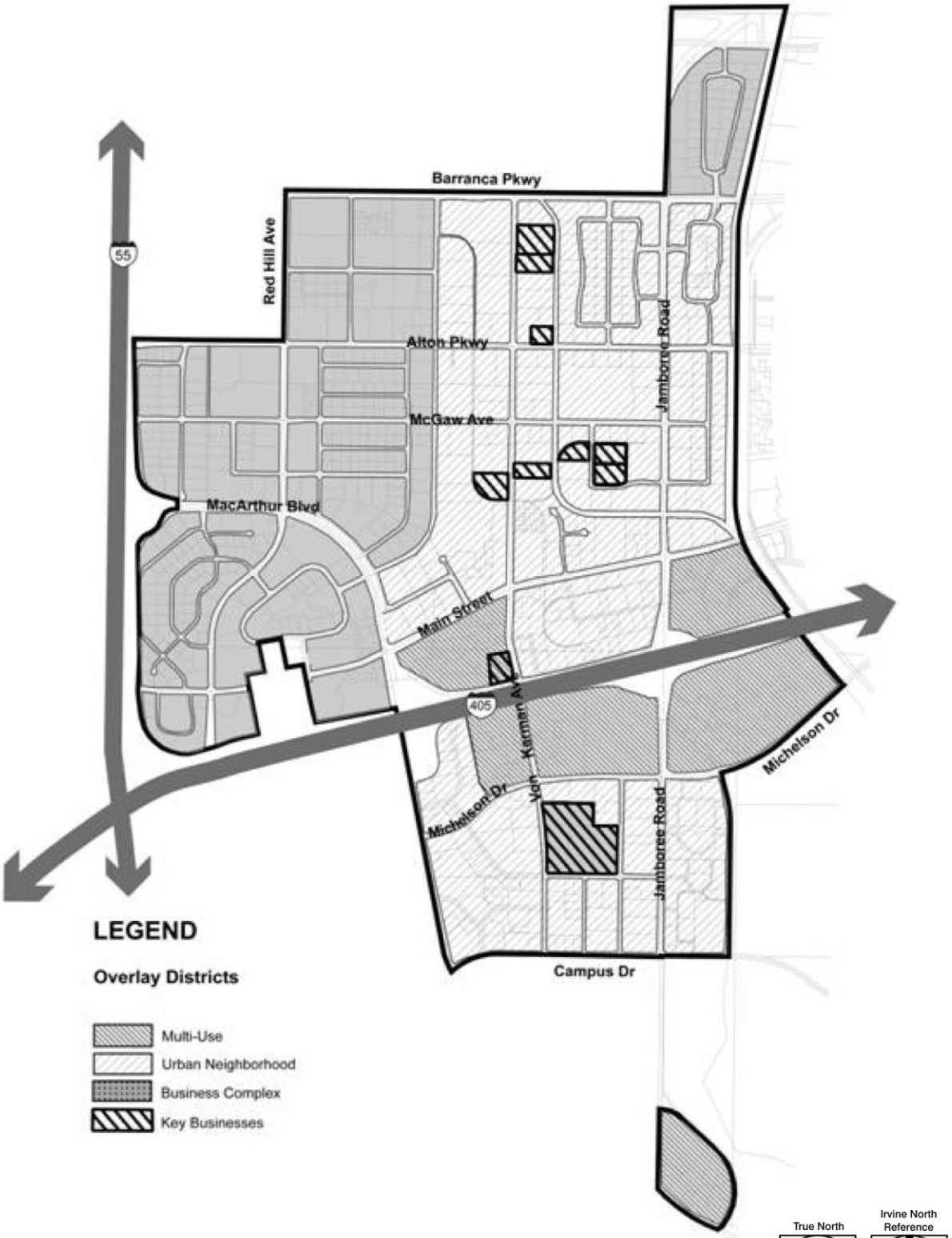
True North

Irvine North Reference

Overlay Zone Regulation Plan



Proposed IBC Infrastructure Improvements

IBC RESIDENTIAL OVERLAY
PROJECT DESCRIPTIONS FOR INFRASTRUCTURE

NO.	IMPROVEMENT	DESCRIPTION
1.	**IBC SHUTTLE OPERATIONS**	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.	**JAMBOREE BRIDGES**	
	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.	**CREEKWALK**	
	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.	**SIDEWALK COMPLETION PROGRAM**	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.	**BRANCH LIBRARY AND PARKING STRUCTURE**	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.	**OPTICOM SYSTEM**	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.

As part of this project, the provisions of the IBC Vision Plan may be incorporated into the City's General Plan, rather than stand alone as a separate policy document, in which case the Vision Plan would be processed as a General Plan Amendment.

The proposed project in and of itself does not permit additional development within the IBC, rather it serves as planning guidance to address the influx of new residential development in the area. Residential projects in the IBC must be processed through the existing City processes, which include a General Plan Amendment and zone change. A total of 3,969 dwelling units currently exist within the IBC. In addition, 4,147 dwelling units have been approved, and 6,291 dwelling units are pending approvals.

For the areas of the proposed Vision Plan in which residential uses are supported (Urban Neighborhood, Multi-use, and potential Town Center districts, and excluding the Business Complex districts on Construction Circle and west of the Armstrong Channel), a total potential of 9,096,017 non-residential square feet and 458 hotel rooms remain to be built based on the existing trip caps for the area. The theoretical conversion of this remaining potential non-residential development to residential units would yield a potential total of 24,535 additional units beyond the 14,407 existing, pending and approved units noted above, assuming a theoretical, but unlikely worst case scenario in which the entire remaining development potential in the IBC would be residential.

Additional information regarding the IBC Vision Plan and Mixed Use Overlay Zoning Code may be found on the City's website at http://www.cityofirvine.org/depts/cd/planningactivities/ibc_graphics.asp.

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 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: *(e.g., permits, financing approval, or participation agreement.)*

1. California Department of Transportation (Caltrans): Encroachment permits may be required if any improvements are proposed within Caltrans right-of-way.

2. Orange County Flood Control Flood Control District (OCFCD): Encroachment permits may be required if any improvements are proposed within OCFCD right-of-way.

Environmental Factors Potentially Affected:

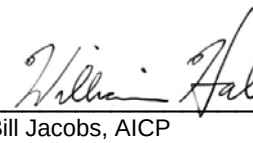
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

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



for

Bill Jacobs, AICP

January 5, 2007

Date

Principal Planner

Title

City of Irvine

For

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 affect has been adequately analyzed in an earlier EIR or negative declaration. Section 1 *5063(* 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
I.	**AESTHETICS:** Would the project:				
	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			
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:				
	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
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**:**				
	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			
IV.	**BIOLOGICAL RESOURCES:** Would the project**:**				
	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	

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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
V. CULTURAL RESOURCES: Would the project**:**				
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			
VI. GEOLOGY AND SOILS: Would the project?				
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.				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			
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

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS: Would the project:				
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
VIII. HYDROLOGY AND WATER QUALITY: Would the project:				
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			
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?	X			
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? 1. Potential impact of project construction on storm water runoff; 2. Potential impact of project's post-construction activity on storm water runoff;	X			

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
3. 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; 4. Potential for discharge of storm water to affect the beneficial uses of the receiving waters; 5. Potential for significant changes in the flow velocity or volume of storm water runoff to cause environmental harm; and 6. Potential for significant increases in erosion of the project site or surrounding areas.				
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 levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X
IX. <u>LAND USE AND PLANNING</u>: Would the project				
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
X. <u>MINERAL RESOURCES</u>: Would the project:				
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
XI. <u>NOISE</u>: Would the project result in**:**				
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	X			

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
in the project vicinity above levels existing without the project?				
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
XII. POPULATION AND HOUSING: Would the project:				
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
XIII. 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:	X			
Fire Protection?	X			
Police Protection?	X			
Schools?	X			
Parks?	X			
Other Public Facilities?	X			
XIV. 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?	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			
XV. TRANSPORTATION/TRAFFIC: Would the project**:**				
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			X	

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
substantial safety risks?				
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			
XVI. UTILITIES AND SERVICE SYSTEMS: Would the project**:**				
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			
XVII. 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?	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	X			

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
substantial adverse effects on human beings, either directly or indirectly?				

SUPPORTING INFORMATION SOURCES

1. City of Irvine General Plan Comprehensive Update. Prepared by the City of Irvine, March 9, 1999.
2. City of Irvine Zoning Ordinance, Supplement No. 50, City of Irvine, California. Published for the City of Irvine, July, 1997.
3. Implementation Agreement Regarding the Natural Community Conservation Plan for the Central/Coastal Orange County Subregion of the Coastal Sage Scrub Natural Community Conservation Program. Prepared for the County of Orange, May 1996.
4. Irvine Master Environmental Assessment (MEA). Prepared by Community Planning Services, Inc. for the City of Irvine, April 1986.

I. AESTHETICS

a, b. No Impact.

The 2,800-acre IBC project area is located in an urbanized area and is currently developed with office, industrial, commercial and residential uses. The proposed project is not located near a state scenic highway and will not have an adverse effect on a scenic vista. As a result, no impacts are anticipated and these issues will not be addressed in the EIR.

c. Potentially Significant Impact.

The 2,800-acre IBC project area is located in an urbanized area and is currently developed with office, industrial, commercial and residential uses. However, the proposed project would allow for the redevelopment of existing industrial buildings for more intense mixed-use development which incorporates more mid- and high-rise residential uses. Further evaluation is required to whether the proposed development plan would result in any significant adverse aesthetic impacts. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

d. Potentially Significant Impact.

The majority of the project area is already developed and currently generates light and glare. However, the proposed project would allow for the redevelopment of existing industrial buildings for more intense mixed-use development which incorporates more mid- and high-rise residential uses. Future residential, mixed-use neighborhoods and non-residential uses would include a variety of outdoor lighting, such as street lights, building-mounted and walkway area security lighting, landscape enhancements and other ornamental lighting, and possibly other light fixtures in parking areas. These new sources of outdoor lighting could substantially change the nighttime character of the project site and could create off-site glare impacts or otherwise adversely affect the aesthetics of this area, as viewed from surrounding areas. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

II. AGRICULTURE RESOURCES

a, c. No Impact.

No agricultural zoning or operations exist within the vicinity of the project area and the site is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. The proposed project would not result in the conversion of Farmland to nonagricultural use. As a result, no impacts are anticipated to the environment and this impact will not be discussed in the IBC EIR.

b. No Impact.

The proposed IBCRMU Overlay Zone proposes a mix of industrial, office, retail, and upscale high-density urban housing. None of the lands included in the project area are currently under Williamson Act contract. As a result, there is no impact to the environment and this impact will not be discussed in the IBC EIR.

II. 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. Potentially Significant Impact.

This project will increase residential intensity within Planning Area 36. Further evaluation is required to determine whether this project will conflict with the adopted South Coast Air Quality Management Plan (AQMP). Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

b, c. Potentially Significant Impact.

An air quality analysis is required to determine if the potential mobile and stationary air emissions associated with the project would violate any air quality standard or contribute substantially to an existing or projected air quality violation. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

d. Potentially Significant Impact.

An air quality analysis is required to determine if the potential mobile and stationary air emissions associated with the project could result in exposure of sensitive receptors to significant concentrations of air pollutants. This evaluation will need to address potential impacts to sensitive receptors in nearby communities and any other sensitive receptor locations that would be exposed on a recurring basis to substantial air emissions associated with this project. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

e. Potentially Significant Impact.

Future residential development could involve minor odor-generating activities such as barbeque smoke, lawn mower exhaust, application of exterior paints, etc. A reduction in industrial land uses could lead to odor generating activities related to development of other permitted land uses. As a result, further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

III. BIOLOGICAL RESOURCES

a, b. Less Than Significant Impact.

The 2,800-acre proposed project consists of a Vision Plan and Mixed Use Overlay Zoning Code to address residential development in the 2,800 acre IBC. The project site is developed with industrial, office, retail, and residential uses and is surrounded by urban uses. The proposed infrastructure improvements for the area include a Creek-walk adjacent to the San Diego Creek. The creek contains habitat that would support sensitive species which may include federal or State threatened or endangered species However, no development is proposed within the creek channel, and potential indirect impacts of development of the Creekwalk on property adjacent to the creek is anticipated to be less than significant though control of runoff per existing federal, state and local regulations.

c, d No Impact.

The project site itself is already developed with industrial, office, retail, and residential uses. The IBC does not contain any riparian habitat, riparian vegetation, wetlands 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. As a result, no impacts to sensitive, special status species or federally protected wetlands are anticipated.

e. Less Than Significant Impact.

The City of Irvine general plan does not identify any biotic resources in the vicinity of the project site (Source 1, Figure L-4). The project will not affect any protected biological resources. Decorative trees are found throughout the project site, and along the perimeter, however they are not protected specimens. Implementation of the project will comply with the City of Irvine's Urban Forestry Ordinance. Therefore, implementation of the project will not cause any significant impacts related to these issues.

f. No Impact.

The NCCP for the Central/Coastal Subregion does not designate any sites within the project area for preservation or for open space uses (Source 1, Figure L-4). As a result, the proposed project will not conflict with adopted NCCP/HCP or other habitat conservation plan, and no impacts are anticipated.

IV. CULTURAL RESOURCES

a, b. Potentially Significant Impact.

Historical/archaeological sites are known to exist in the project area. (Source: 1). Historical landmarks on the site include, Michelson Vacuum Tube (Speed of Light experiments), located near the intersection of MacArthur and Fitch; and the Martin Airport, the original site of the Orange County Airport located near Main Street and Red Hill Avenue. Although the 2,800-acre project area is developed and previously disturbed, archeological artifacts could potentially include remains of temporary gathering places or long-term settlements for indigenous Native American cultures who once inhabited central/coastal Orange County. Future site development and redevelopment also has the potential to affect Native American cultural values as well. Therefore, pursuant to Objective E-1 of the Irvine General Plan Cultural Resources Element, a cultural resources survey and report, conducted by a professional archaeologist, is required to determine whether there are known or potential areas of archaeological significance that could be threatened by the proposed development of the project area. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

c. Potentially Significant Impact.

The project area is located within a low, paleontological sensitivity zone as designated by Figure E-2 of the General Plan. Nonetheless, there is the potential that paleontological resources on-site, including those which may be located in sub-surface deposits, could be exposed and impacted during development when grading activities will disturb two feet below the existing ground surface. Therefore, pursuant to Objective E-1 of the Irvine General Plan Cultural Resources Element, a paleontological resources survey and report, conducted by a professional paleontologist, is required to determine the significance of these resources that could be threatened by the proposed development plan. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible. (Source: 1)

d. Potentially Significant Impact.

No known human burial sites are located on or in the surrounding areas of the proposed project. However, further evaluation in the EIR is required to determine if the project has the potential to disturb human remains, the level of significance, and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

V. GEOLOGY AND SOILS

a. i. No Impact.

The project site is not located within a designated Alquist-Priolo Zone thus no impacts due to fault rupture are anticipated. (Source: 1)

ii. Potentially Significant Impact.

The site is located within a seismically active area and is expected to be subject to strong seismic ground shaking. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible. (Source: 1)

iii, iv. Potentially Significant Impact.

The site is located within Seismic Response Areas (SRA) 1, 2, and 5, as designated by the City of Irvine General Plan Seismic Element (Figure D-3). SRA-1 consists of soft soil with high groundwater and is considered to have a greater potential for ground failure in the form of liquifaction. SRA-2 areas consist of denser soils with deeper ground water and localized liquefaction potential is remote. SRA-5 areas are generally less stable geologic formations representing existing mapped landslide areas. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible. (Source: 1)

b. Potentially Significant Impact.

The project area consists of 2,800 acres of developed land. Further evaluation in the EIR is required to determine if the project would result in substantial erosion or loss of topsoil, the level of significance, if any, and to identify mitigation measures which reduce impacts to below a level of significance, if possible. (Source: 1).

c, d Potentially Significant Impact.

The site is located within Seismic Response Areas (SRA) 1, 2, and 5, as designated by the City of Irvine General Plan Seismic Element (Figure D-3). As indicated above, some areas within the project site could contain geologically unstable soil. Therefore, further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible. (Source: 1)

e. No Impact.

The project area is currently developed and sewer service is provided by the Irvine Ranch Water District. No septic systems would be required and no impacts are anticipated.

VI. HAZARDS AND HAZARDOUS MATERIALS

a. Potentially Significant Impact.

The routine transport, use or disposal of hazardous materials is primarily associated with industrial land uses. The IBCRMU Overlay Zone proposes establishing districts and development standards for the transition of certain portions of the IBC from exclusively industrial and/or office uses into mixed-use districts that accommodate office, residential and protect existing businesses. Therefore, further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

b, d. Potentially Significant Impact.

Further analysis is necessary to characterize the existing conditions within the project area with respect to past and current activities involving the handling, use, storage, transport or emission of hazardous materials. Based on the findings, it can be determined whether the proposed project could involve a risk of release of hazardous materials into the environment. Therefore, further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

c. Potentially Significant Impact.

No release of hazardous materials within ¼ mile of an existing or proposed school is anticipated, however, further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

e. Potentially Significant Impact.

The southwest boundary of the project site is adjacent to the John Wayne Airport and is located within the Orange County Airport Environs Land Use Plan (AELUP). The majority of the site is located outside of the accident potential zones as designated in Figure J-4 of the City of Irvine General Plan; however, a small portion is within the clear zone. Therefore, further evaluation in the EIR is necessary to determine if the project would result is a safety hazard for people residing or working in the project area. (Source 1)

f. No Impact.

There are no private airstrips are located in the vicinity of the project area. Therefore development in this area would not cause a safety hazard as a result of a private airstrip.

g. Potentially Significant Impact.

The IBCRMU Overlay Zone proposes establishing districts and development standards for the transition of certain portions of the IBC from exclusively industrial and/or office uses into mixed-use districts that accommodate office, residential and protect existing businesses. Further evaluation in the EIR is required to determine the impact to emergency access, if any, the level of significance, and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

h. No Impact.

The IBC (Planning Area 36) project area currently consists of flat, graded land. The site is surrounded by urban development and is not adjacent to, or intermixed with, wildlands. The project area is not located within a High Fire Severity Hazard area as designated by the City of Irvine General Plan Safety Element

(Figure J-2, Source 1). Introduction of residential development into this landscape will not increase the potential for such hazards within the development areas. As a result, there is no impact to the environment and this impact will not be discussed in the IBC EIR.

VII. HYDROLOGY AND WATER QUALITY

a. Potentially Significant Impact.

A hydrological analysis of the existing and post-development hydrology is required to determine whether this project could result in the violation of any water quality standards or waste discharge requirements. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

b. Potentially Significant Impact.

The IBC is an urbanized, developed area with a high percentage of impervious surfaces**.** Implementation of the proposed project would not result in the covering of pervious surfaces so as to interfere substantially with groundwater recharge. However, portions of the IBC consist of soft soils with high groundwater and future development could interfere with groundwater levels. As a result, a hydrological analysis of the existing and post-development hydrology is required to determine whether this project would substantial impact groundwater recharge. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

c. Potentially Significant Impact.

Further analysis of the existing and post-development hydrology is required to determine whether this project could result in significant impacts to erosion or siltation on- or off-site. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

d. Potentially Significant Impact.

Future development in accordance with the proposed project is not expected to alter current water courses, or affect the course or direction of water movements during storm conditions. However, further analysis of the existing and post-development hydrology is required to determine whether this project could result in significant impacts due to alteration of the course or direction of existing water courses, or flooding. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

e. Potentially Significant Impact.

The IBC is an urbanized, developed area with existing storm water drainage systems. Future development of project area in accordance with the proposed IBCRMU Overlay Zone is not expected to change absorption rates, drainage patterns and the rate and amount of surface runoff, compared to the current already developed condition. However, analysis of existing and post-development hydrology is required to determine whether such changes would result in significant impacts on or off-site, including downstream storm drainage facilities. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

f. Potentially Significant Impact.

Further analysis of the existing and post-development hydrology is required to determine whether this project could result in significant impacts to surface water quality. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

g, h. Potentially Significant Impact.

Portions of the project site are located within a 100-year flood hazard area as designated in Figure J-3 of the City's General Plan. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible. (Source: 1)

i. No Impact.

The project area is not located within a Dam Inundation Area therefore no further assessment of this issue is warranted.

j. No Impact.

The project area is located several miles inland from the Pacific Ocean and is not subject to tsunami hazard. No reservoirs are located in the project area and the site consists of flat topography. As a result, no further assessment of this issue is warranted.

VIII. LAND USE AND PLANNING

a. Potentially Significant Impact

The IBCRMU Overlay Zone proposes establishing districts and development standards to address the market transition of certain portions of the IBC from exclusively industrial and/or office uses into mixed-use districts that accommodate office, residential and protect existing businesses. The IBCRMU Overlay Zone would potentially decrease nonresidential square footage in the IBC (PA 36) and allow the development of non-industrial uses. The proposed project is generally consistent with the existing mixed-use nature of the IBC. However, given the original industrial and commercial nature of the IBC area, the transition to residential land uses could potentially divide the existing non-residential community. While the proposed project does not in itself approve specific residential development within the IBC, it does propose standards and guidelines for new residential development approved under a separate General Plan Amendment and Zone Change process, and as such, could create a potentially significant impact through division of land uses in the community, which would require further analysis in the EIR

b. Potentially Significant Impact.

The General Plan land use designation for the IBC is Urban and Industrial. The zoning designations are 5.0 IBC Mixed Use, 5.1 IBC Multi-Use, 5.2 IBC Industrial, and 5.3 (including 5.3 A-D for specific sites) IBC Residential. The proposed project consists of the Draft Irvine Business Complex (IBC) Residential Vision Plan, which outlines the City's policies and design guidelines for addressing the influx of residential development within the IBC; Draft IBC Residential Mixed Use Overlay Zoning Code, which defines regulatory zoning districts for properties within the IBC, and outlines a process for analysis of compatibility of residential development with adjacent businesses; Infrastructure Improvements are also proposed to improve walkability and connectivity within the IBC; and EIR alternatives relating to one or

more proposed “Town Centers," in which higher densities would be permitted in conjunction with mixed use development as part of a neighborhood corridor. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible. (Sources: 1,2)

c. 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 this site for preservation or open space uses. Therefore, no impacts are anticipated. (Source 1, Figures L-2 and L-3)

IX. MINERAL RESOURCES

a, b. No Impact.

The project area is urbanized and is developed with office, retail, residential and industrial uses and is surrounded by similar uses. The project area and surrounding areas are not recognized as sources of important mineral resources. (Source: 1) Therefore, this project would have no impact on such resources.

X. NOISE

a, b, c, d, e. Potentially Significant Impact.

A Noise Study is required to develop models of existing and future traffic-related noise levels along the adjacent roadways and freeways, and to estimate construction-related noise where construction activities would occur near existing sensitive receptors. The noise study will need to determine whether such stationary and mobile noise levels would expose persons to severe noise levels, on or off-site. If significant noise impacts are identified, measures to avoid or reduce such impacts to less than significant will also need to be developed, if possible. The project is also located within 2 miles or less of the John Wayne Airport, a public airport. As a result, further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

f. No Impact.

The project is not located within the vicinity of a private airstrip and no potential impacts are anticipated.

XI. POPULATION AND HOUSING

a. Potentially Significant Impact.

The proposed project consists of a Vision Plan and Mixed Use Overlay Zoning Code to allow for a total of 14,407 dwelling units and 53,620,284 square feet of non-residential square footage within the 2,800-acre IBC (PA 36). Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

b, c. No Impact

The proposed project would not displace any housing or a substantial number of people necessitating the construction of replacement housing elsewhere. The proposed project consists of a Vision Plan and

Mixed Use Overlay Zoning Code to allow for a total of 14,407 dwelling units and 53,620,284 square feet of non-residential square footage within the 2,800-acre IBC. As a result, no impacts are anticipated.

XII. PUBLIC SERVICES

a, b, c, d, e. Potentially Significant Impact.

Development of additional residential units in the IBC would increase the demand for public services, including fire protection, police protection/law enforcement and local schools and libraries. Consultation with the Orange County Fire Authority, the Irvine Police Department, and the Irvine Unified School District, Tustin Unified School District and Santa Ana Unified School District is required to estimate the level and type of demand associated with additional residential development, to determine the type and significance of impacts to existing and planned levels of service, and to develop measures to avoid or reduce potentially significant impacts to less than significant, if possible. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

XIII. RECREATION

a, b. Potentially Significant Impact.

Development of additional residential units in the IBC would increase the demand for parks and recreational facilities, of various types. However, future residential uses will be required to dedicate parkland including a variety of public and private recreation areas that would serve the future on-site population, in accordance wit the City of Irvine's standard of five acres of parks for every 1,000 residents. Therefore, it is expected that potential impacts will be mitigated through compliance with the City's parkland dedication ordinance. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce potential impacts to below a level of significance, if possible.

XIV. TRANSPORTATION/TRAFFIC

a, b. Potentially Significant Impact.

The IBCRMU Overlay Zone proposes establishing districts and development standards to address the transition of certain portions of the IBC from exclusively industrial and/or office uses into mixed-use districts that accommodate office, residential and protect existing businesses.. A comprehensive traffic impact study is required to evaluate the traffic generation and distribution associated with this potential level of development to determine where significant congestion is likely to occur. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

c. Less than Significant Impact

The proposed project will no have a significant impact on air traffic patterns. Regional air traffic demands would be accommodated by Los Angeles International Airport, John Wayne Airport, Ontario Airport, Long Beach Airport, and San Diego International Airport. As a result, less than significant impacts are anticipated and no further assessment of this issue is warranted.

d. No Impact.

The City has adopted roadway design standards which would preclude the construction of any unsafe design features. Therefore, no impact is anticipated and this impact will not be discussed in the EIR.

e. Potentially Significant Impact.

Further evaluation is required to determine whether the traffic generated by future development of the IBC, as proposed, could result in inadequate emergency access within the project site, or to nearby land uses. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

f. Potentially Significant Impact.

Future development will be required to provide adequate parking, on-site, in accordance with the City of Irvine Zoning Ordinance standards. However, the State of California's density bonus law (SB 1818– Government Code Section 65915) allows applicants who provide at least five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code, to provide reduced parking rates on site upon request of the applicant. The State's density bonus law supersedes local parking codes by establishing State parking standards. The State parking standards are applicable to the entire project, not just the affordable units. Those State rates equate to one space per one-bedroom unit and two spaces per two-bedroom unit, inclusive of guest and handicapped parking. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

XV. UTILITIES AND SERVICE SYSTEMS

a. Potentially Significant Impact.

The proposed development of additional residential dwelling units would substantially increase the generation of wastewater. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

b. Potentially Significant Impact.

Future development of the IBC would substantially increase the demand for water and wastewater treatment services. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

c. Potentially Significant Impact.

A hydrology study will be prepared as part of the EIR to determine whether existing stormdrain facilities will adequately collect and convey developed site runoff without any significant impact to off-site storm drain facilities, or if new facilities would be needed to handle the runoff from the developed site. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

d. Potentially Significant Impact.

Future development of the IBC would generate a substantial demand for water for domestic and irrigation purposes. The potential volume of this demand needs to be estimated and compared to existing and planned water supplies, to determine whether development of the IBC would result in significant impacts on local or regional water supplies. Communication with the Irvine Ranch Water District is needed to discuss this project's impact on their water supplies and to determine whether provision of adequate water service to the project would necessitate the construction or expansion of any major water treatment or distribution facilities. Further evaluation in the EIR is required to determine

the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

e. Potentially Significant Impact.

Future development of the IBC would generate a substantial volume of wastewater on a daily basis. The potential volume of wastewater needs to be estimated and compared to existing and planned off-site sewer capacities, to determine whether development of IBC would exceed such capacities. Consultation with the Irvine Ranch Water District and the Orange County Sanitation District is also required to determine whether provision of adequate sewer service to the IBC would necessitate the construction or expansion of any major sewage treatment or collection facilities. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

f,g. Potentially Significant Impact.

Future residential development in the IBC would generate a substantial volume of solid waste on a recurring basis. This volume needs to be estimated and an analysis made of the impact of this solid waste stream on the City of Irvine's ability to comply with its obligations to reduce disposal at landfills, pursuant to AB 939. Further evaluation in the EIR is required to determine the level of significance and to identify mitigation measures which reduce impacts to below a level of significance, if possible.

XVI. MANDATORY FINDINGS OF SIGNIFICANCE

a. Potentially Significant Impact.

Potentially significant biological impacts are unlikely because the project area is located within a developed urban area and there are no rare or endangered plants or animal species within the project area. Based on the preceding responses, however, this project has the potential to degrade the quality of the environment, and may impact important archaeological and historical resources, which requires further analysis within an EIR.

b. Potentially Significant Impact.

Further analysis is needed to estimate the extent and significance of potential cumulative impacts resulting from the combined effects of the proposed project plus other past, present and reasonably foreseeable future projects.

c. Potentially Significant Impact.

Based on the preceding responses, this project would result in environmental effects which could result in substantial adverse impacts to human beings, either directly or indirectly which requires further analysis within an EIR.

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit

Arnold Schwarzenegger
Governor

Cynthia Bryant
Director

Notice of Preparation

January 8, 2007

To: Reviewing Agencies

Re: Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36)
SCH# 2007011024

Attached for your review and comment is the Notice of Preparation (NOP) for the Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36) draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Bill Jacobs
City of Irvine
P.O. Box 19575
Irvine, CA 92623-9575

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

for Scott Morgan
Senior Planner, State Clearinghouse

Attachments
cc: Lead Agency

Document Details Report
State Clearinghouse Data Base

SCH# 2007011024
Project Title Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36)
Lead Agency Irvine, City of

Type NOP Notice of Preparation

Description Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code for Planning Area 36 which could yield a potential total of 24,535 additional units beyond the 14,407 existing, pending and approved units, assuming a theoretical, but unlikely, worst case scenario within the 2,800 acre IBC.

Lead Agency Contact

Name Bill Jacobs
Agency City of Irvine
Phone 949-724-6521 **Fax**
email
Address P.O. Box 19575
City Irvine **State** CA **Zip** 92623-9575

Project Location

County Orange
City Irvine
Region
Cross Streets Planning Area 36 - Irvine Business Complex (IBC)
Parcel No.
Township **Range** **Section** **Base**

Proximity to:

Highways I-405, SR-55
Airports John Wayne Airport
Railways
Waterways San Diego Creek
Schools
Land Use Office, Light Industrial, Retail, Residential / 5.1 IBC Industrial, 5.3 IBC Residential/Urban and Industrial

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wetland/Riparian; Water Supply; Wildlife; Landuse

Reviewing Agencies Resources Agency; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Game, Region 5; Department of Health Services; Office of Emergency Services; Native American Heritage Commission; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 12; Air Resources Board, Major Industrial Projects; Integrated Waste Management Board; Department of Toxic Substances Control; Regional Water Quality Control Board, Region 4

Date Received 01/08/2007 **Start of Review** 01/08/2007 **End of Review** 02/06/2007

Note: Blanks in data fields result from insufficient information provided by lead agency.

NOP Distribution List

County: Orange

SCH# 2007011024

Resources Agency

- [x] **Resources Agency**
  Nadell Gayou
- [ ] **Dept. of Boating & Waterways**
  David Johnson
- [ ] **California Coastal Commission**
  Elizabeth A. Fuchs
- [ ] **Colorado River Board**
  Gerald R. Zimmerman
- [ ] **Dept. of Conservation**
  Roseanne Taylor
- [ ] **California Energy Commission**
  Paul Richins
- [ ] **Dept. of Forestry & Fire Protection**
  Allen Robertson
- [x] **Office of Historic Preservation**
  Wayne Donaldson
- [x] **Dept of Parks & Recreation**
  Environmental Stewardship Section
- [ ] **Reclamation Board**
  DeeDee Jones
- [ ] **S.F. Bay Conservation & Dev't. Comm.**
  Steve McAdam
- [x] **Dept. of Water Resources**
  Resources Agency
  Nadell Gayou
- [ ] _____
  Conservancy

Fish and Game

- [ ] **Depart. of Fish & Game**
  Scott Flint
  Environmental Services Division
- [ ] **Fish & Game Region 1**
  Donald Koch
- [ ] **Fish & Game Region 2**
  Banky Curtis
- [ ] **Fish & Game Region 3**
  Robert Floerke
- [ ] **Fish & Game Region 4**
  Julie Vance
- [x] **Fish & Game Region 5**
  Don Chadwick
  Habitat Conservation Program
- [ ] **Fish & Game Region 6**
  Gabrina Gatchel
  Habitat Conservation Program
- [ ] **Fish & Game Region 6 I/M**
  Gabrina Getchel
  Inyo/Mono, Habitat Conservation Program
- [ ] **Dept. of Fish & Game M**
  George Isaac
  Marine Region

Other Departments

- [ ] **Food & Agriculture**
  Steve Shaffer
  Dept. of Food and Agriculture
- [ ] **Depart. of General Services**
  Public School Construction
- [ ] **Dept. of General Services**
  Robert Sleppy
  Environmental Services Section
- [x] **Dept. of Health Services**
  Veronica Malloy
  Dept. of Health/Drinking Water

Independent Commissions,Boards

- [ ] **Delta Protection Commission**
  Debby Eddy
- [x] **Office of Emergency Services**
  Dennis Castrillo
- [ ] **Governor's Office of Planning & Research**
  State Clearinghouse
- [x] **Native American Heritage Comm.**
  Debbie Treadway
- [ ] **Public Utilities Commission**
  Ken Lewis
- [ ] **State Lands Commission**
  Jean Sarino
- [ ] **Tahoe Regional Planning Agency (TRPA)**
  Cherry Jacques

Business, Trans & Housing

- [x] **Caltrans - Division of Aeronautics**
  Sandy Hesnard
- [ ] **Caltrans - Planning**
  Terri Pencovic
- [x] **California Highway Patrol**
  Shirley Kelly
  Office of Special Projects
- [ ] **Housing & Community Development**
  Lisa Nichols
  Housing Policy Division

Dept. of Transportation

- [ ] **Caltrans, District 1**
  Rex Jackman
- [ ] **Caltrans, District 2**
  Marcelino Gonzalez
- [ ] **Caltrans, District 3**
  Jeff Pulverman
- [ ] **Caltrans, District 4**
  Tim Sable
- [ ] **Caltrans, District 5**
  David Murray
- [ ] **Caltrans, District 6**
  Marc Birnbaum
- [ ] **Caltrans, District 7**
  Cheryl J. Powell
- [ ] **Caltrans, District 8**
  Dan Kopulsky
- [ ] **Caltrans, District 9**
  Gayle Rosander
- [ ] **Caltrans, District 10**
  Tom Dumas
- [ ] **Caltrans, District 11**
  Mario Orso
- [x] **Caltrans, District 12**
  Bob Joseph

Cal EPA

Air Resources Board

- [ ] Airport Projects
  Jim Lerner
  - [ ] Transportation Projects
    Ravi Ramalingam
  - [x] Industrial Projects
    Mike Tollstrup
- [x] **California Integrated Waste Management Board**
  Sue O'Leary
- [ ] **State Water Resources Control Board**
  Jim Hockenberry
  Division of Financial Assistance
- [ ] **State Water Resources Control Board**
  Student Intern, 401 Water Quality Certification Unit
  Division of Water Quality
- [ ] **State Water Resouces Control Board**
  Steven Herrera
  Division of Water Rights
- [x] **Dept. of Toxic Substances Control**
  CEQA Tracking Center
- [ ] **Department of Pesticide Regulation**

Regional Water Quality Control Board (RWQCB)

- [ ] **RWQCB 1**
  Cathleen Hudson
  North Coast Region (1)
- [ ] **RWQCB 2**
  Environmental Document Coordinator
  San Francisco Bay Region (2)
- [ ] **RWQCB 3**
  Central Coast Region (3)
- [x] **RWQCB 4**
  Teresa Rodgers
  Los Angeles Region (4)
- [ ] **RWQCB 5S**
  Central Valley Region (5)
  - [ ] **RWQCB 5F**
    Central Valley Region (5)
    Fresno Branch Office
  - [ ] **RWQCB 5R**
    Central Valley Region (5)
    Redding Branch Office
- [ ] **RWQCB 6**
  Lahontan Region (6)
  - [ ] **RWQCB 6V**
    Lahontan Region (6)
    Victorville Branch Office
- [ ] **RWQCB 7**
  Colorado River Basin Region (7)
- [ ] **RWQCB 8**
  Santa Ana Region (8)
- [ ] **RWQCB 9**
  San Diego Region (9)

- [ ] **Other** _____

Last Updated on 09/10/06

Bill Jacobs

From: Sandybesser@aol.com
Sent: Tuesday, January 16, 2007 8:54 PM
To: Bill Jacobs
Subject: Jamboree Village

Mr. Jacobs:

"Jamboree Village" sounds like they couldn't think of anything else. Village sounds corny, trite, and just plain overused. In Orange, we're already stuck with the mouthfull, The Village at Orange. And, isn't there also an Old World Village? We're in the 21st Century already, aren't we? How about some dynamism, and some synergy over there? I would consider Vantage or Summit, like in Jamboree Vantage.

Sandy Besser
Orange
(714) 921-2101

South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov

January 17, 2007

Mr. Bill Jacobs, AICP, Principal Planner
City of Irvine
P.O. Box 19575
Irvine, CA 92623-9575

Dear Mr. Jacobs:

Notice of Preparation of a Draft Environmental Impact Report for Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36)

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The SCAQMD's comments are recommendations regarding the analysis of potential air quality impacts from the proposed project that should be included in the Draft Environmental Impact Report (EIR). Please send the SCAQMD a copy of the Draft EIR upon its completion. In addition, please send with the Draft EIR all appendices or technical documents related to the air quality analysis and electronic versions of all air quality modeling and health risk assessment files.

Air Quality Analysis

The SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. The SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from the SCAQMD's Subscription Services Department by calling (909) 396-3720. Alternatively, the lead agency may wish to consider using the California Air Resources Board (CARB) approved URBEMIS 2002 Model. This model is available on the SCAQMD Website at: www.aqmd.gov/ceqa/models.html.

The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., boilers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

The SCAQMD has developed a methodology for calculating PM2.5 emissions from construction and operational activities and processes. In connection with developing PM2.5 calculation methodologies, the SCAQMD has also developed both regional and localized significance thresholds. The SCAQMD requests that the lead agency quantify PM2.5 emissions and compare the results to the recommended PM2.5 significance thresholds. Guidance for calculating PM2.5 emissions and PM2.5 significance thresholds can be found at the following internet address: http://www.aqmd.gov/ceqa/handbook/PM2_5/PM2_5.html.

In addition to analyzing regional air quality impacts the SCAQMD recommends calculating localized air quality impacts and comparing the results to localized significance thresholds (LSTs). LST's can be used in addition to the recommended regional significance thresholds as a second indication of air quality impacts when preparing a CEQA document. Therefore, when preparing the air quality analysis for the proposed project, it is recommended that the lead agency perform a localized significance analysis by either using the LSTs developed by the SCAQMD or performing dispersion modeling as necessary. Guidance for performing a localized air quality analysis can be found at http://www.aqmd.gov/ceqa/handbook/LST/LST.html.

It is recommended that lead agencies for projects generating or attracting vehicular trips, especially heavy-duty diesel-fueled vehicles, perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis") can be found on the SCAQMD's CEQA webpages at the following internet address: http://www.aqmd.gov/ceqa/handbook/mobile_toxic/mobile_toxic.html. An analysis of all toxic air contaminant impacts due to the decommissioning or use of equipment potentially generating such air pollutants should also be included.

Mitigation Measures

In the event that the project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate significant adverse air quality impacts. To assist the Lead Agency with identifying possible mitigation measures for the project, please refer to Chapter 11 of the SCAQMD CEQA Air Quality Handbook for sample air quality mitigation measures. Additional mitigation measures can be found on the SCAQMD's CEQA webpages at the following internet address: www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html Additionally, SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook contain numerous measures for controlling construction-related emissions that should be considered for use as CEQA mitigation if not otherwise required. Other measures to reduce air quality impacts from land use projects can be found in the SCAQMD's Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning. This document can be found at the following internet address: http://www.aqmd.gov/prdas/aqguide/aqguide.html. In addition, guidance on siting incompatible land uses can be found in the California Air Resources Board's Air Quality and Land Use Handbook: A Community Perspective, which can be found at the following internet address: http://www.arb.ca.gov/ch/handbook.pdf. Pursuant to state CEQA Guidelines §15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed.

Data Sources

SCAQMD rules and relevant air quality reports and data are available by calling the SCAQMD's Public Information Center at (909) 396-2039. Much of the information available through the Public Information Center is also available via the SCAQMD's World Wide Web Homepage (http://www.aqmd.gov).

The SCAQMD is willing to work with the Lead Agency to ensure that project-related emissions are accurately identified, categorized, and evaluated. Please call Charles Blankson, Ph.D., Air Quality Specialist, CEQA Section, at (909) 396-3304 if you have any questions regarding this letter.

Sincerely,

Steve Smith

Steve Smith, Ph.D.
Program Supervisor, CEQA Section
Planning, Rule Development and Area Sources

SS:CB:li

ORC070116-01LI
Control Number

STATE OF CALIFORNIA Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
www.nahc.ca.gov
ds_nahc@pacbell.net

January 11, 2007

Mr. Bill Jacobs
City of Irvine
P.O. Box 19575
Irvine, CA 92623-9575

Re: SCH# 2007011024; CEQA Notice of Preparation (NOP) for the draft Environmental Impact Report (DEIR) for Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code for Planning Area 36; City of Irvine; Orange County, California

Dear Mr. Jacobs:

Thank you for the opportunity to comment on the above-referenced document. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR per CEQA guidelines § 15064.5(b)(c). In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE),' and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

√ Contact the appropriate California Historic Resources Information Center (CHRIS). The record search will determine:

- If a part or the entire (APE) has been previously surveyed for cultural resources.
- If any known cultural resources have already been recorded in or adjacent to the APE.
- If the probability is low, moderate, or high that cultural resources are located in the APE.
- If a survey is required to determine whether previously unrecorded cultural resources are present.

√ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.

- The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for pubic disclosure.
- The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.

√ Contact the Native American Heritage Commission (NAHC) for:

* A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity who may have information on cultural resources in or near the APE. Please provide us site identification as follows: USGS 7.5-minute quadrangle citation with name, township, range and section. This will assist us with the SLF.

- Also, we recommend that you contact the Native American contacts on the attached list to get their input on the effect of potential project (e.g. APE) impact.

√ Lack of surface evidence of archeological resources does not preclude their subsurface existence.

- Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
- Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.

√ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.

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

√ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

√ Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning.

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

Sincerely,

Dave Singleton
Program Analyst

Cc: State Clearinghouse
Attachment: List of Native American Contacts

Native American Contacts
Orange County
January 11, 2007

Juaneno Band of Mission Indians Acjachemen Nation
David Belardes, Chairperson
31742 Via Belardes Juaneno
San Juan Capistrano , CA 92675

(949) 493-0959

(949) 493-1601 Fax

Juaneno Band of Mission Indians
Sonia Johnston, Chairperson
P.O. Box 25628 Juaneno
Santa Ana , CA 92799
ajuaneno@verizon.

(949) 462-0710
(714) 323-8312 (Cell)

(949) 462-9451 Fax

Juaneno Band of Mission Indians
Anita Espinoza
1740 Concerto Drive Juaneno
Anaheim , CA 92807

(714) 779-8832

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

949-488-3484
949-488-3294 Fax

Juaneno Band of Mission Indians Acjachemen Nation
Joyce Perry , Tribal Manager & Cultural Resources
31742 Via Belardes Juaneno
San Juan Capistrano , CA 92675

(949) 493-0959

(949) 493-1601 Fax

Juaneno Band of Mission Indians
Alfred Cruz, Culural Resources Coordinator
P.O. Box 25628 Juaneno
Santa Ana , CA 92799

714-998-0721

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibilitiey as defined in Sec. 7050,5 of the Health & Safety Code, Sec. 5097.94 of the Public Resources Code and Sec. 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2007011024; CEQA Notice of Prearation (NOP) for Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36) draft Environmental Impact Report (DEIR); Orange County, California.

Native American Contacts
Orange County
January 11, 2007

Juaneno Band of Mission Indians
Joe Ocampo, Environmental Coordinator
P.O. Box 25628 Juaneno
Santa Ana , CA 92799

(949) 462-0710

(949) 462-9451 Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibilitiey as defined in Sec. 7050,5 of the Health & Safety Code, Sec. 5097.94 of the Public Resources Code and Sec. 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2007011024; CEQA Notice of Prearation (NOP) for Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36) draft Environmental Impact Report (DEIR); Orange County, California.

Bryan Industrial Properties, Inc.
146 East Orangethorpe Avenue
Anaheim, California 92801-1208
714.871.1314 fax 714.680.3727
www.bryanindprop.com

January 23, 2007

Mr. Bill Jacobs, AICP
Principal Planner
City of Irvine
1 Civic Center Plaza
P.O. Box 19575
Irvine, CA 92623-9575

CERTIFIED U.S. MAIL

RE: Response to IBC Notice dated January 8, 2007
and the related IBC Residential Project List
Re: Notice of Preparation and Public Scoping Meeting

Dear Mr. Jacobs:

On behalf of the owner of the 1751 McGaw Avenue building (located within the IBC), we have been authorized to forward this letter.

We built this building at or around 1970 and as the part owner and manager of this facility and are desirous of maintaining the industrial use in and around this facility as it has existed for over 36 years.

We believe that the City's introduction of residential development within this multi-use (office & industrial) zoned area will create a conflict with the existing uses. Inevitably over time, congestion and the cost of City services to the area will increase and the loss of existing industrial and office based business will be the result.

Once the City loses its industrial and office based business to this planned "bedroom community" it is unlikely to ever be regained and will have an undesirable impact on the local economy.

It is our intent that our objection be made part of the record and be taken into full consideration.

Sincerely,

BRYAN INDUSTRIAL PROPERTIES, INC.
As agent for Bryan – Irvine, a California General Partnership

John Maresca
Director of Marketing

cc: City Clerk *(via Certified U.S. Mail)*
council and planning commission members

ORANGE | COUNTY
ALUC

AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

January 23, 2006

Bill Jacobs, Principal Planner
City of Irvine
P.O. Box 19575
Irvine, CA 92623-5975

Subject: Initial Study for the Irvine Business Complex (IBC) Vision Plan and Mixed-Use Overlay Zoning Code

Dear Mr. Jacobs:

Thank you for the opportunity to review the Initial Study for the proposed IBC Mixed-Use Overlay Zone and Residential Vision Plan 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 Environmental Impact Report (EIR).

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. It is recommended that building heights not exceed these imaginary surfaces.

The Hazards and Hazardous Materials Section of the initial study also states that the Overlay Zone proposes establishing districts and development standards for the transition of certain portions of the IBC from exclusively industrial and/or office uses into mixed-use districts and that accommodate office, residential and protect existing businesses. We recommend that these development standards specify any height and noise restrictions for projects located within the airport planning area for JWA.

The proposed project area is 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 noise contours. Residential uses should not be permitted within the 65 dB CNEL contour in order to maintain consistency with the *JWA AELUP*.

In the transportation section of the initial study, the document states that the proposed project will not have a significant impact on air traffic patterns. However, a project's location, in relation to an airport, and building height have the potential to impact air traffic patterns. We suggest that the transportation section of the DEIR discuss the maximum building heights that will be allowed within the IBC Vision Plan and Mixed-Use Overlay Zoning Code using North American Vertical Datum 1988 (NAVD88) or National Geodetic Vertical Datum of 1929 (NGVD29). Based upon previously approved projects within this project area resulting in an FAA recommended change to the general aviation air traffic pattern, there is the potential for a significant impact in this initial study checklist category.

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 ALUC 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 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

San Joaquin Hills
Corridor Agency

Chairwoman:
Carmen Vali-Cave
Aliso Viejo



TRANSPORTATION CORRIDOR AGENCIES

Foothill/Eastern
Corridor Agency

Chairman:
Jim Thor
Rancho Santa Margarita

January 23, 2007

Bill Jacobs
AICP, Principal Planner
City of Irvine
P.O. Box19575
Irvine, CA92623-9575

Subject: Notice of Preparation of a Draft Environmental Impact Report
Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36).

Dear Mr. Jacobs:

The Transportation Corridor Agencies (TCA) wishes to thank you for the opportunity to review and comment on the above-mentioned environmental notification. The TCA has reviewed the notification and has no comments at this time, however, would appreciate your sending the EIR when it is completed.

Should you have any questions or concerns regarding this information, please feel free to contact me at (949) 754-3483.

Sincerely,

Macie Cleary-Milan
Deputy Director
Environmental Planning

William Woollett, Jr., Chief Executive Officer

125 PACIFICA, SUITE 100, IRVINE CA 92618-3304 • P.O. BOX 53770, IRVINE CA 92619-3770 • 949/754-3400 • FAX 949/754-3467
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The Gas Company

A Sempra Energy utility℠

PO Box 3334
1919 S. State College Blvd.
Anaheim, CA 92806-6114

January 24, 2007

City of Irvine
PO Box 19575
Irvine, California 92623-9575

Attention: Bill Jacobs

Subject: Notice of Preparation of a Draft E.I.R. for Irvine Business Complex Vision Plan- Planning Area 36 in Irvine

Thank you for providing the opportunity to respond to your N.O.P. for a draft E.I.R. (Environmental Impact Report) Request. We are pleased to inform you that Southern California Gas Company has facilities in portions of the area where the aforementioned project is proposed. In areas where we do not have facilities, when the area is served by our facilities, the service will be in accordance with the Company's policies and extension rules on file with the California Public Utilities Commission when the contractual arrangements are made. Gas service to some of the project area can be provided from an existing gas main located in various locations. The service also will be in accordance with the Company's policies and extension rules on file with the California Public Utilities Commission when the contractual arrangements are made.

This letter is not a contractual commitment to serve the proposed project but is only provided as an informational service. The availability of natural gas service is based upon conditions of gas supply and regulatory agencies. As a public utility, Southern California Gas Company is under the jurisdiction of the California Public Utilities Commission. Our ability to serve can also be affected by actions of federal regulatory agencies. Should these agencies take any action, which affect gas supply or the conditions under which service is available, gas service will be provided in accordance with the revised conditions.

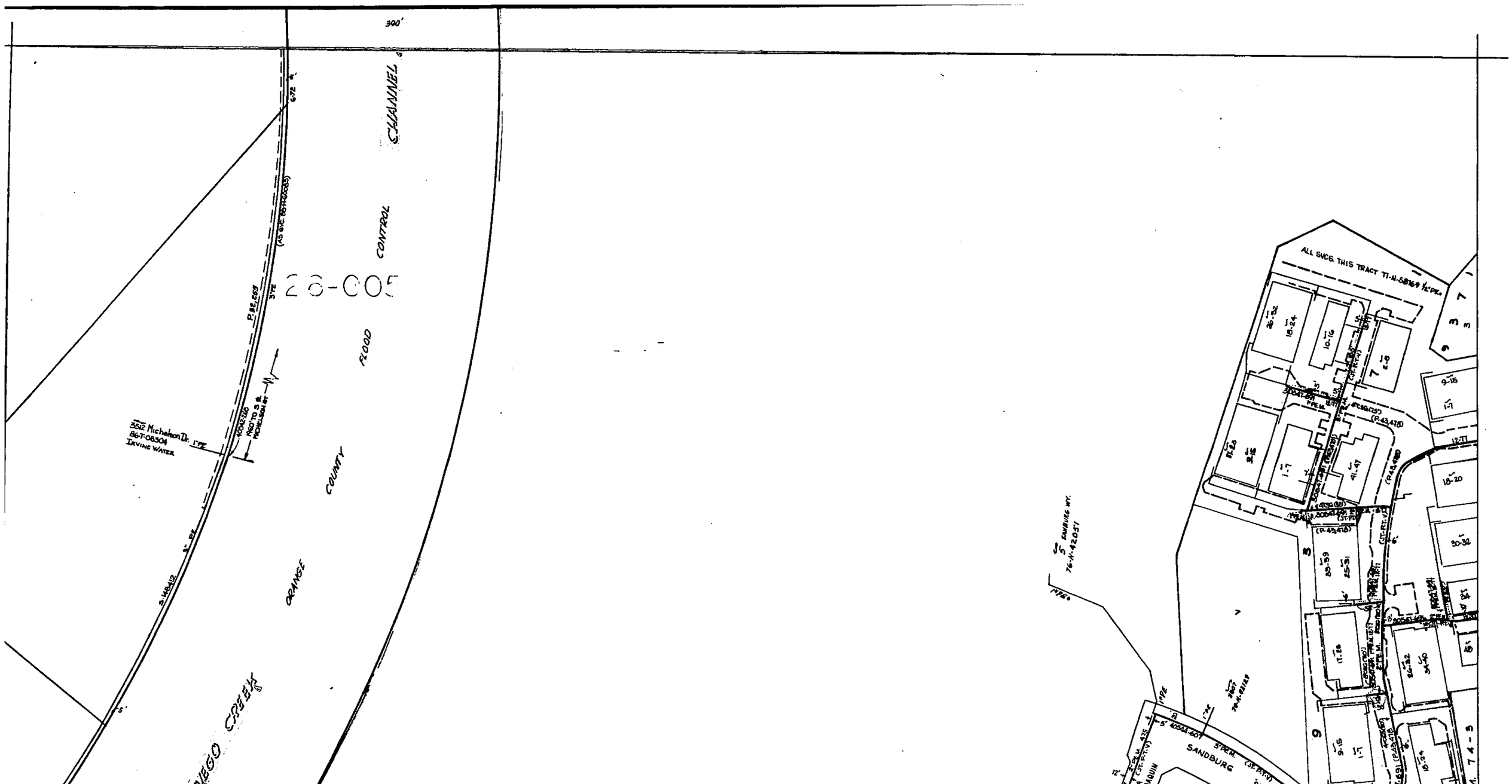
This letter is also provided without considering any conditions or non-utility laws and regulations (such as environmental regulations), which could affect construction of a main and/or service line extension (i.e., if hazardous wastes were encountered in the process of installing the line). The regulations can only be determined around the time contractual arrangements are made and construction has begun.

Estimates of gas usage for residential and non-residential projects are developed on an individual basis and are obtained from the Commercial-Industrial/Residential Market Services Staff by calling (800) 427-2000 (Commercial/Industrial Customers) (800) 427-2200 (Residential Customers). We have developed several programs, which are available upon request to provide assistance in selecting the most energy efficient appliances or systems for a particular project. If you desire further information on any of our energy conservation programs, please contact this office for assistance.

Sincerely,

Michael R. Harriel
Technical Services Supervisor
Pacific Coast Region - Anaheim

MRH/xx
eir02.doc



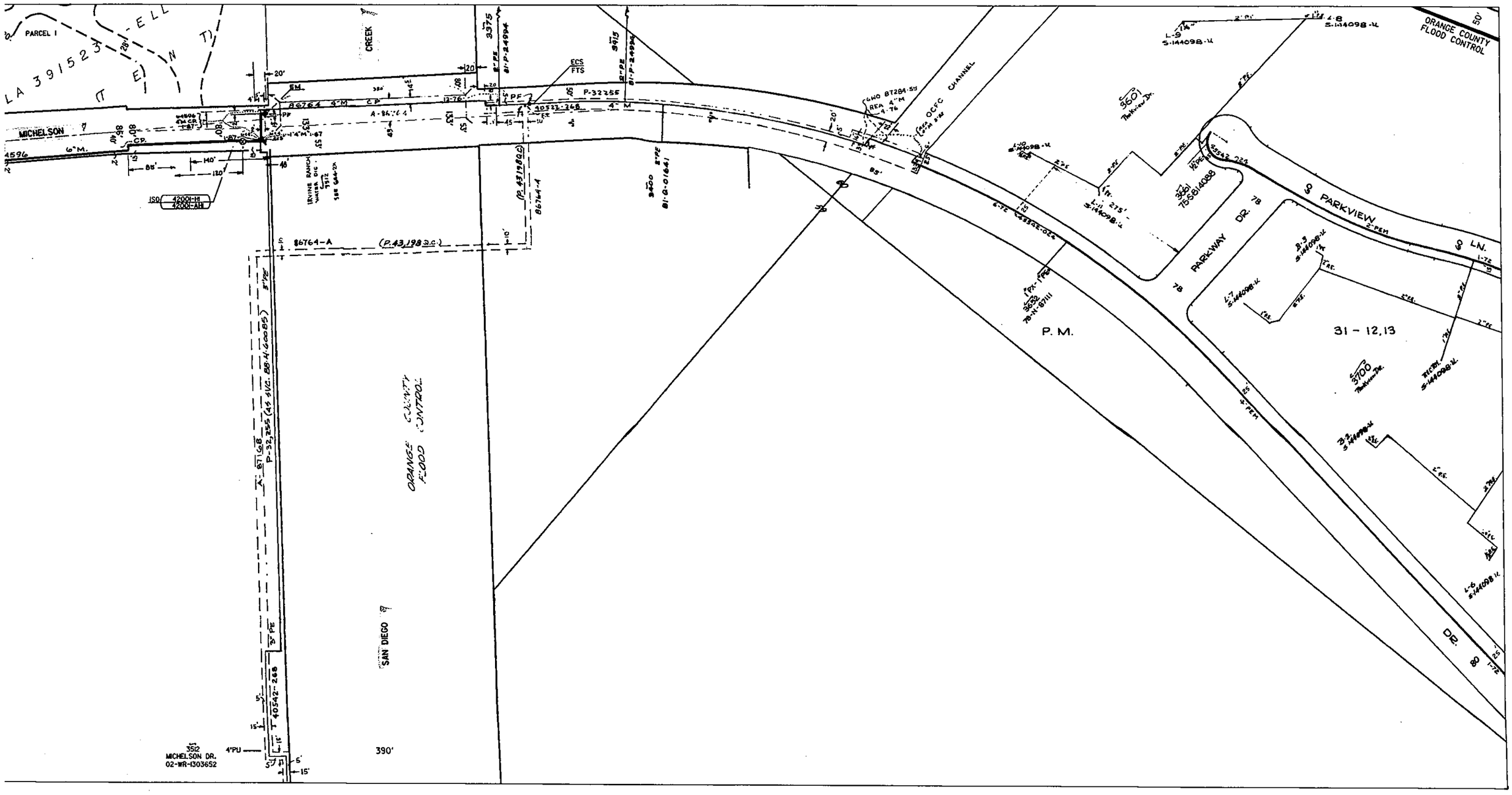
35 OC 0677 3X

OC 677-3X

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale

THE SUBSTRUCTURE MAP IS APPROX
WILL EXPECT TO
OF REPAIRS TO
SOUTHER
1919 SO. S
ANAHEIM



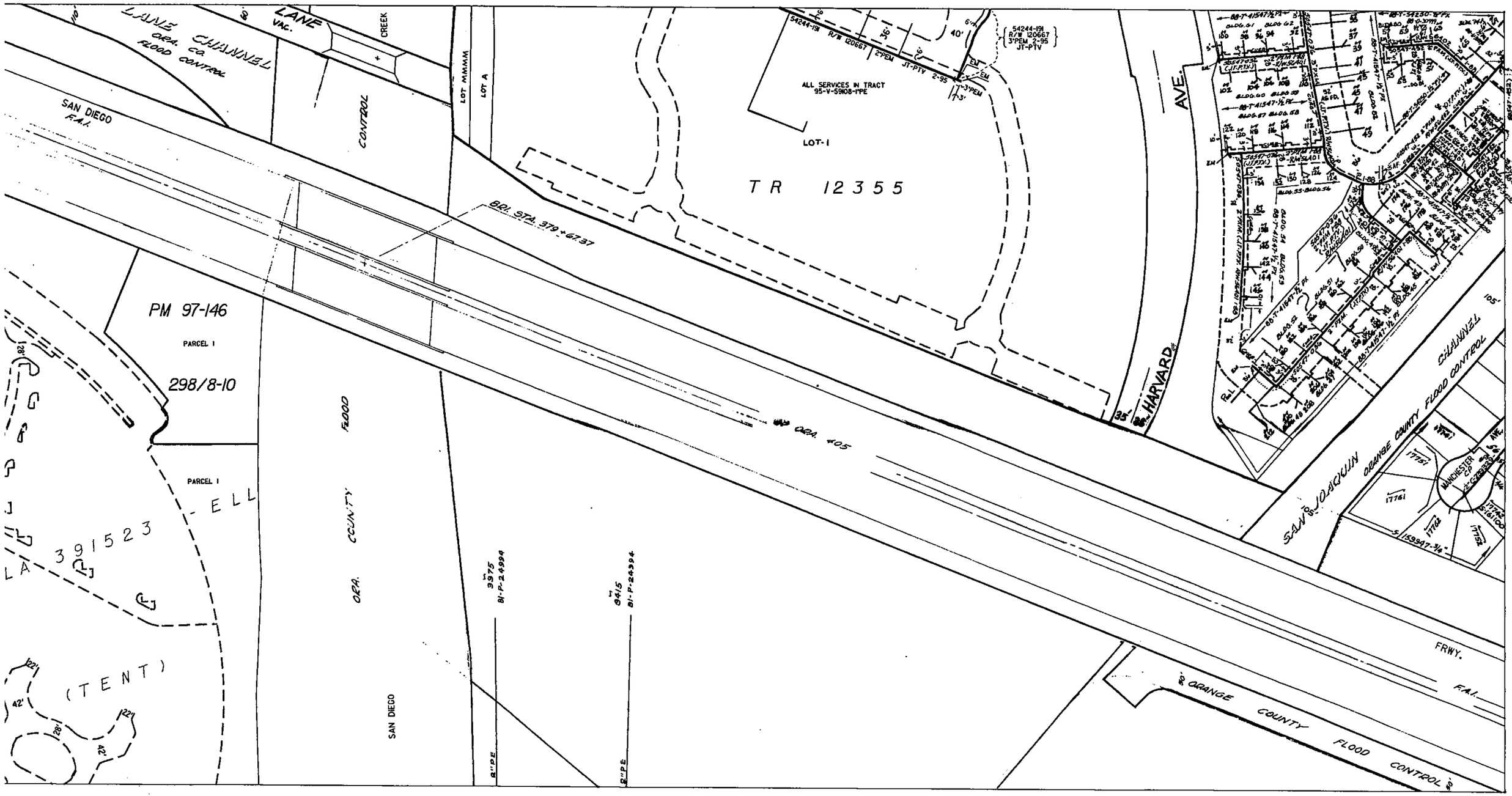
OC 677-1X

OC 677-3

166 0 166 332 498 664 Feet

Published Data SCALE: 166:1 Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803



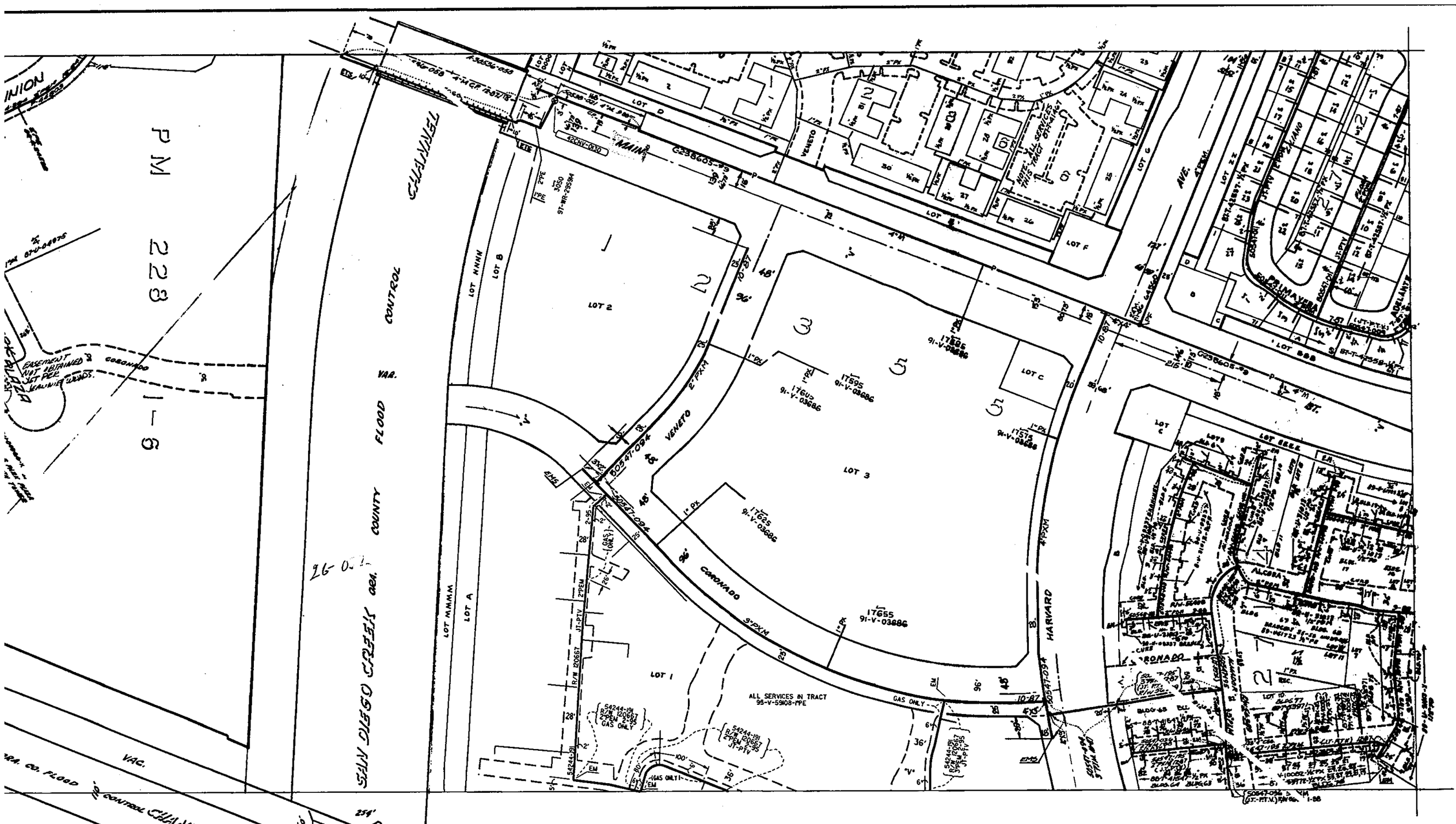
677-1

OC 678-3

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803



678-3

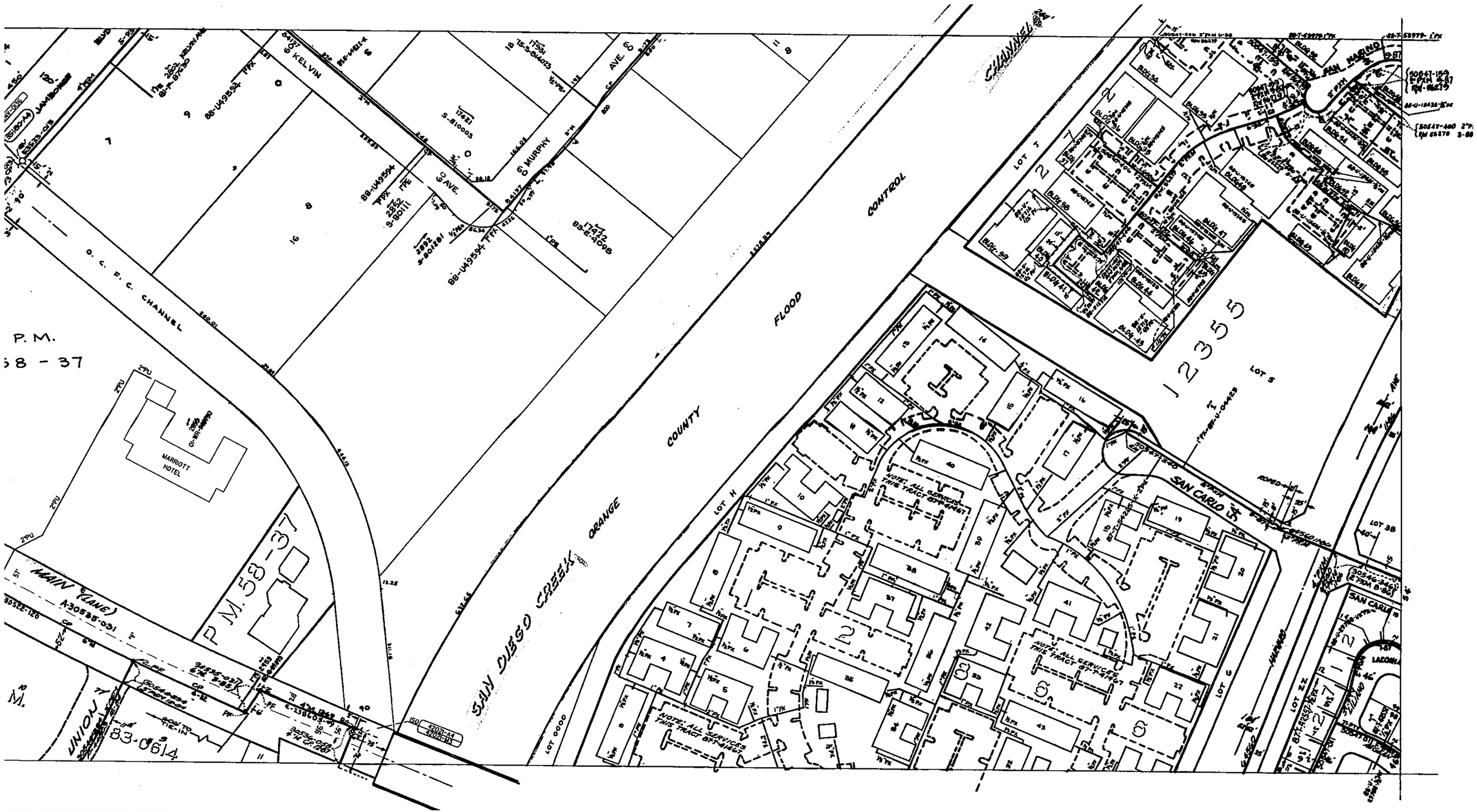
OC 678-1

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.

SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



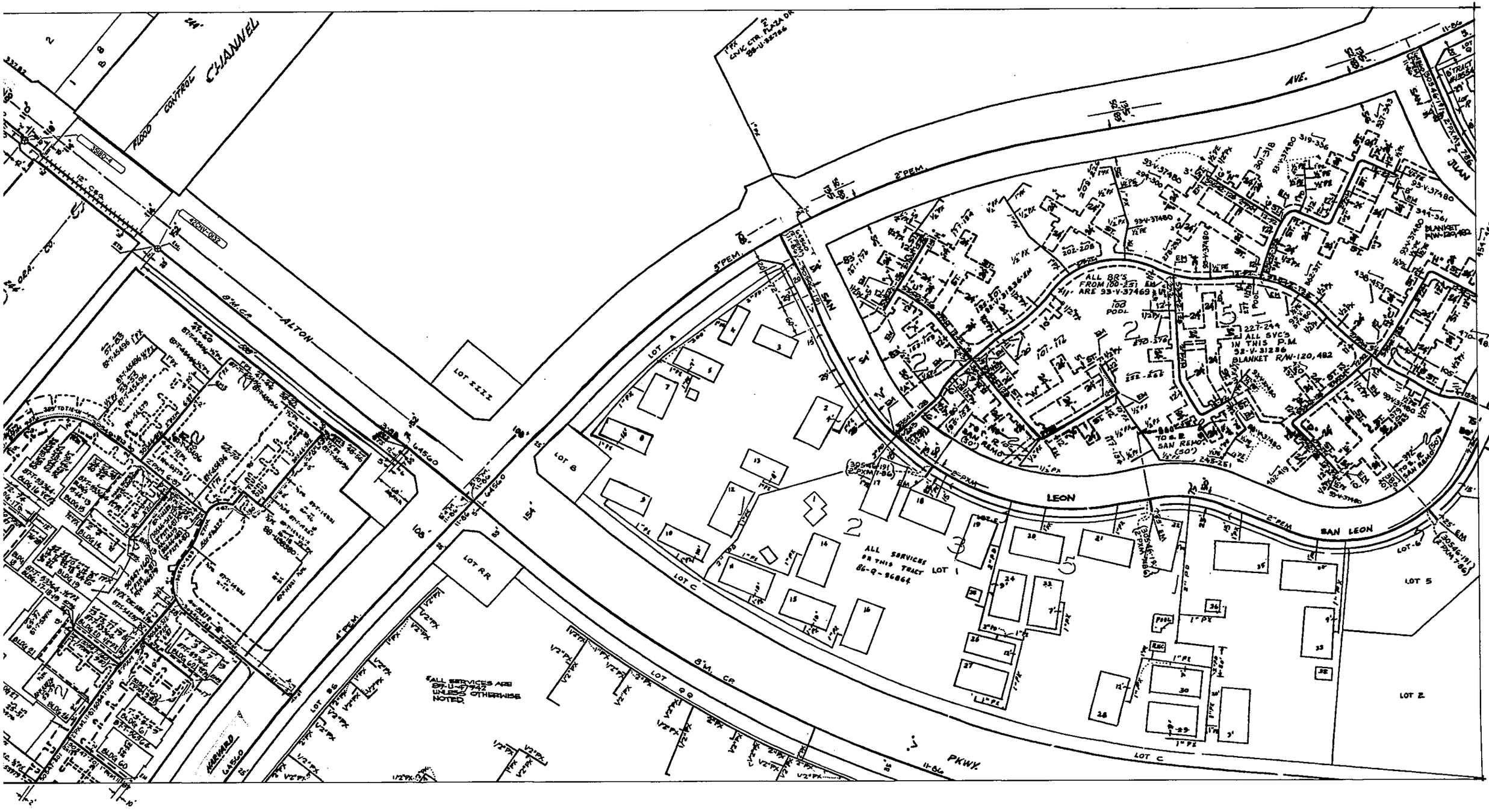
OC 678-I

OC 679-3

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



OC 679-4

OC 679-2X

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data

LLA 361502-LL

2004000428499

PARCEL 1 PARCEL 2

MCCAW

ALTON PKWY.

AVE.

MURPHY

ORANGE COUNTY FLOOD CONTROL CHANNEL

OC 679-3

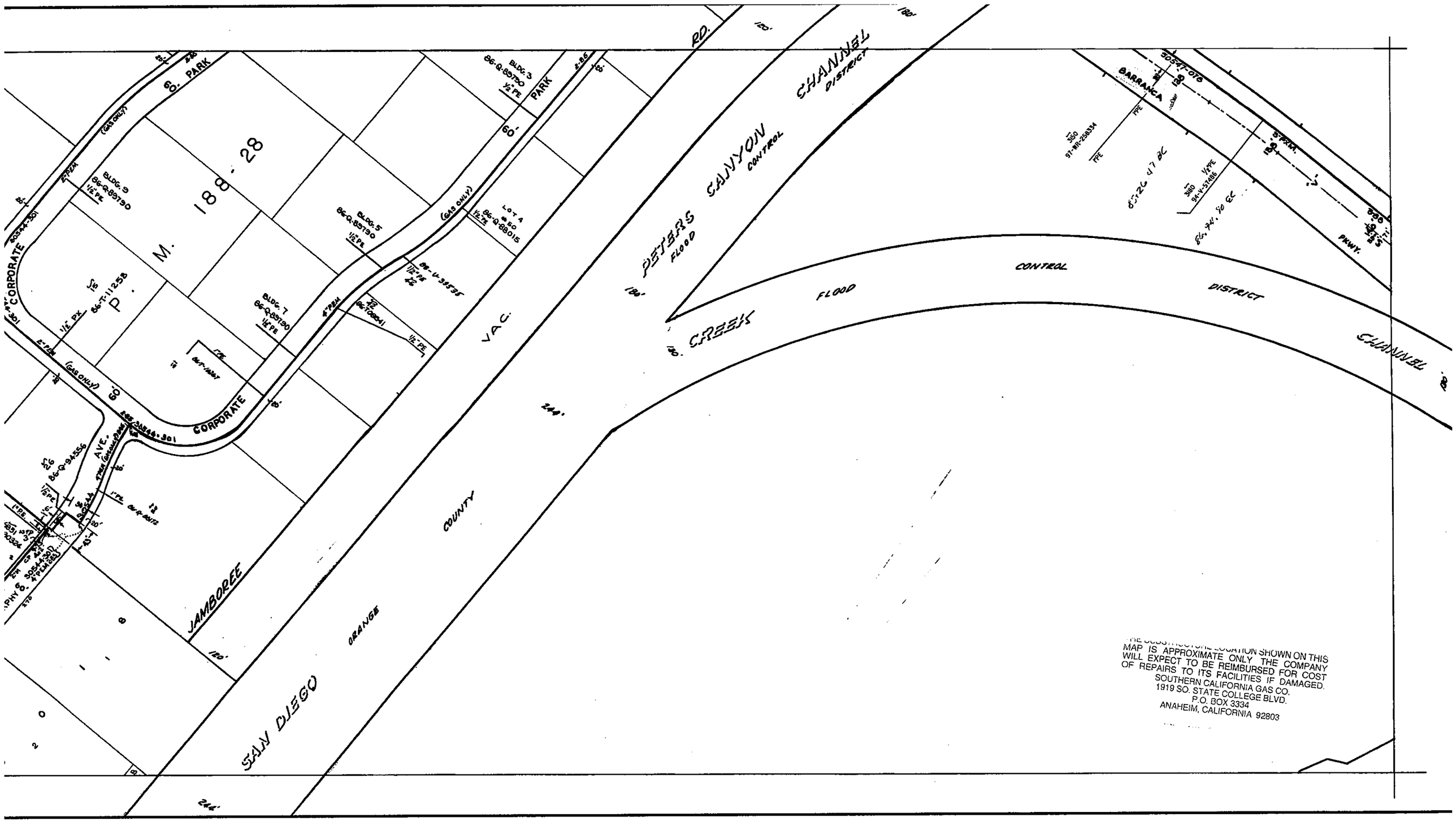
OC 679-1X

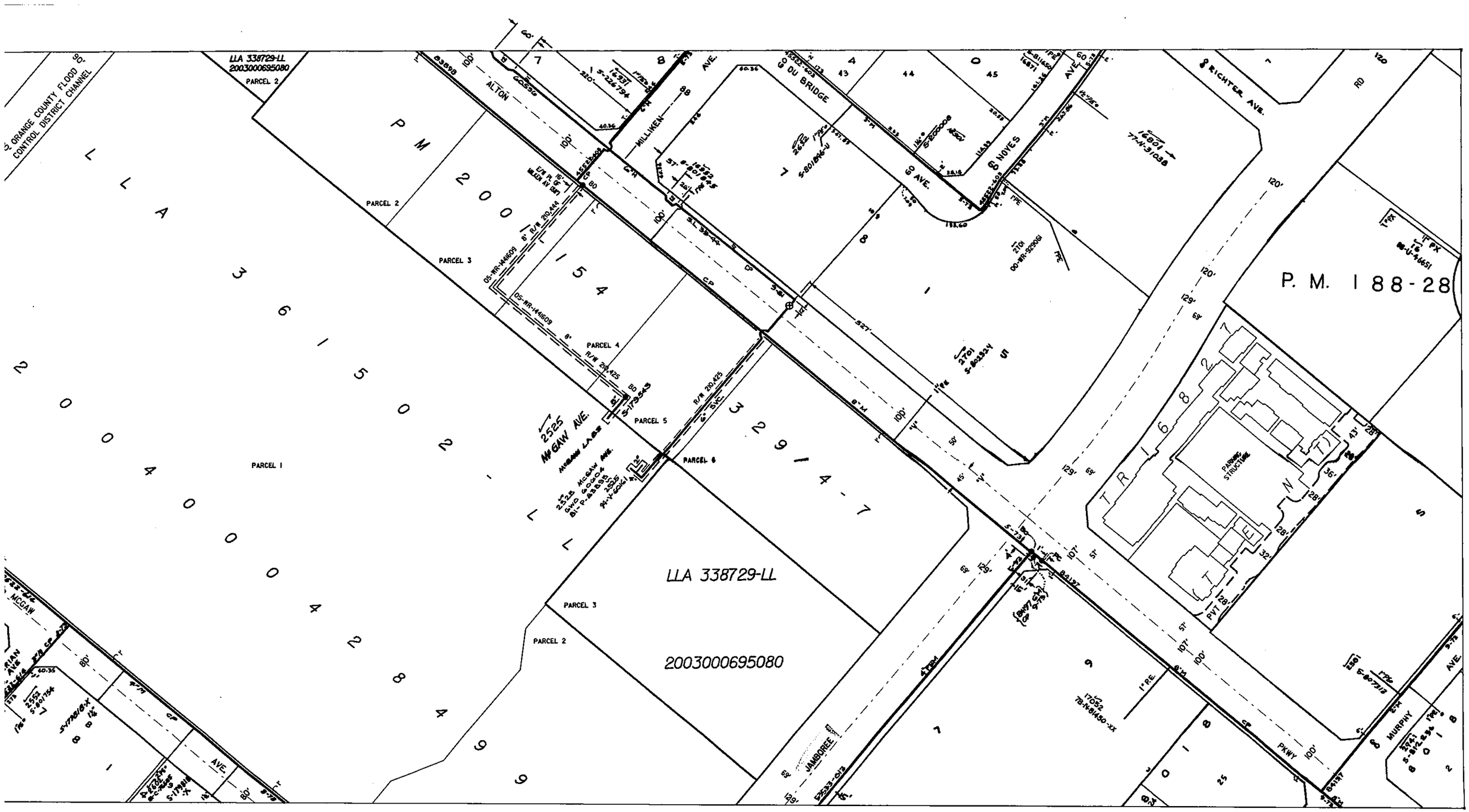
THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED

SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale


RD.
PARK
60'
CORPORATE
(GAS ONLY)
4"PEM
BLDG. 9
86-Q-89190
1½" PE
BLDG. 3
86-Q-89190
½" PE
BLDG. 5
86-Q-89190
1½" PE
BLDG. 7
86-Q-89190
1½" PE
LOT A
86-Q-88015
1½" PE
86-U-39535
1½" PE
2" PE
86-T-10084
1½" PE
M. 188 · 28
P. 15
86-T-11258
1½" PE
VAC.
244'
180'
120'
100'
PETERS CANYON CONTROL FLOOD CHANNEL DISTRICT
CREEK
FLOOD CONTROL DISTRICT CHANNEL
BARRANCA
305-47-076
STORM
PKWY.
350
91-RR-25835M
PIPE
380
91-W-51486
1" PE
BRASS CAP IN BOX
6in. SW. OF EC.
6in. SW. OF EC.
JAMBOREE
SAN DIEGO
ORANGE
COUNTY
AVE.
305-44-301
305-44-302
86-Q-94556
1½" PE
1½" PE
1½" PE



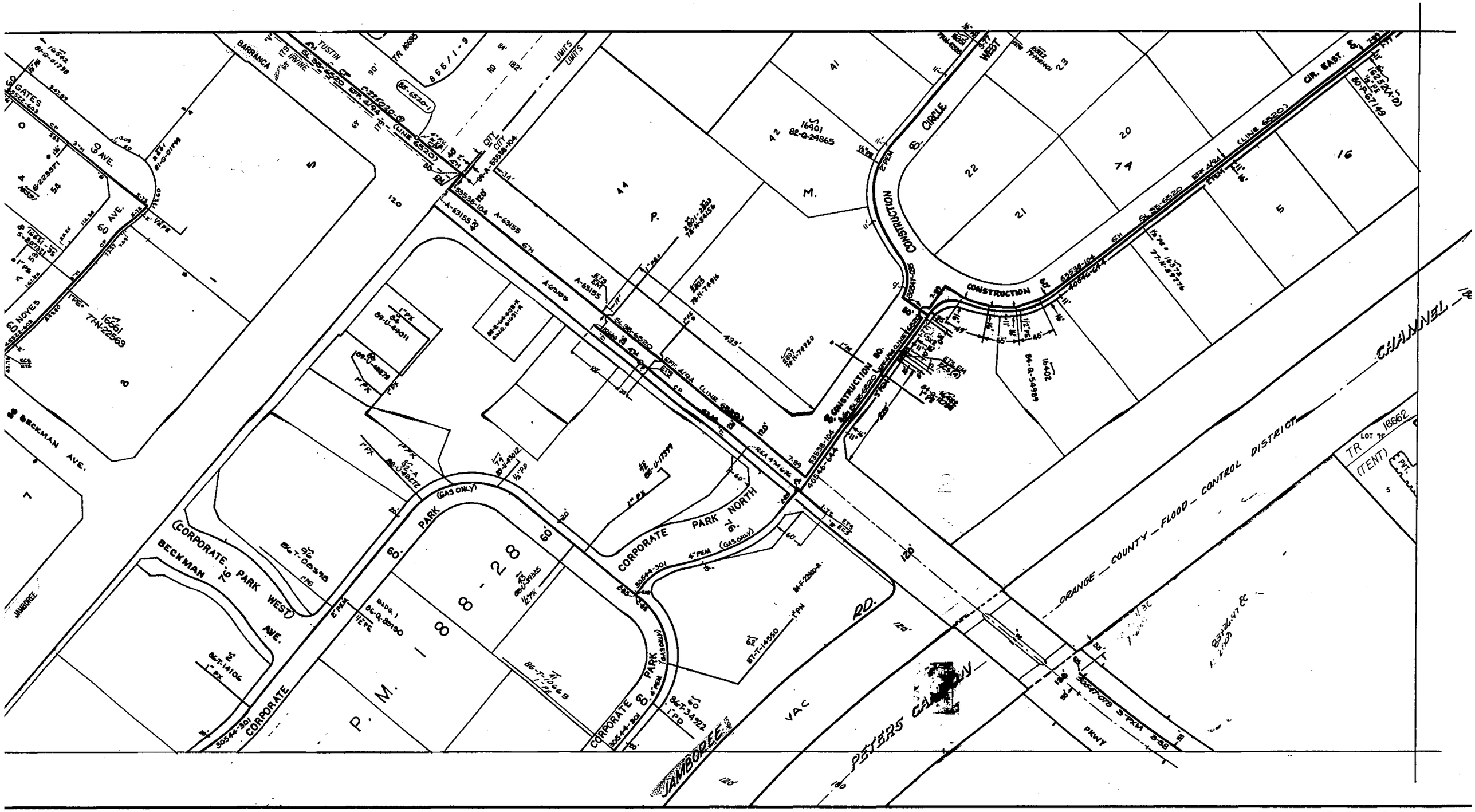
OC 679-IX

OC 680-3X

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



OC 680-4

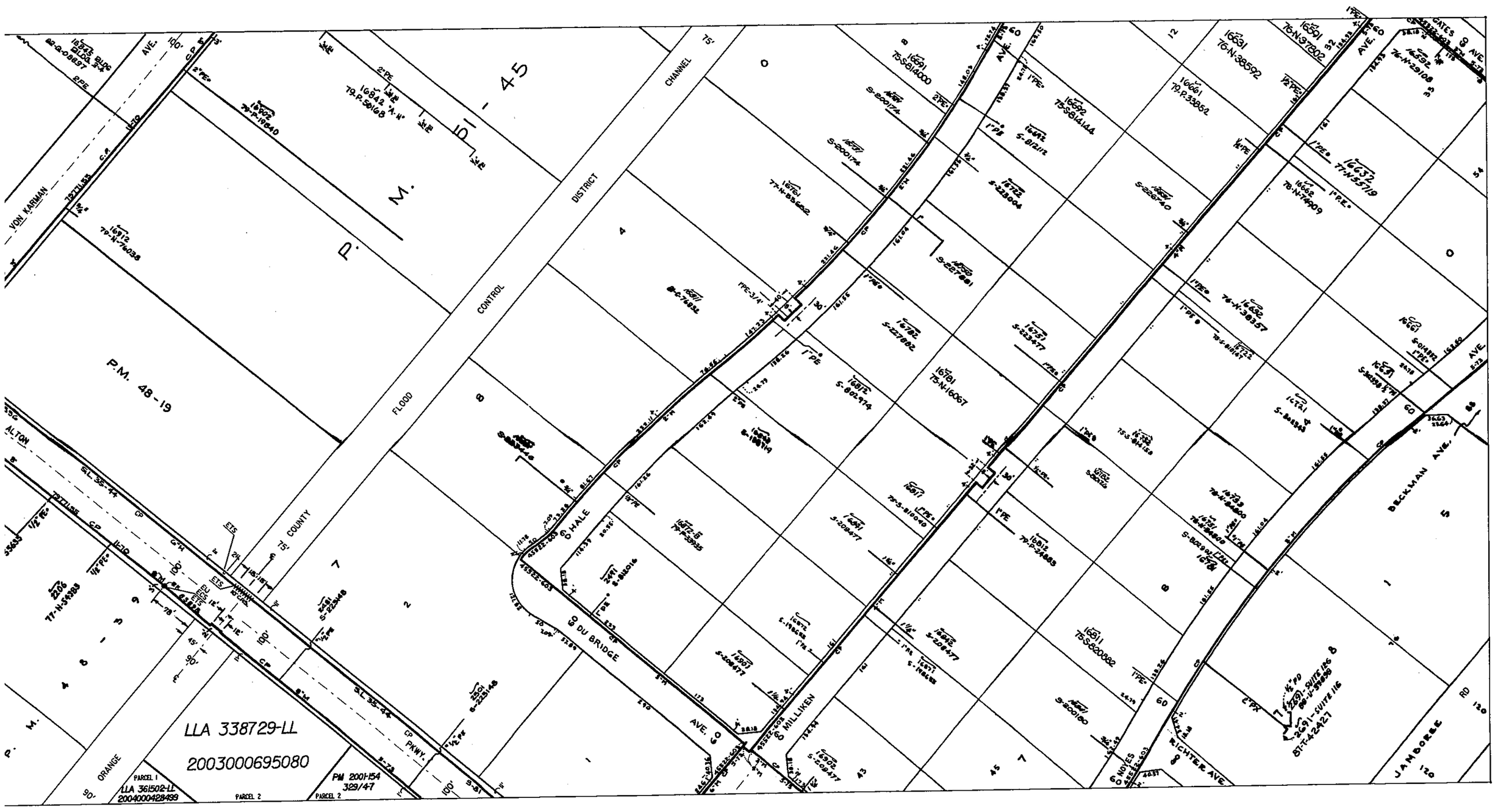
OC 680-2

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED

SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803


P.M. 48-19
M. P. 15-45
VON KARMAN
ALTON
CONTROL
FLOOD
CHANNEL
DISTRICT
75' COUNTY
DU BRIDGE
HALE
MILLIKEN
JAMBOREE RD
BECKMAN AVE.
RICHTER AVE.
GATES AVE.
NOYES
ORANGE
LLA 338729-LL
2003000695080
PM 2001-154
329/47
LLA 361502-LL
2004000428439
PARCEL 1
PARCEL 2
PKWY.
ETS
SL 35-44
16842 "A-N"
79-P-59168
16812
79-N-76038
16842
79-P-19840
16841
77-N-55642
16841
75-S-814000
16842
75-S-814144
16842
76-N-38592
16842
76-N-37602
16842
76-N-29108
16842
79-P-33952
16842
77-N-55719
16842
78-N-74909
16842
76-N-38357
16842
75-S-820882
16842
79-P-24883
16842
77-N-55338
16842
77-N-55338
16842
79-P-24883
16842
75-S-820882
16842
75-S-820882
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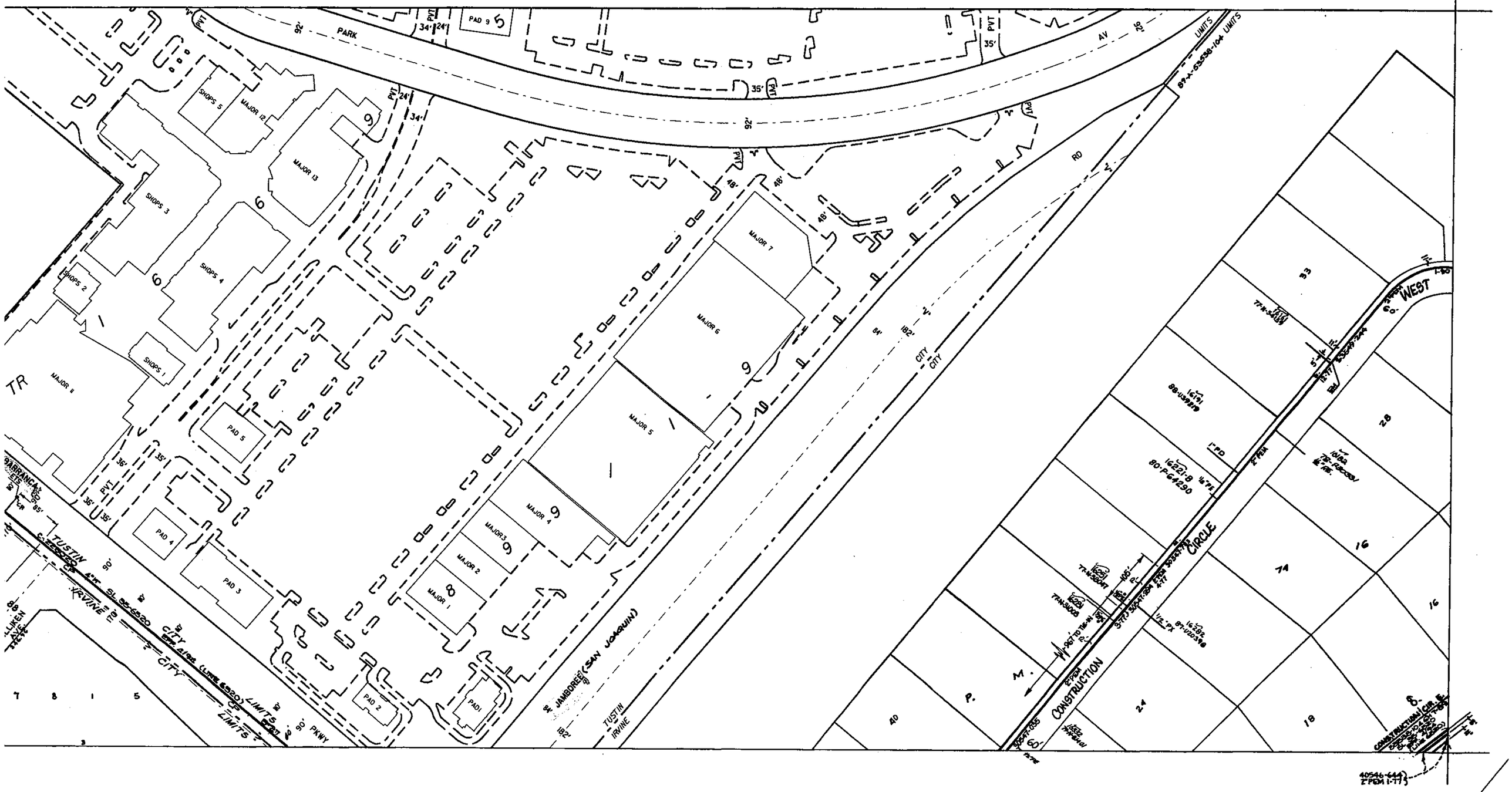
16842
79-P-24883



OC 680-2

OC 681-4

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

OC 680-I

OC 681-3

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
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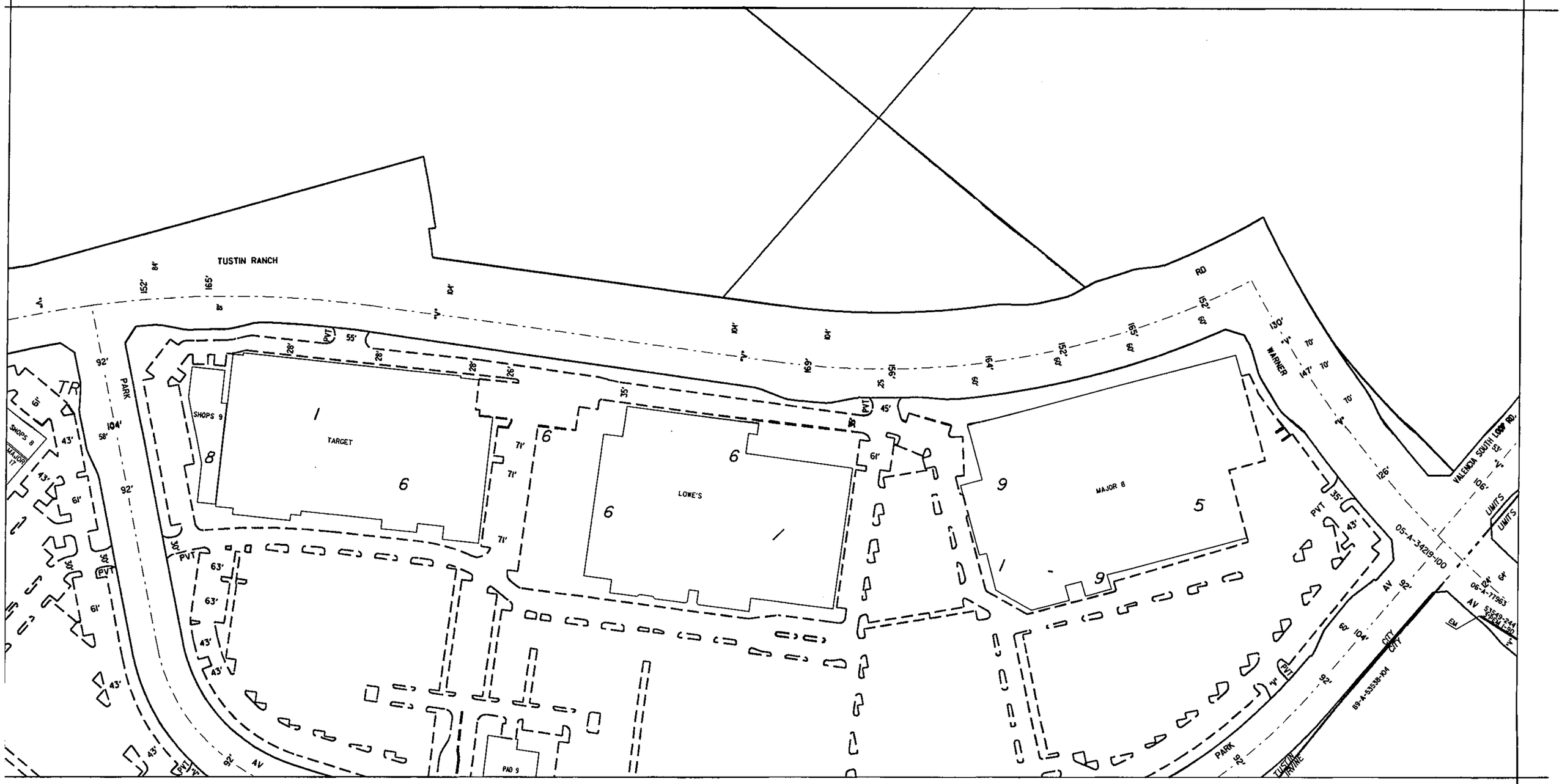

OC 681-4

OC 681-2

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
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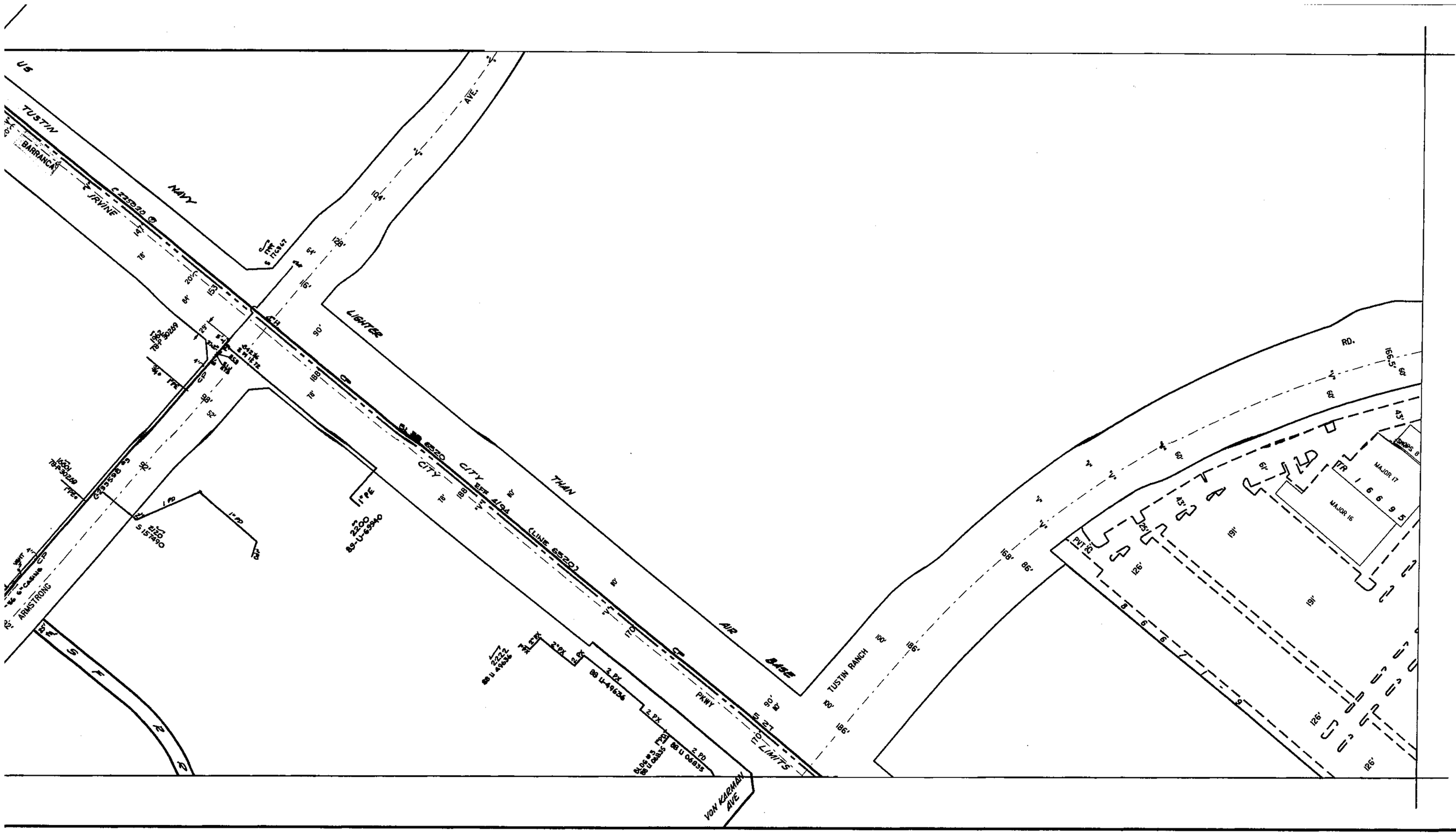
US
TUSTIN
BARRANCA
IRVINE
NAVY
ARMSTRONG
LIGHTBE
THAIN
AIR BASE
TUSTIN RANCH
VON KARMAN AVE
PKWY
CITY LIMITS
RD.
MAJOR 17
MAJOR 16
PUT
ITR
1 6 6 9 5
1 6 6 7 9
1 6 6 9 7
1 6 6 9 9
1 6 6 9 3
1 6 6 9 1
1 6 6 8 9
1 6 6 8 7
1 6 6 8 5
1 6 6 8 3
1 6 6 8 1
1 6 6 7 9
1 6 6 7 7
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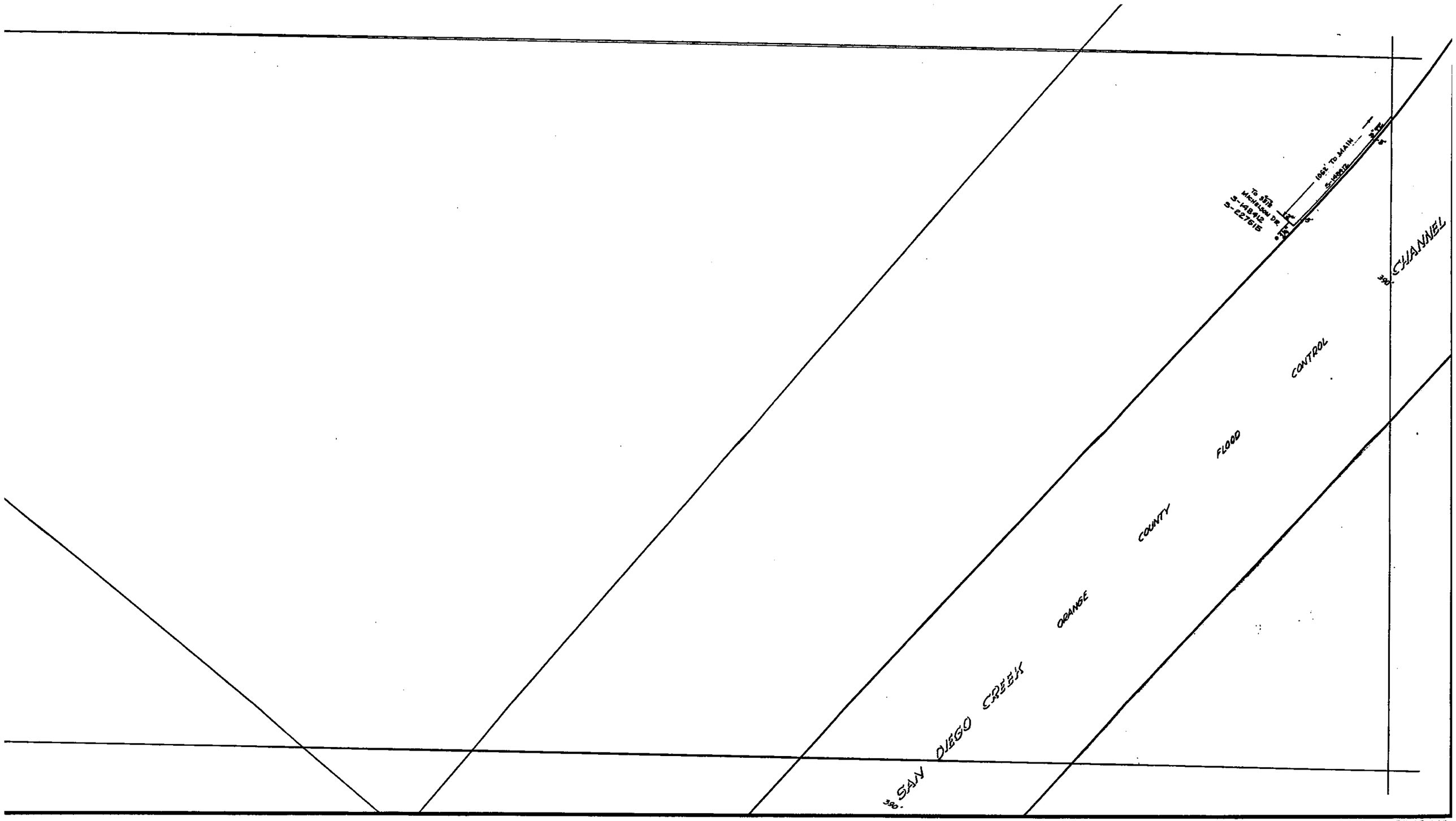

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OC 644-2X

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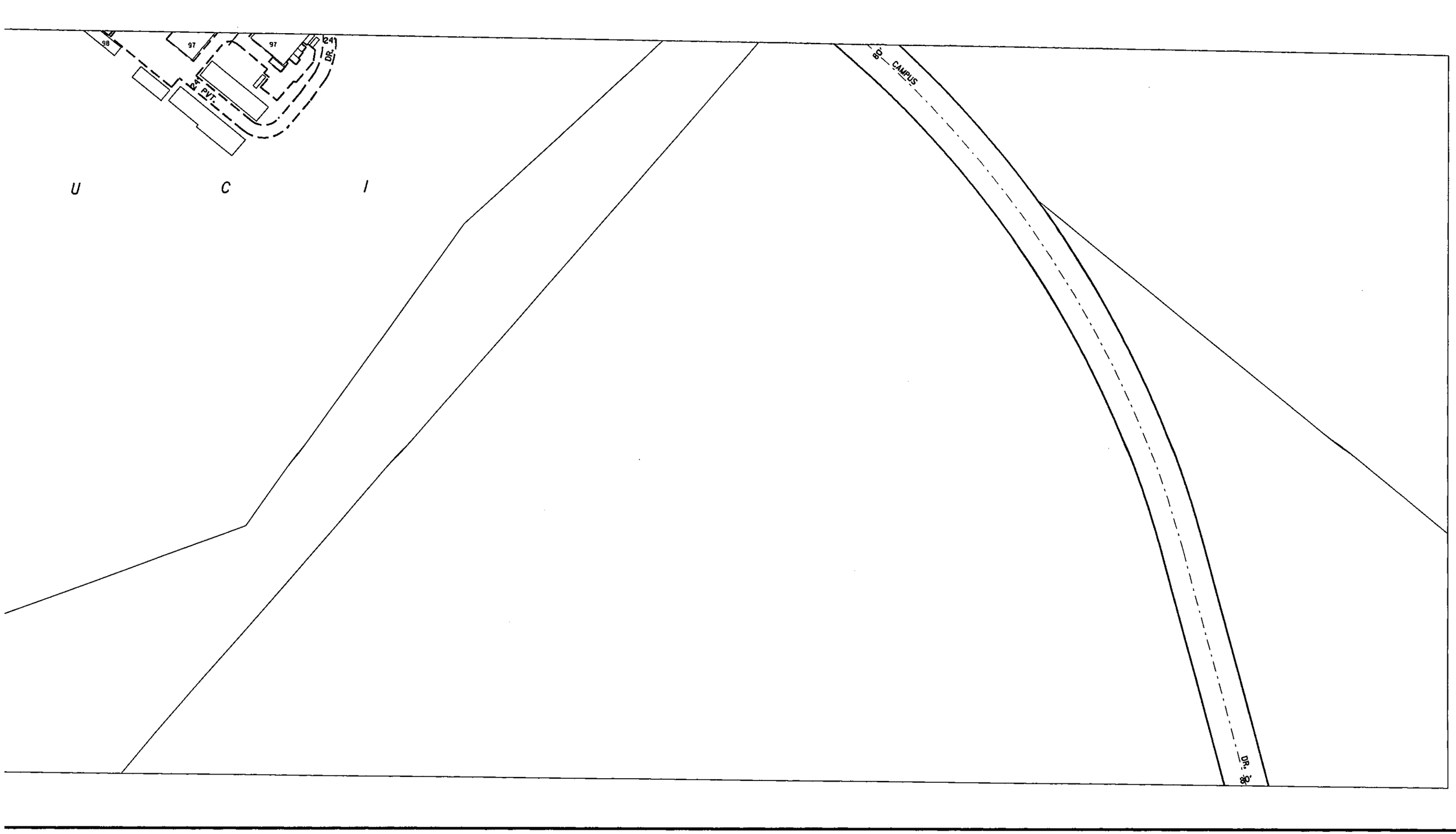
STRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO U.S. FACILITIES IF DAMAGED.

SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803



OC 644-3X

OC 644-IX

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

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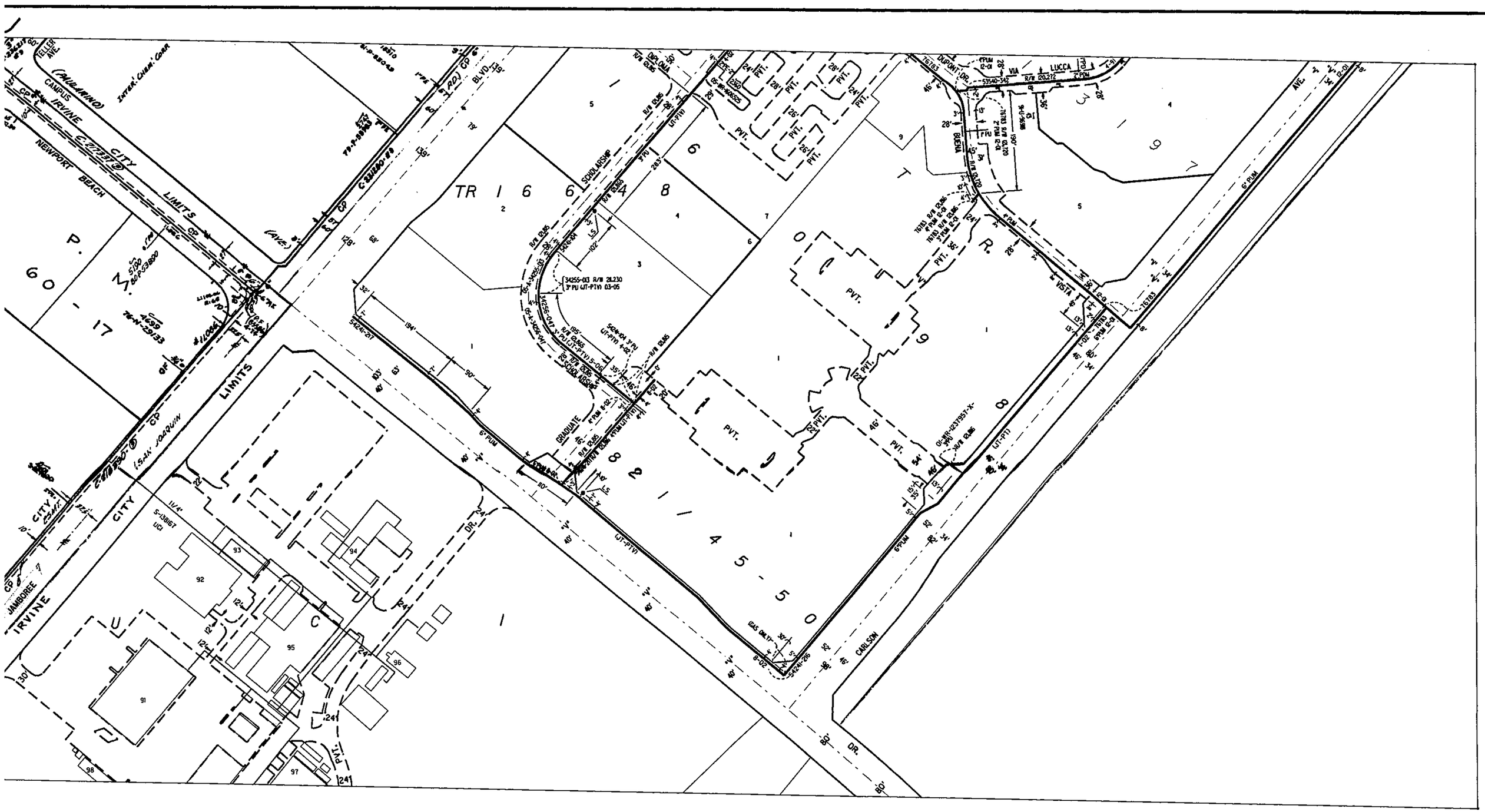
Published Data. SCALE: 166:1, Map Scale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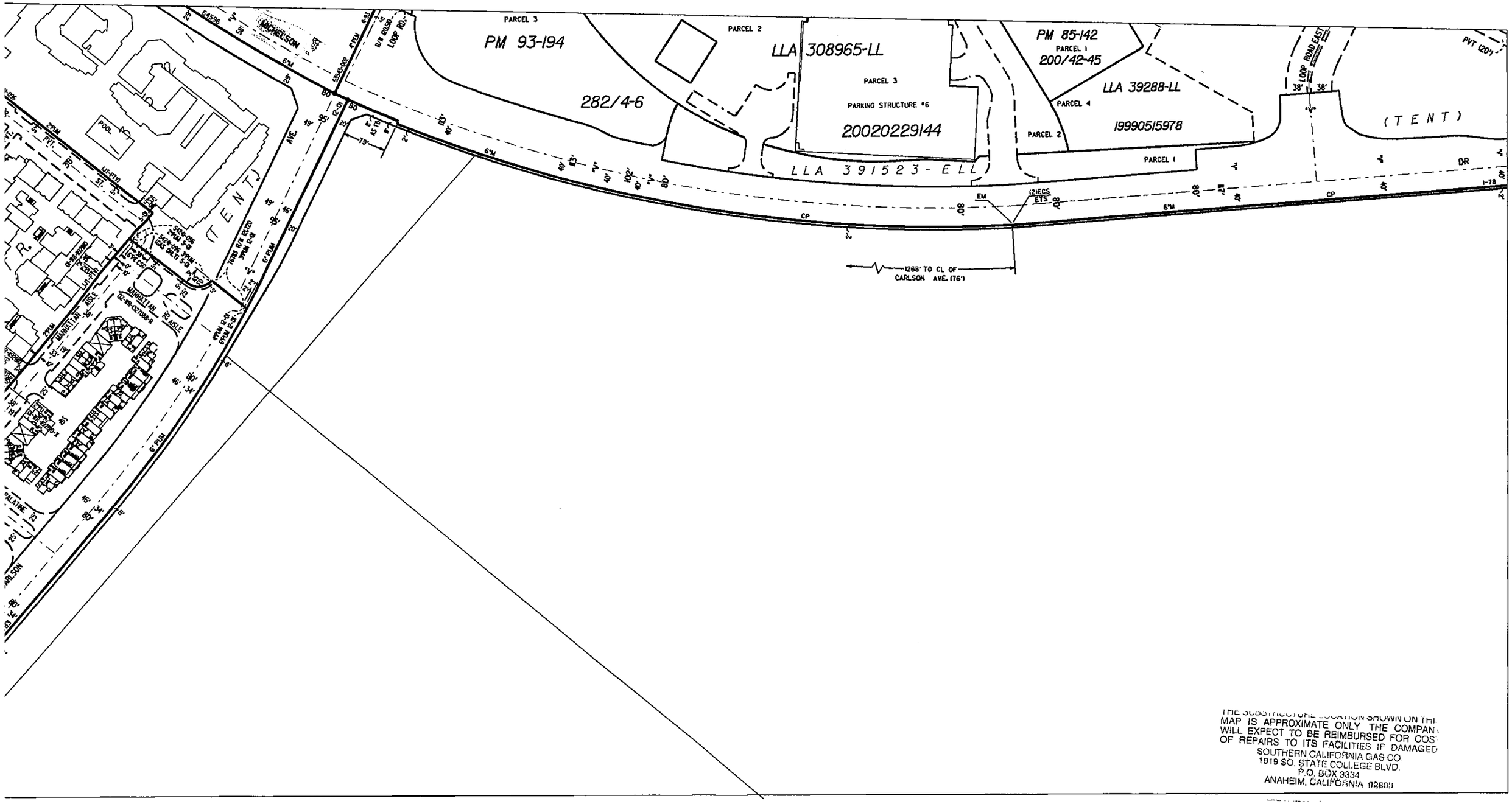

OC 643-4

OC 643-2X

166 0 166 332 498 664 Feet

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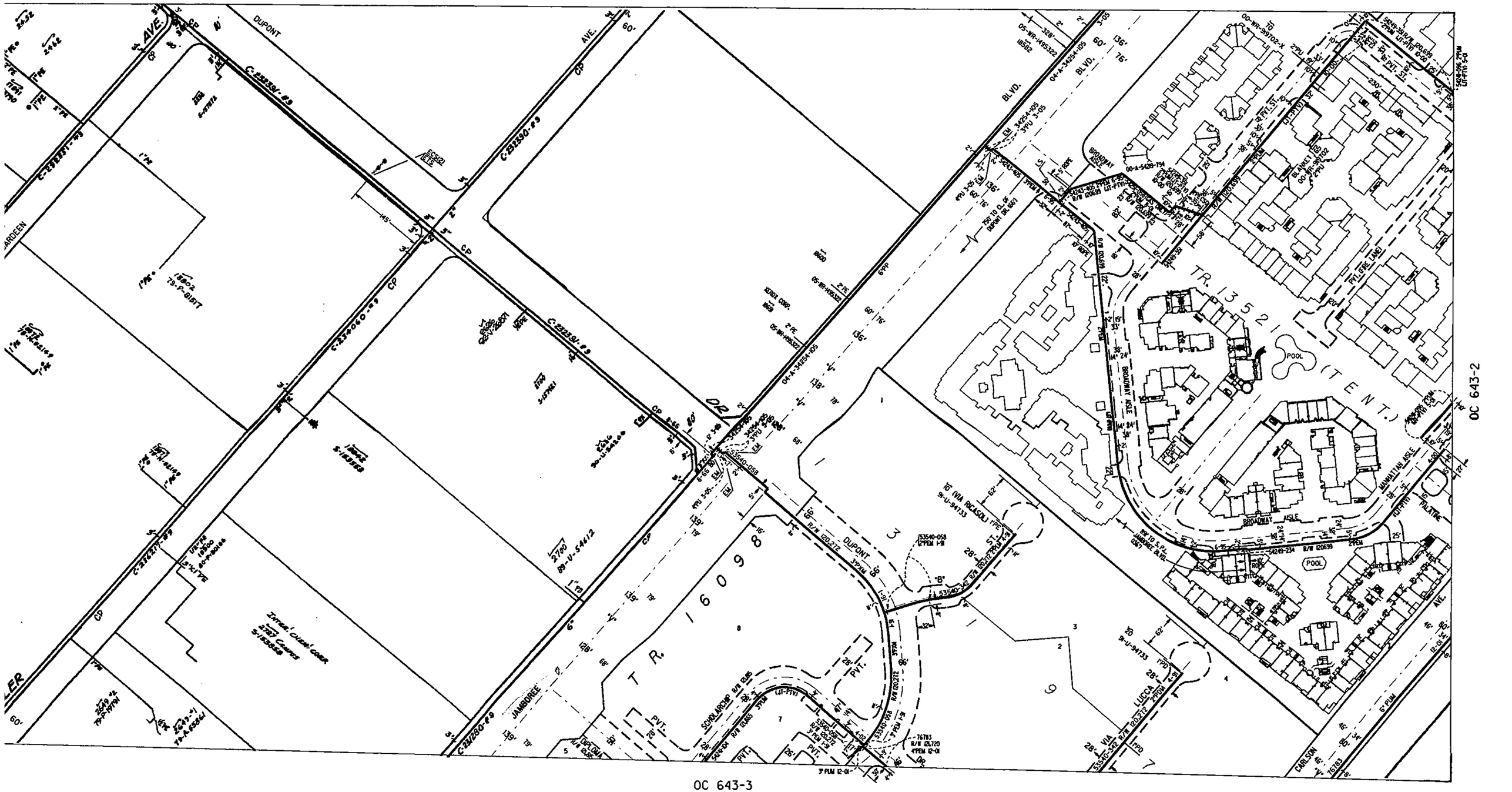
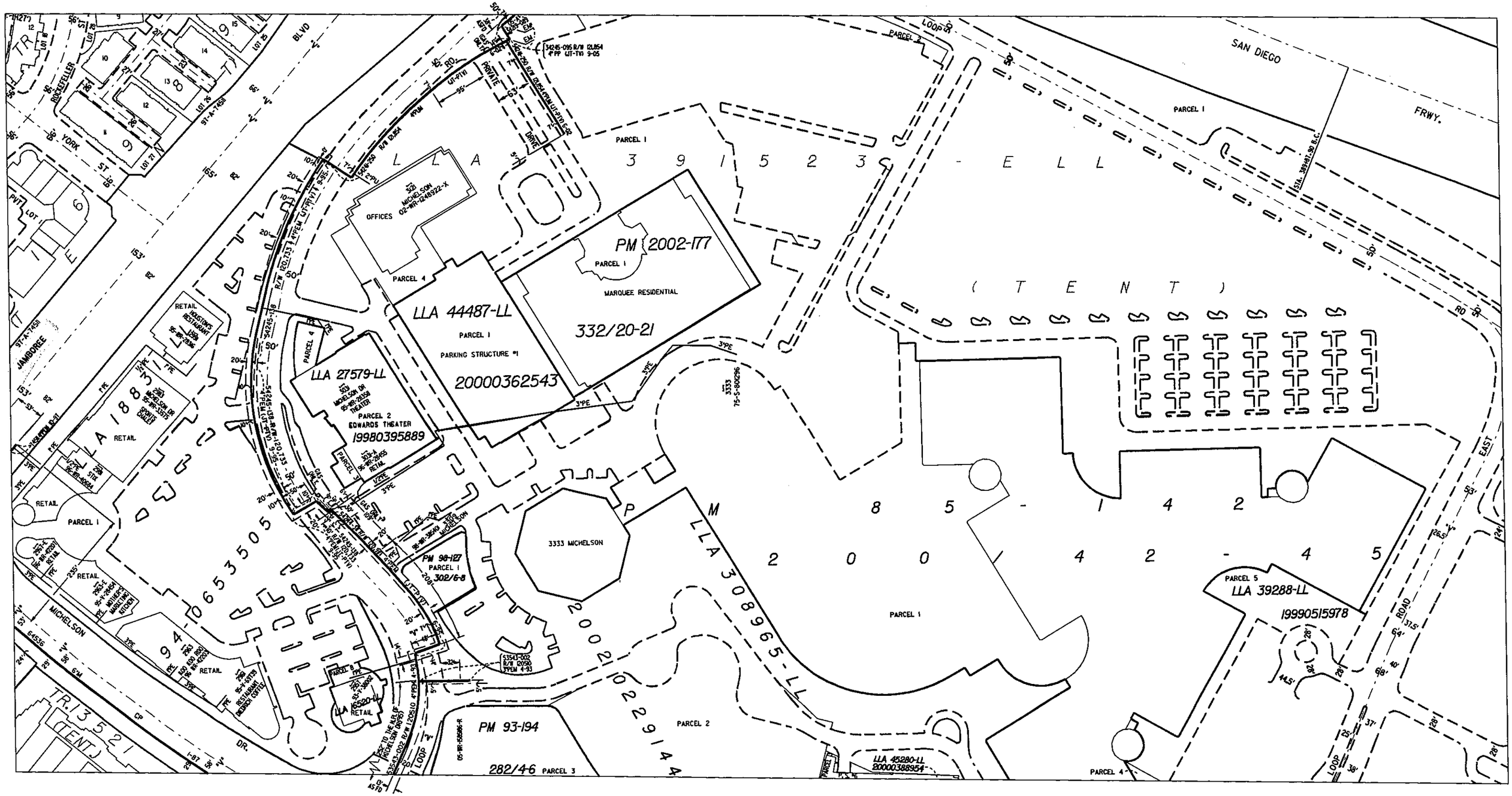


THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

OC 643-1

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



7 14:03

OC 643-2

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.

SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

OC 642-4

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale

P. M. 38 - 40

MICHELSON

ROCKEFELLER

GRAMERCY

TELLER

JAMBOREE

NOT A PART

TR. 135 (TENT)

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED

SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

OC 643-1

OC 642-3X

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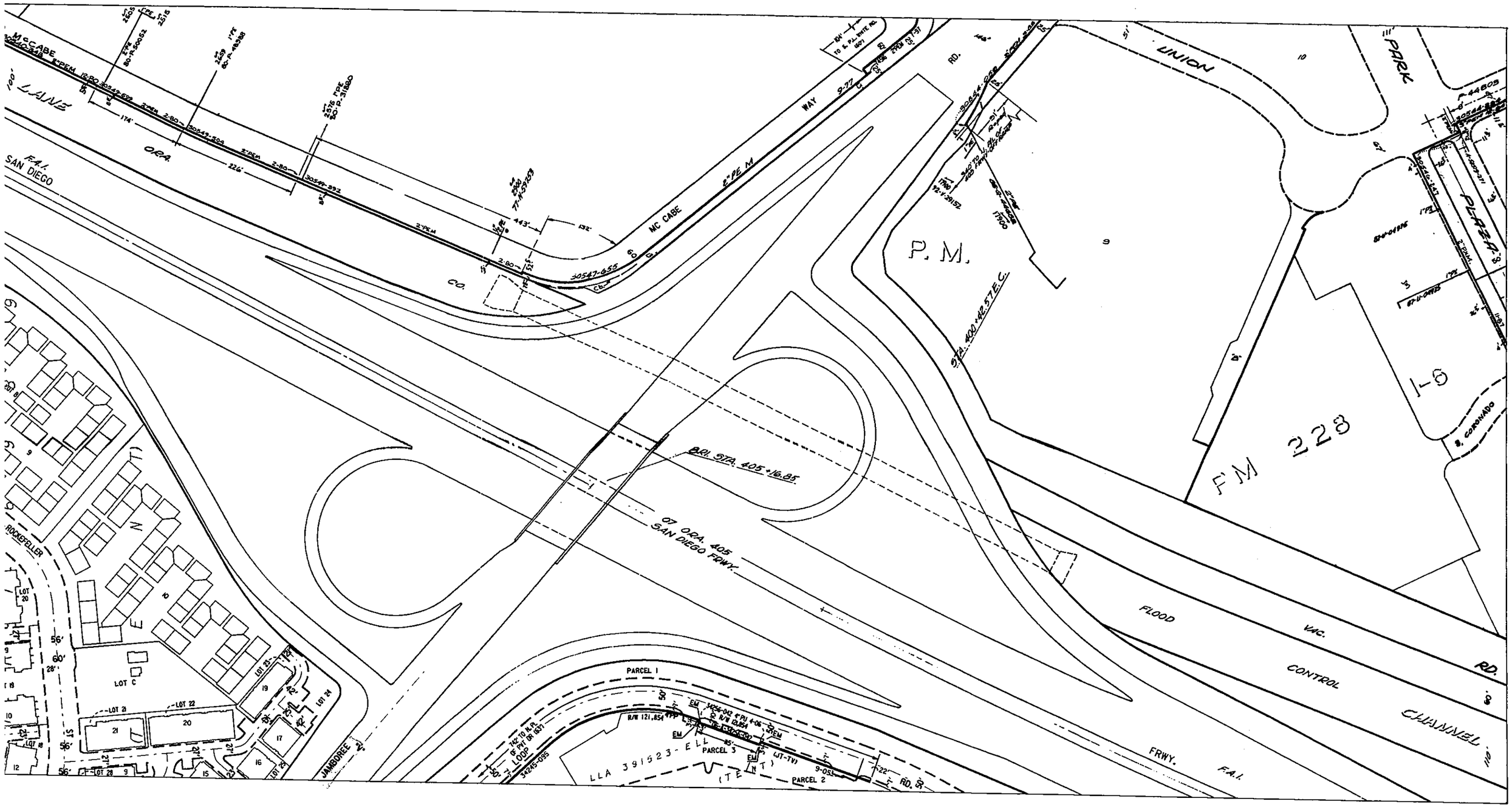


14:03

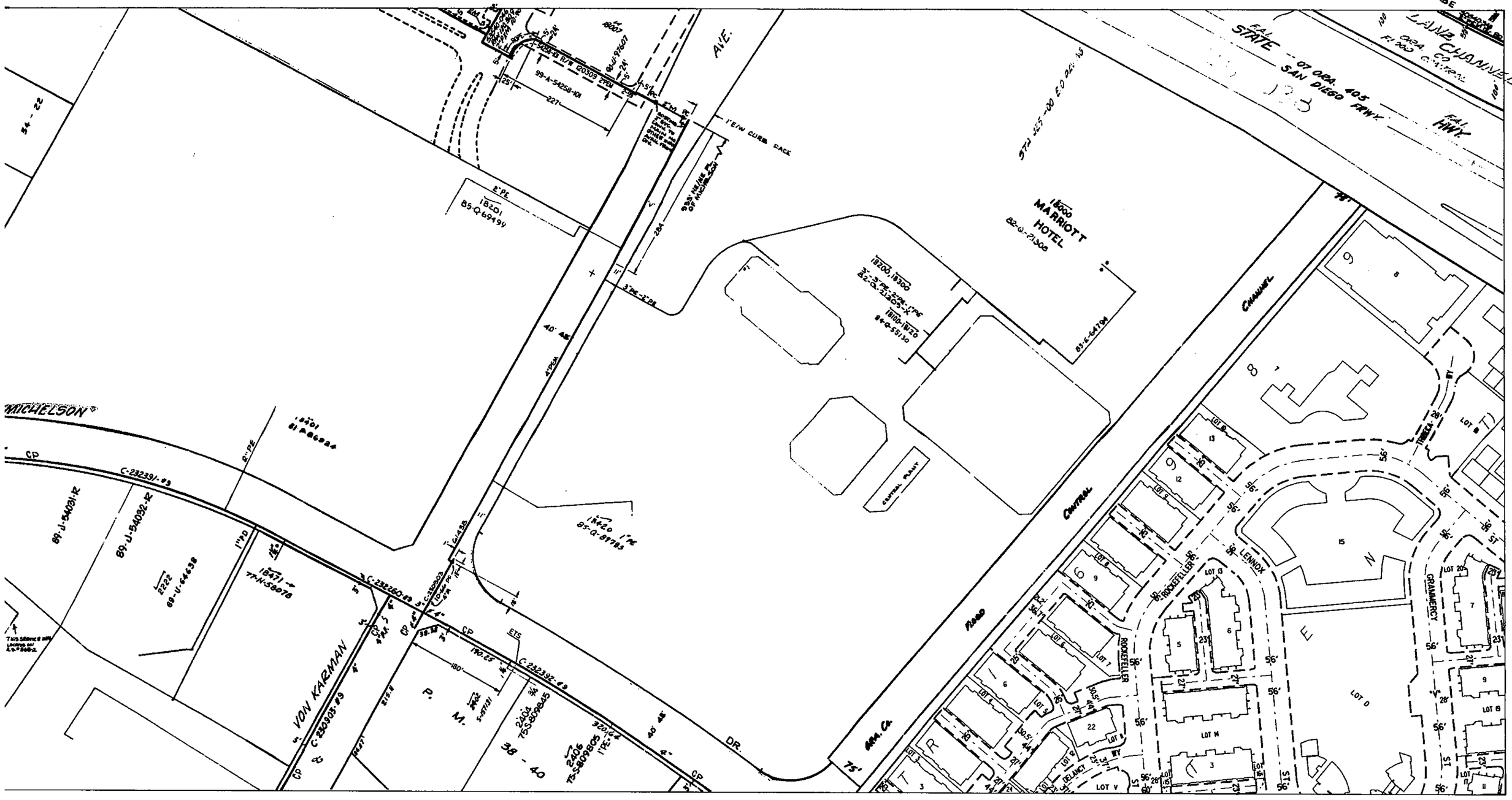
OC 642-4

OC 642-2X

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1. Map Scale



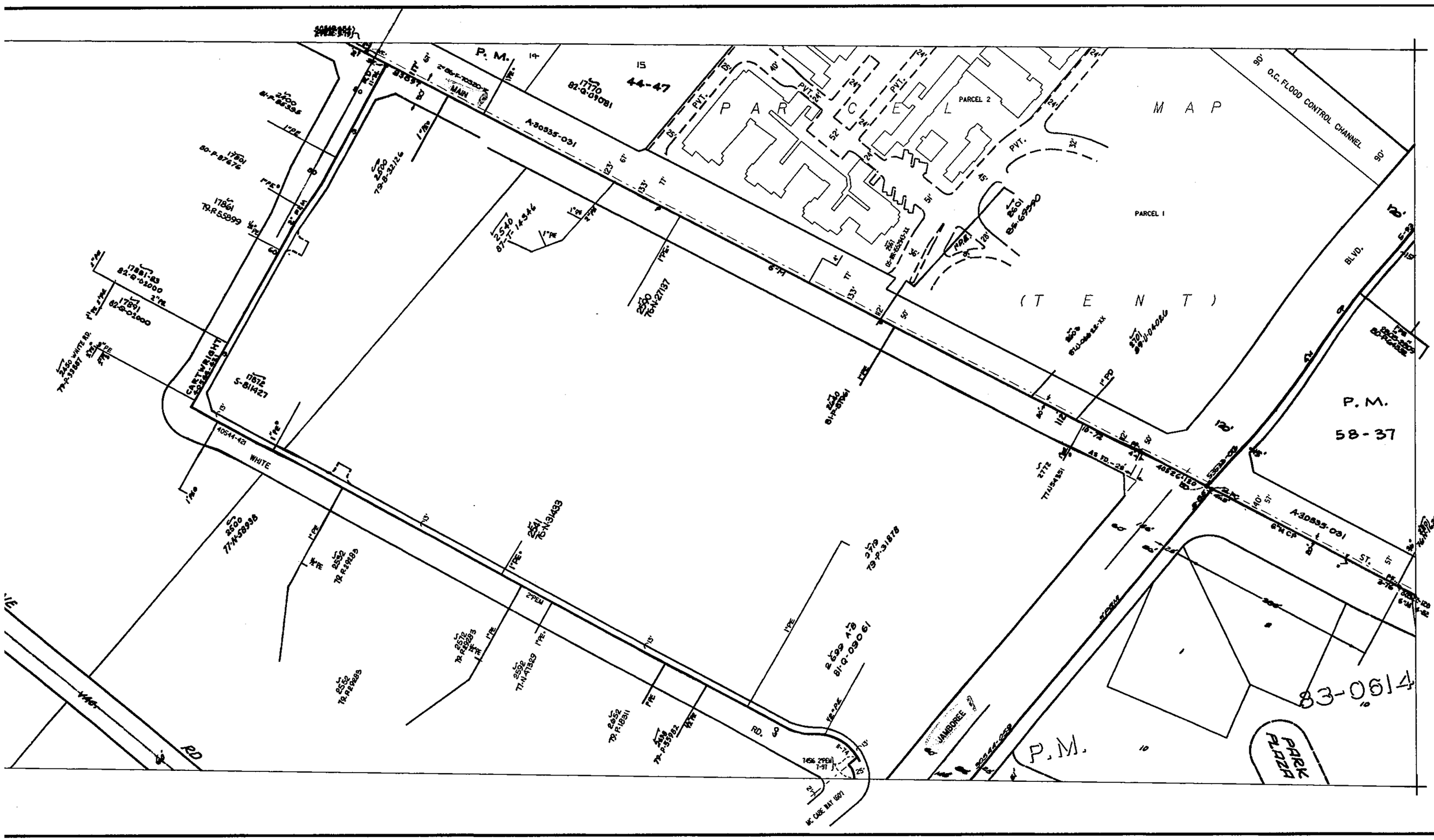
OC 642-3

OC 642-1

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale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A-30535-031
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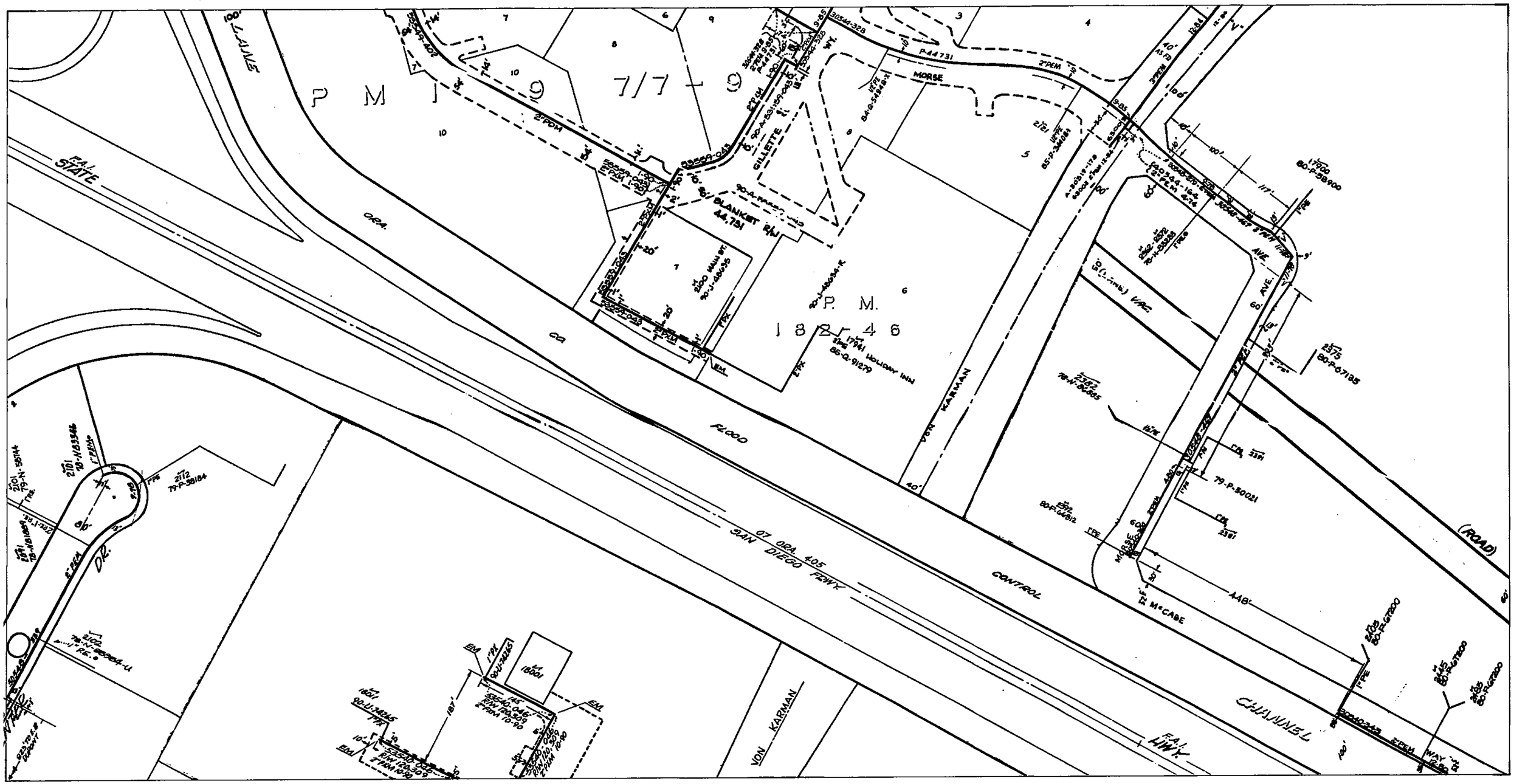
PARCEL 1
(T E N T)
50' O.C. FLOOD CONTROL CHANNEL
WHITE RD.
CARTWRIGHT
MAIN
JAMBOREE
BL VD.
PARK PLAZA
P. M.
58-37
83-0614
OC 642-2
OC 641-4
THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803
166 0 166 332 498 664 Feet
Published Data. SCALE: 166:1. Map Scale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P. M. 18246
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2" PXPC
2" PYPC
2" PZPC
2" PAQC
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2" PCQC
2" PDQC
2" PEQC
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2" PGQC
2" PHQC
2" PIQC
2" PJQC
2" PKQC
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2" PMQC
2" PNQC
2" PPQC
2" PQQC
2" PRQC
2" PSQC
2" PTQC
2" PUQC
2" PVQC
2" PWQC
2" PXQC
2" PYQC
2" PZQC
2" PARC
2" PBRC
2" PCRC
2" PDRC
2" PERC
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2" PGRC
2" PHRC
2" PIRC
2" PJRC
2" PKRC
2" PLRC
2" PMRC
2" PNRC
2" PPRC
2" PQRC
2" PRRC
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2" PTRC
2" PURC
2" PVRC
2" PWRC
2" PXRC
2" PYRC
2" PZRC
2" PASC
2" PBSC
2" PCSC
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2" PKSC
2" PLSC
2" PMSC
2" PNSC
2" PPSC
2" PQSC
2" PRSC
2" PSSC
2" PTSC
2" PUSC
2" PVSC
2" PWSC
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2" PYSC
2" PZSC
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2" PBTC
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2" PDTC
2" PETC
2" PFTC
2" PGTC
2" PHTC
2" PITC
2" PJTC
2" PKTC
2" PLTC
2" PMTC
2" PNTC
2" PPTC
2" PQTC
2" PRTC
2" PSTC
2" PTTC
2" PUTC
2" PVTC
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2" PZTC
2" PAUC
2" PBUC
2" PCUC
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2" PSUC
2" PTUC
2" PUUC
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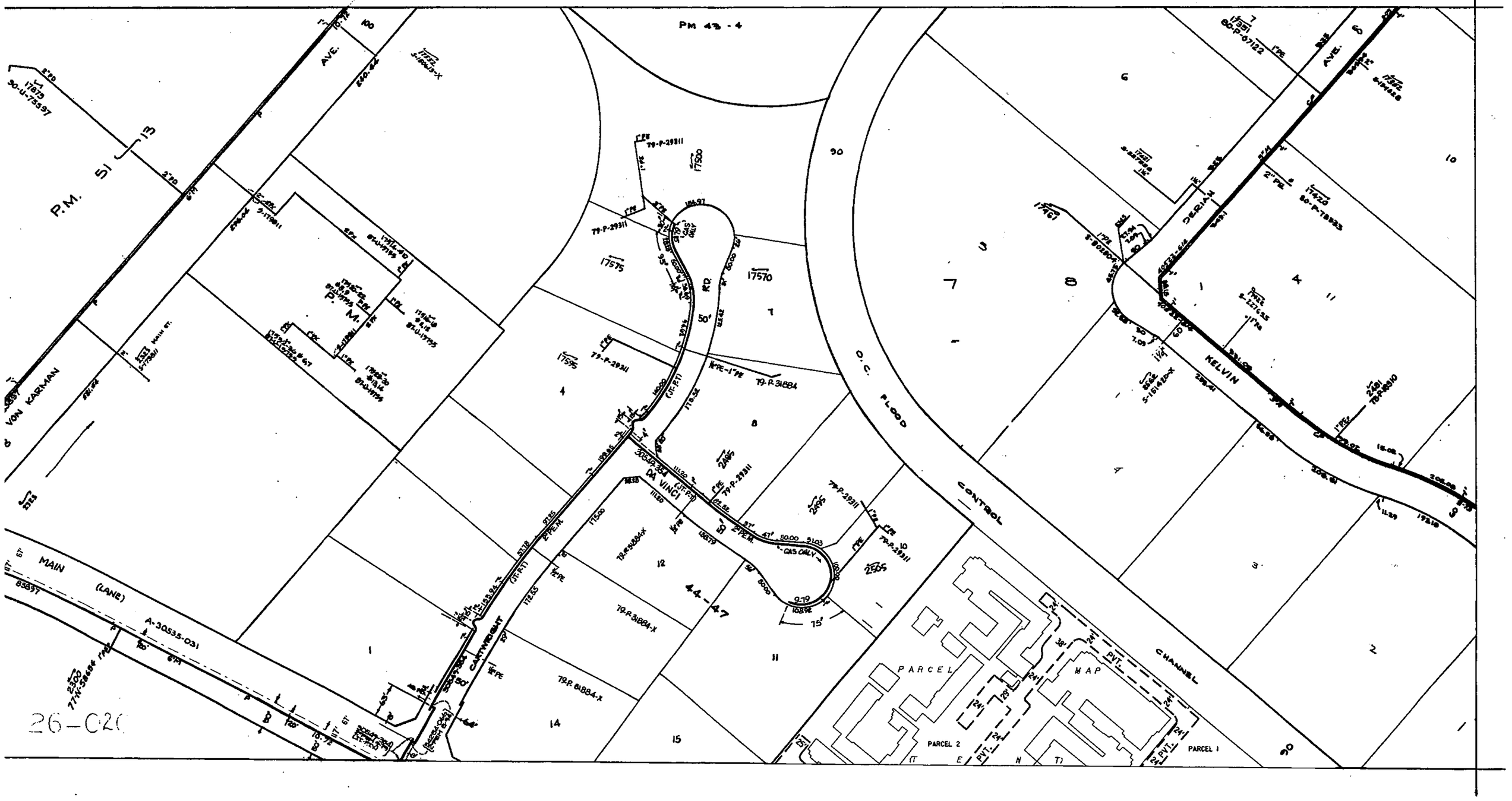
2" PAVC
2" PBVC
2" PCVC
2" PDVC


P.M. 51-13
VON KARMAN
AVE.
MAIN ST.
MAIN
(LANE)
A-30535-031
DA VINCI
CANTWELL
SCOTTSDALE
79-P-29311
79-P-31884-X
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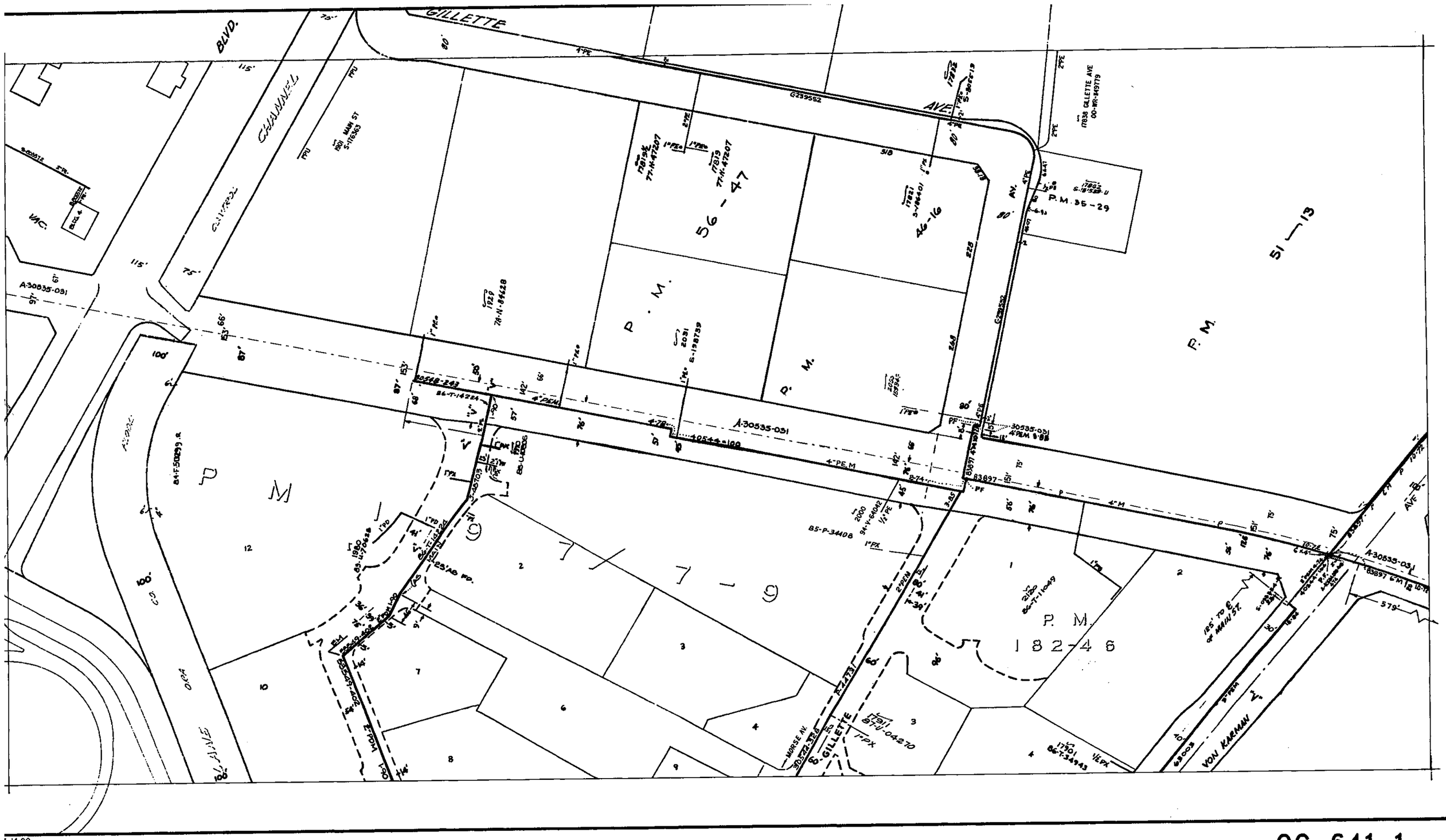
GILLETTE AVE.
CHANNEL
MAIN ST
P. M. 35-29
P. M.
56-47
46-16
51-13
7779
P. M. 182-46
A-30535-031
A-30535-03
VON KARMAN
S. GILLETTE
MORSE AV.
EDINGER
BLVD.
17838 GILLETTE AVE
00-MR-1499779
17852
17851
17819
17815
17821
17791
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17501
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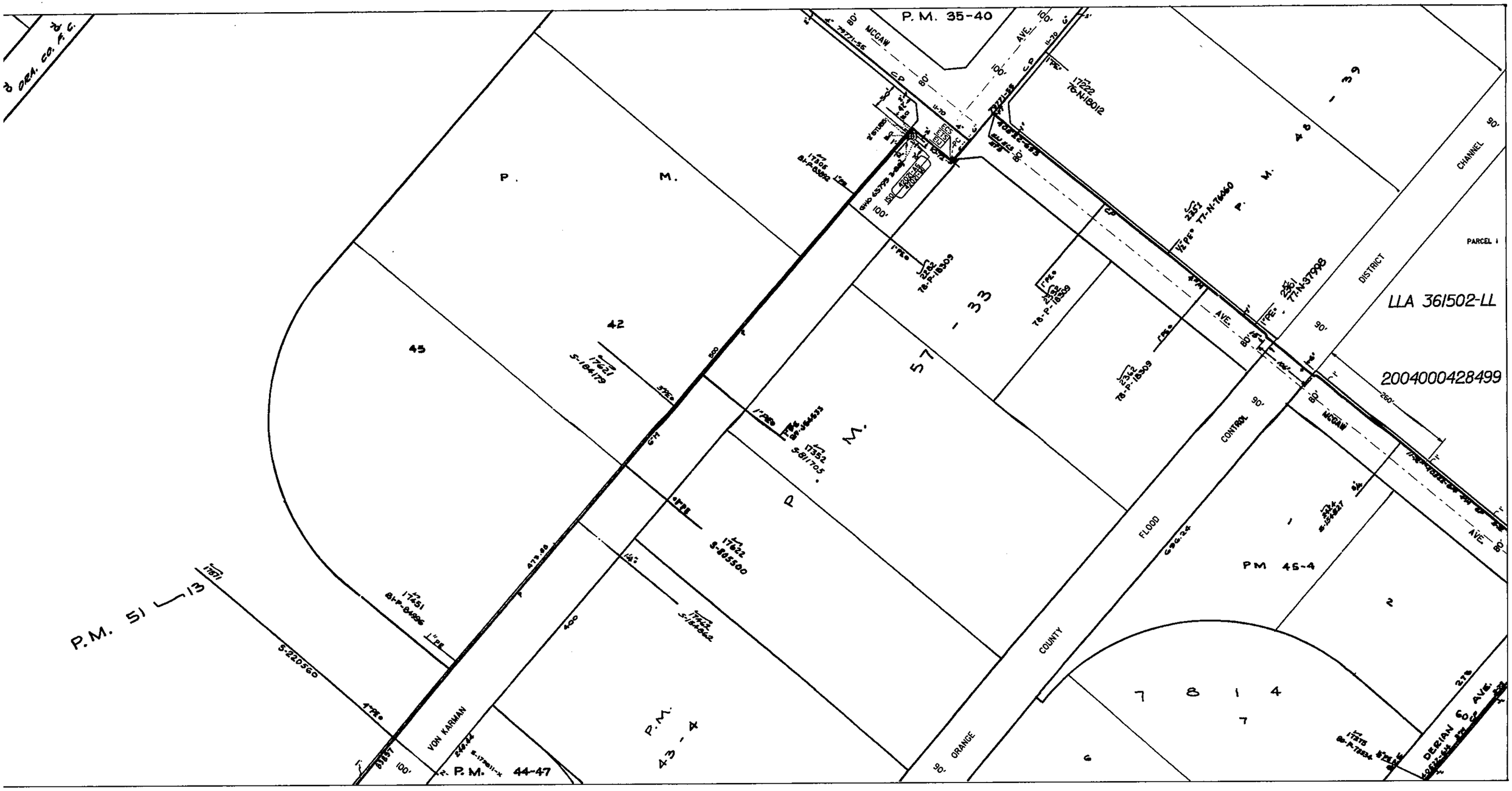


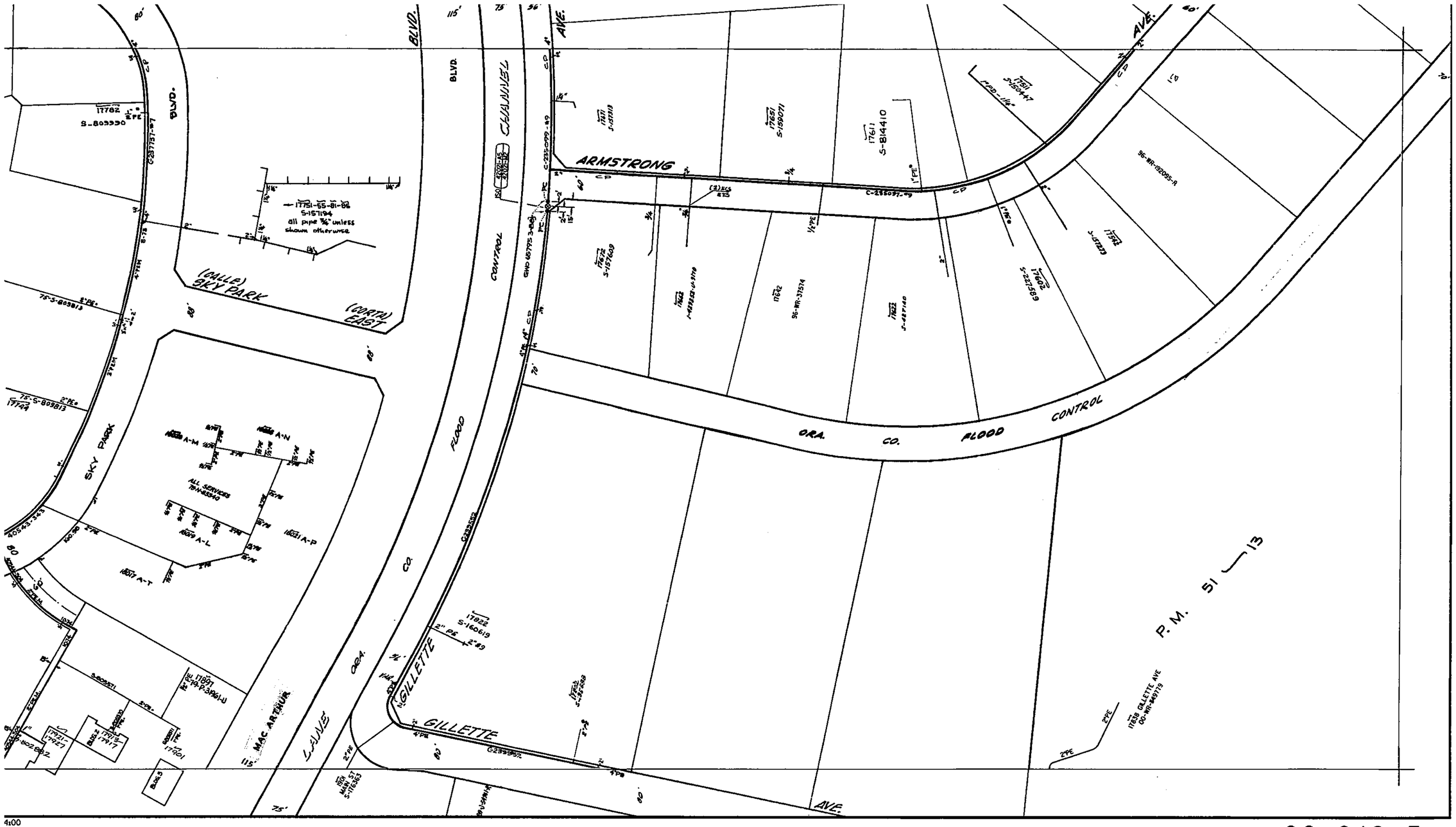
OC 641-2

OC 640-4X

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803



4:00

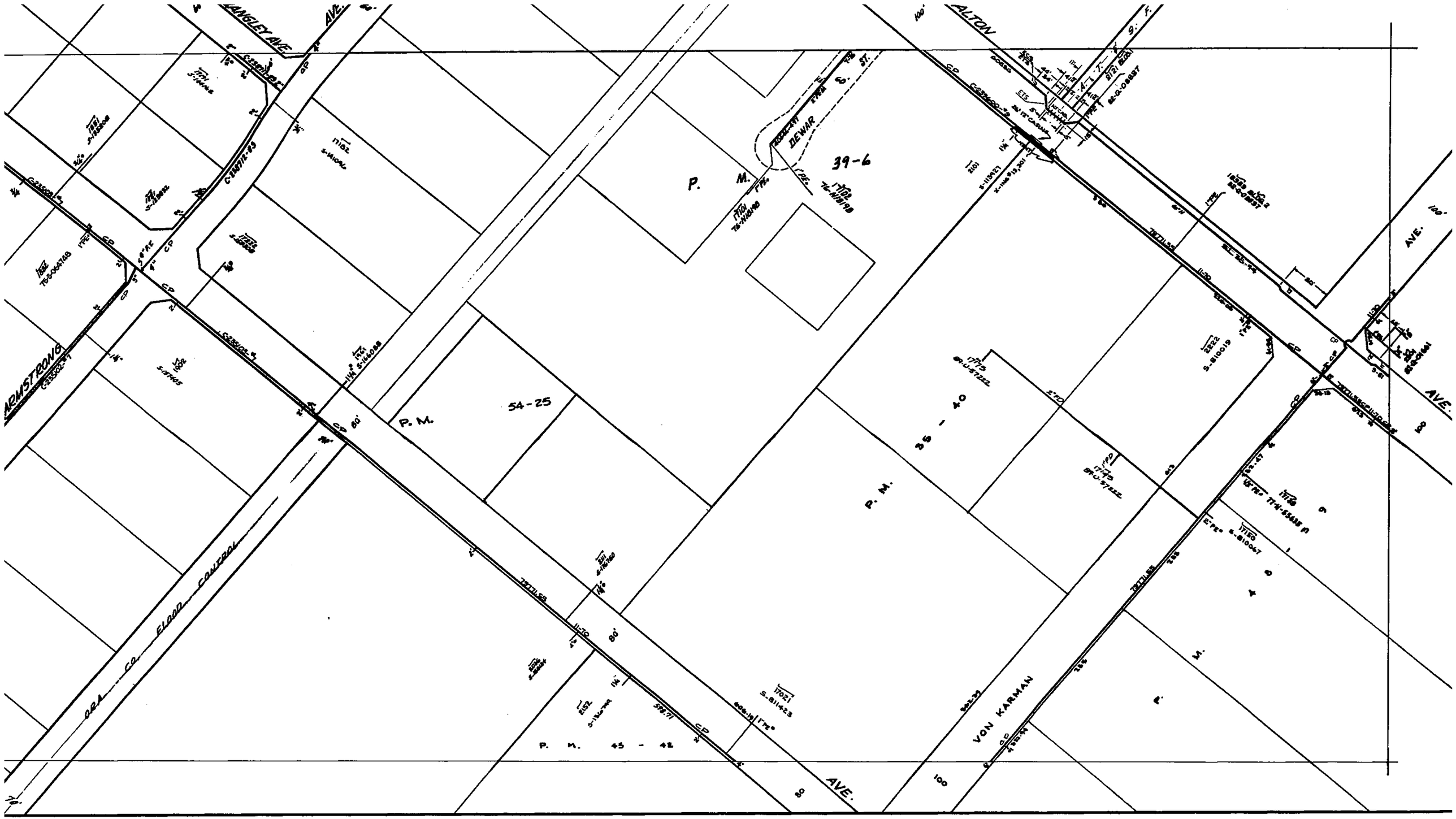
OC 641-1

OC 640-3

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



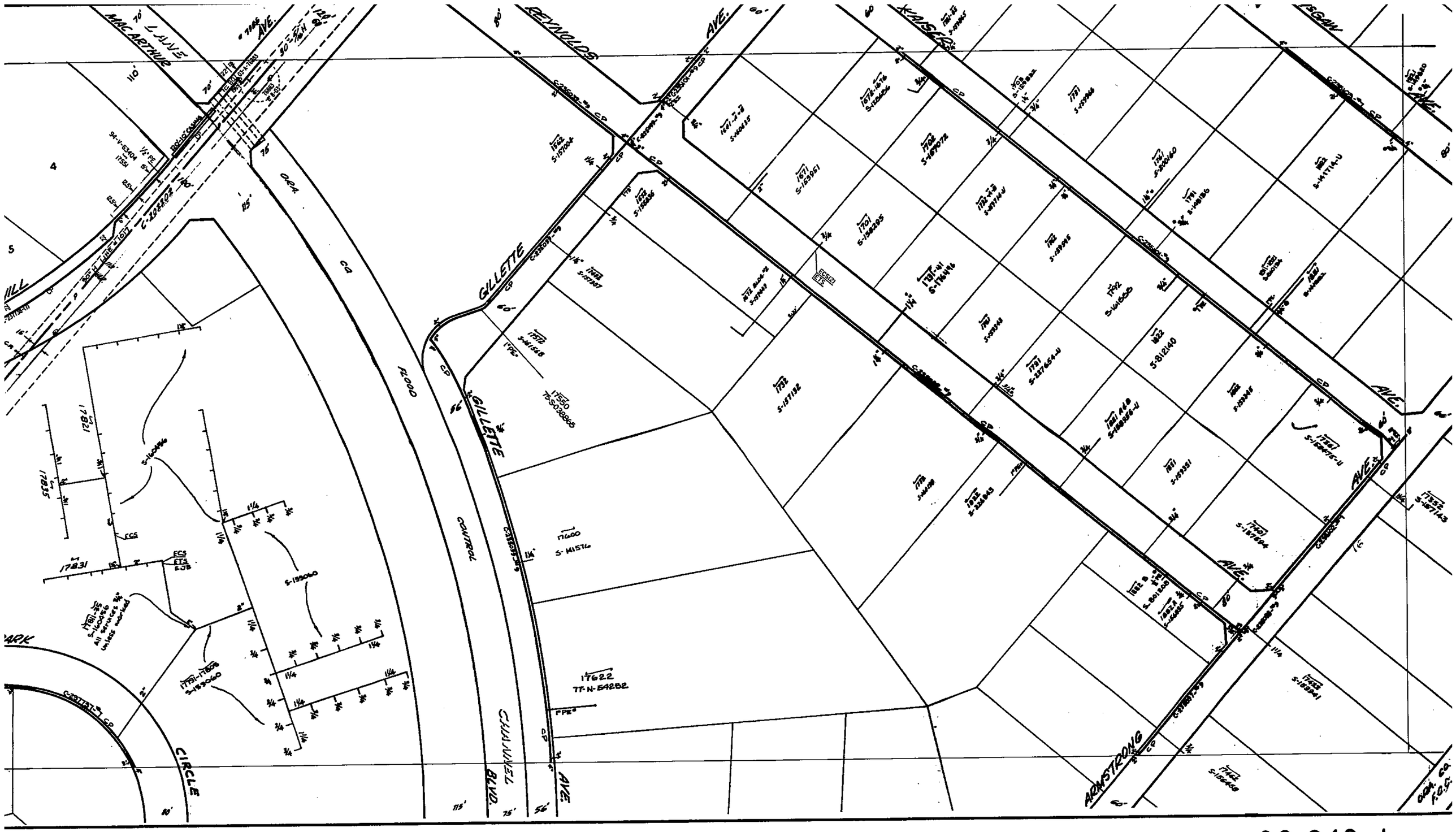
OC 640-4

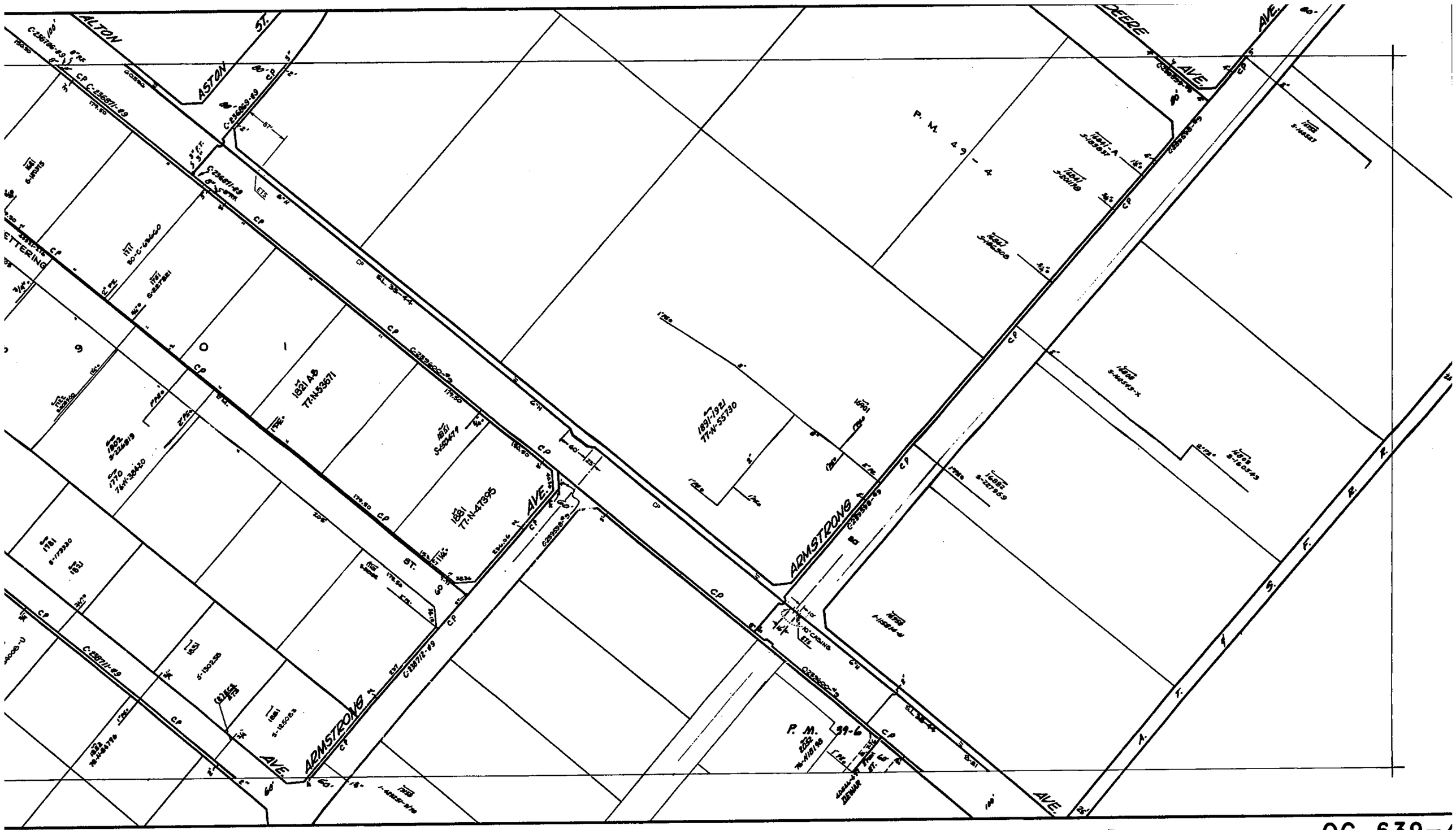
OC 640-2

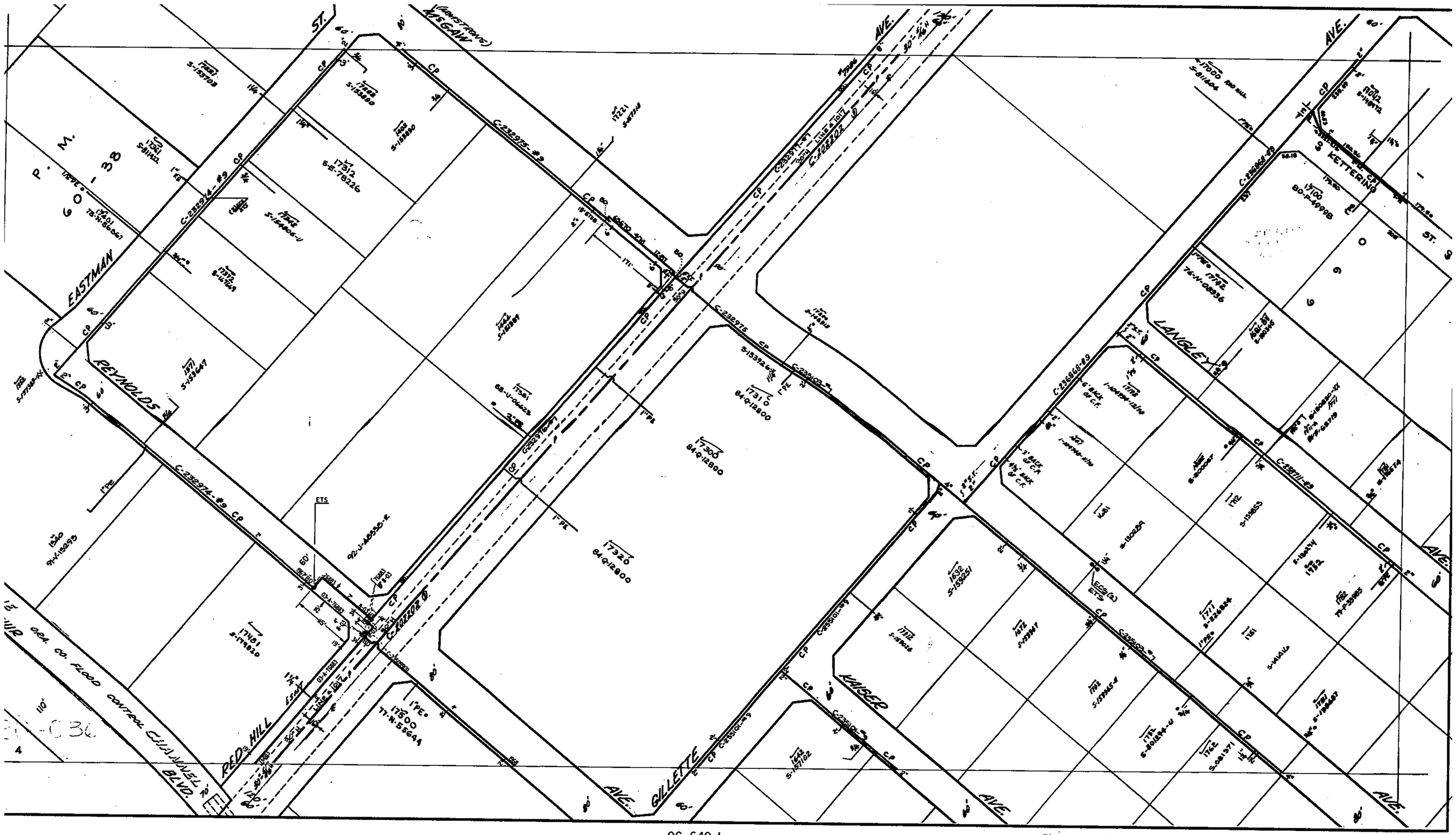
166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1. Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803


MACARTHUR AVE.
REYNOLDS AVE.
KNAST AVE.
ISGAIR AVE.
GILLETTE
GILLETTE
FLOOD CONTROL CHANNEL
CHANNEL BLVD.
ARMSTRONG
CIRCLE
PARK
AVE.
AVE.
AVE.
AVE.
17550
72-S-038866
17622
77-N-54252
17400
S-H1576
17532
S-1571143
17531
S-1571143-U
17532
S-1571143
17532
S-1571143
17532
S-1571143


ALTON ST.
ASTON AVE.
ARMSTRONG AVE.
DEERE AVE.
P. M. 49-4
P. M. 39-6
1891-1921 77-N-55730
1821 A-B 77-N-53671
1821 77-N-47395
1821 S-1502458
1821 S-1502459
1821 S-1502460
1821 S-1502461
1821 S-1502462
1821 S-1502463
1821 S-1502464
1821 S-1502465
1821 S-1502466
1821 S-1502467
1821 S-1502468
1821 S-1502469
1821 S-1502470
1821 S-1502471
1821 S-1502472
1821 S-1502473
1821 S-1502474
1821 S-1502475
1821 S-1502476
1821 S-1502477
1821


P. M. 38
EASTMAN
REYNOLDS
RED HILL
ORA. CO. FLOOD CONTROL CHANNEL
BLVD.
ST.
AVE.
KETTERING
LANGLEY
KAISER
GILLETTE
C-232974-#9
C-232975-#9
C-232975
C-236668-89
C-236669-89
C-236670-89
C-236671-89
C-235801-89
C-235802-89
C-235803-89
C-235804-89
C-235805-89
C-235806-89
C-235807-89
C-235808-89
C-235809-89
C-235810-89
C-235811-89
C-235812-89
C-235813-89
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C-235815-89
C-235816-89
C-235817-89
C-235818-89
C-235819-89
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C-235821-89
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C-235825-89
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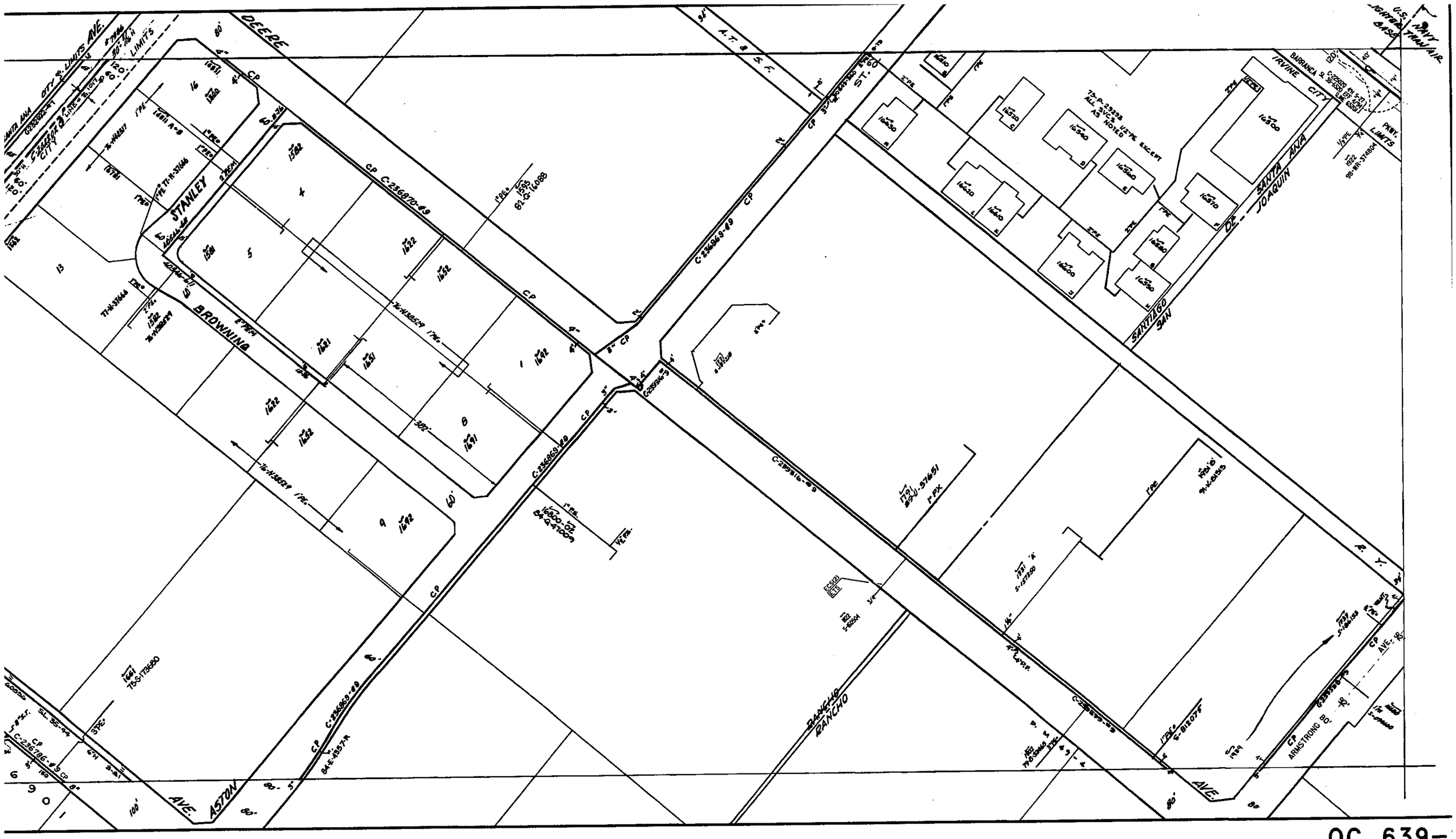
C-235840-89


DEERE
STANLEY
BROWNING
SANTIAGO
SAN JOAQUIN
SANTA ANA
IRVINE
BARRANCA
ASTON
AVE.
RANCHO
ARMSTRONG
U.S. NAVY
MARINE
CORPS
BASE
CITY
LIMITS
ST.
PKWY.
LIMITS
C-236870-49
C-236869-49
C-235816-49
C-235786-49
C-235558-49
C-235556-49
C-235557-49
C-235559-49
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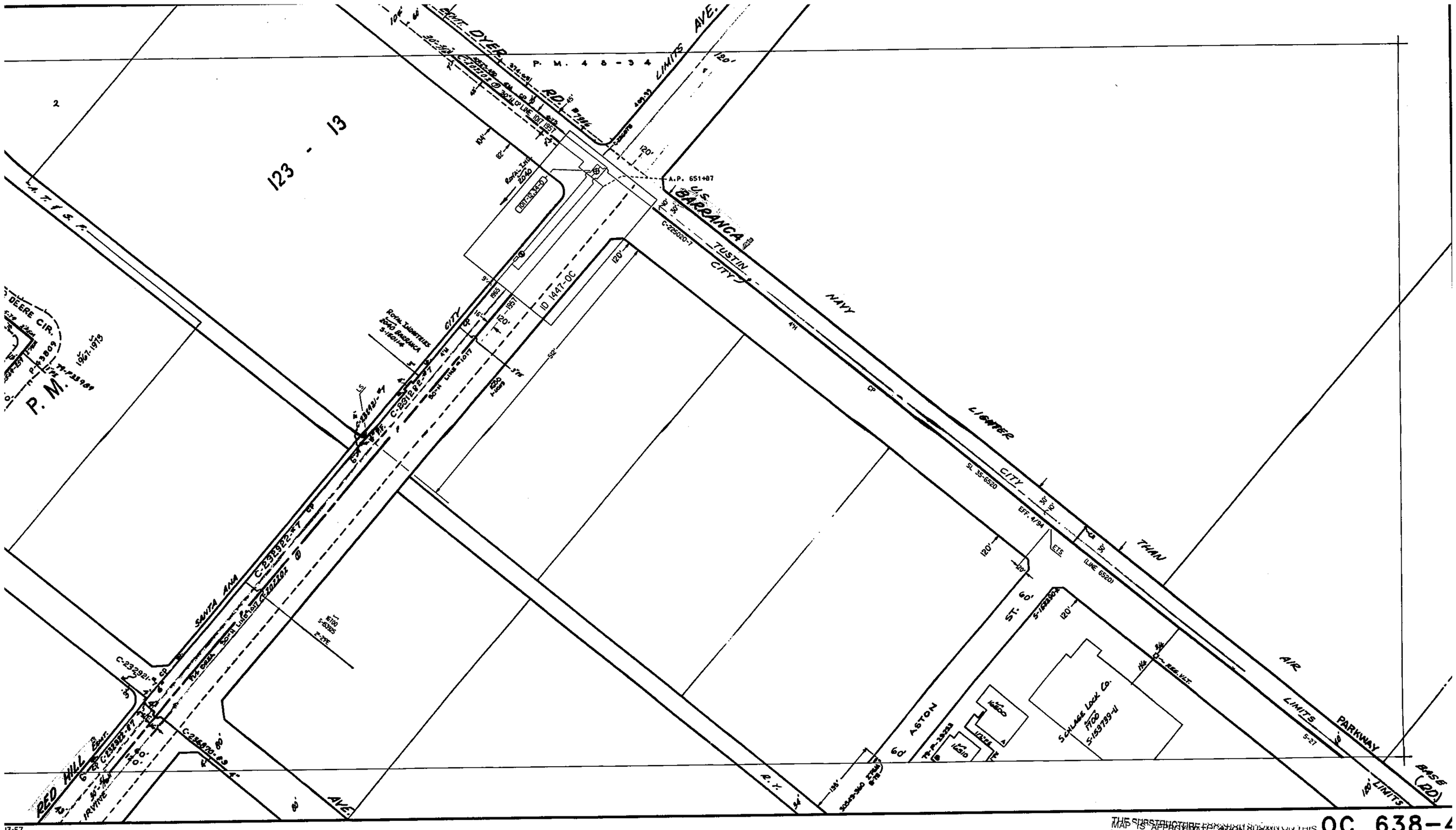
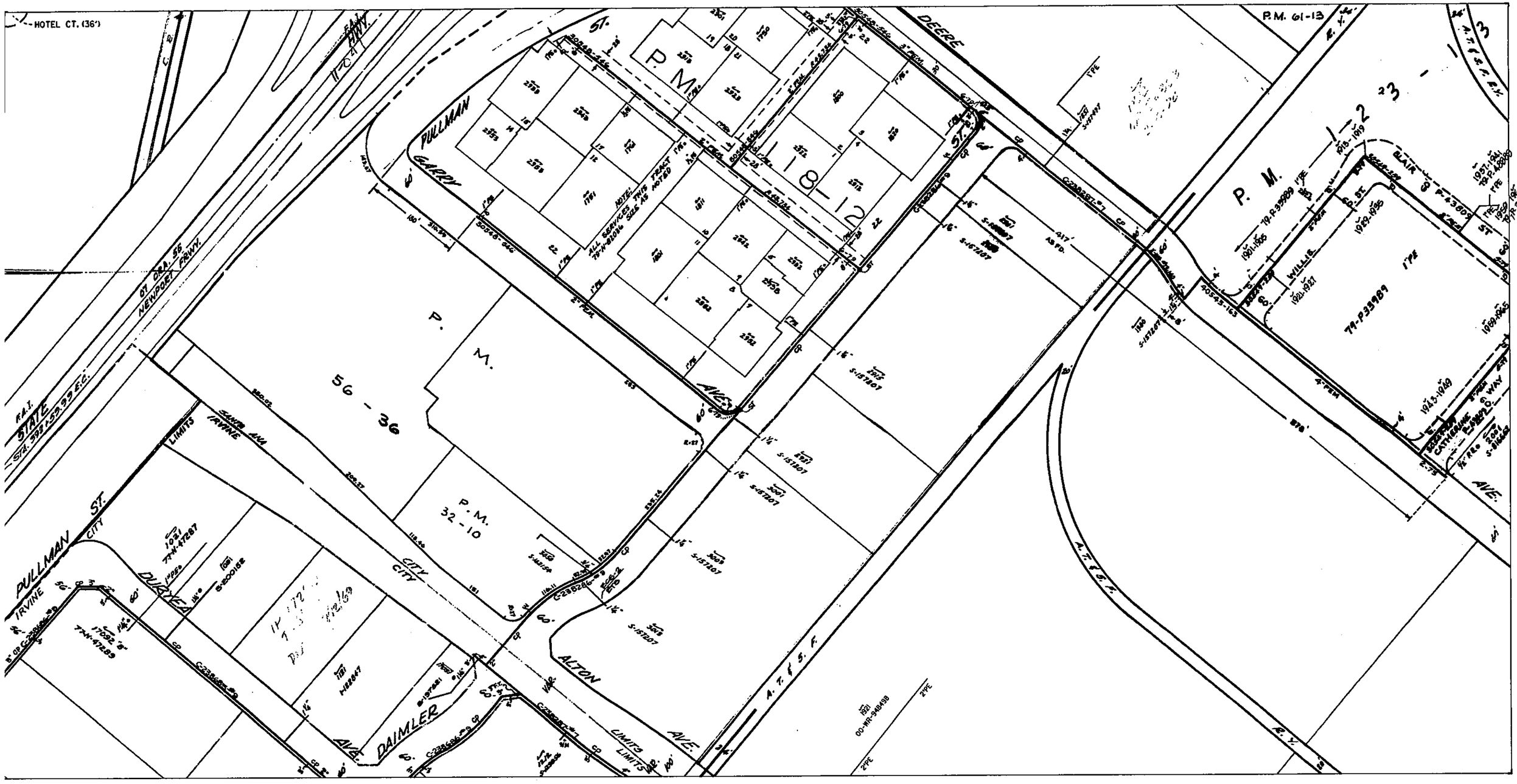
C-235591-49
C-235592-49
C-235593-49
C-235594-49
C-235595-49
C-235596-49
C-235597-49
C-235598-49

DUETZA AVE. ST. 60' 60' C-2384.84-89 3"G-2384.84-89 CP 2" 2" 1521 S-179821 1" 1" 1521 S-179821 3/4" 3/4" 1" 1" 1



THE SUBSTRUCTURE EXHIBITED ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.

SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803



3x56

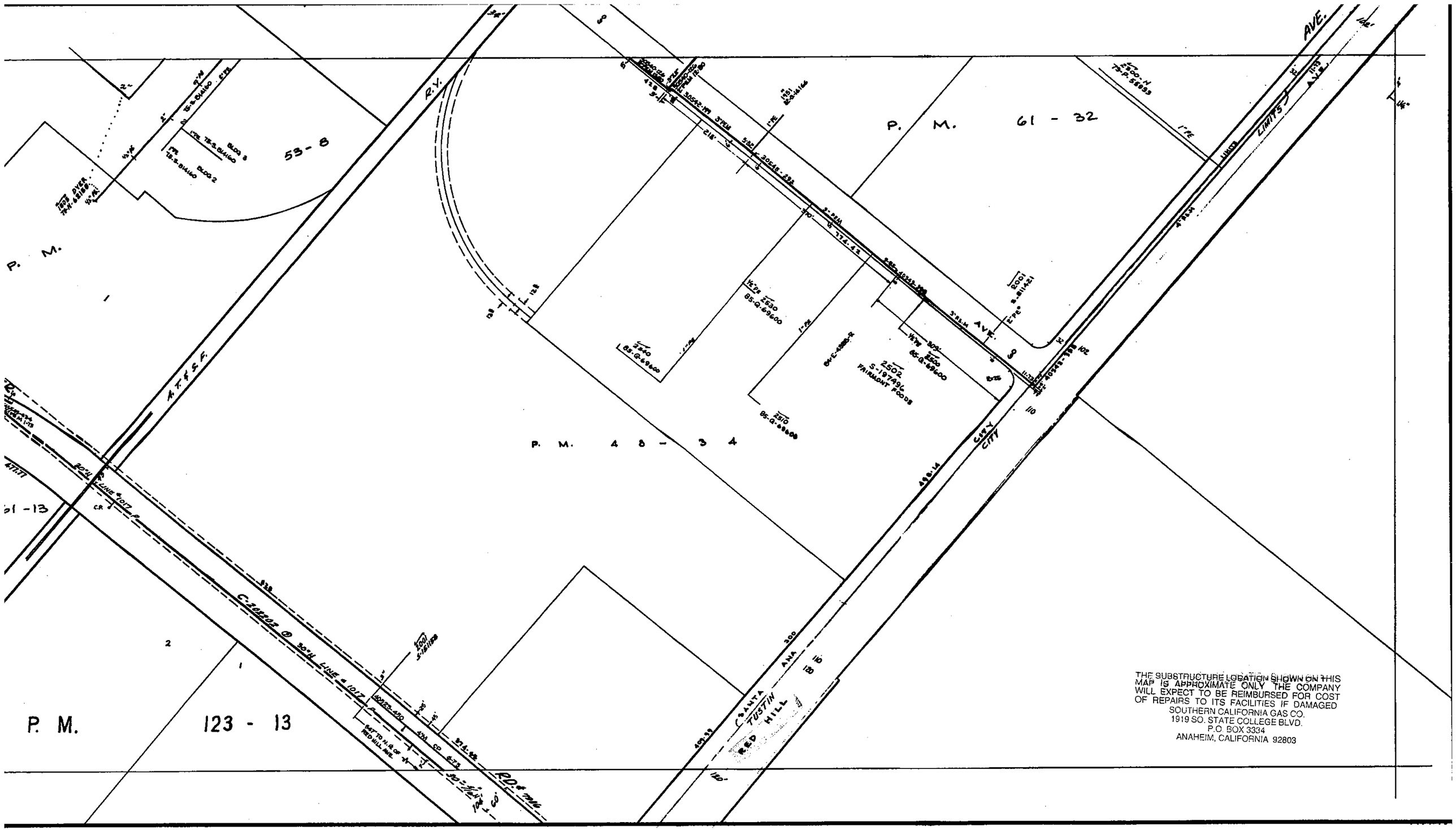
OC 639-1

OC 638-3

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1. Map Scale



638-4

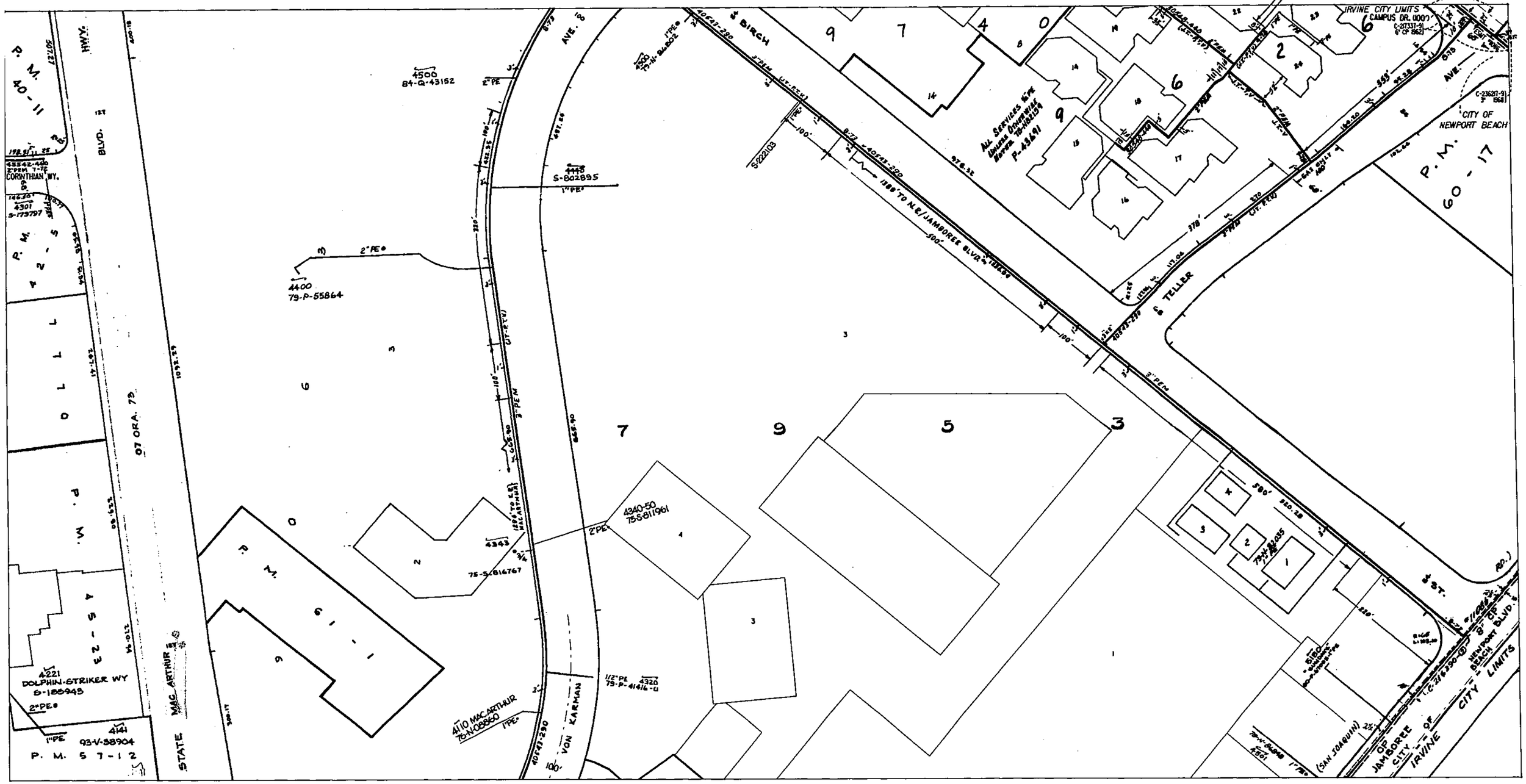
52 OC 0638 2

35 OC 0638 2

OC 638-2

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



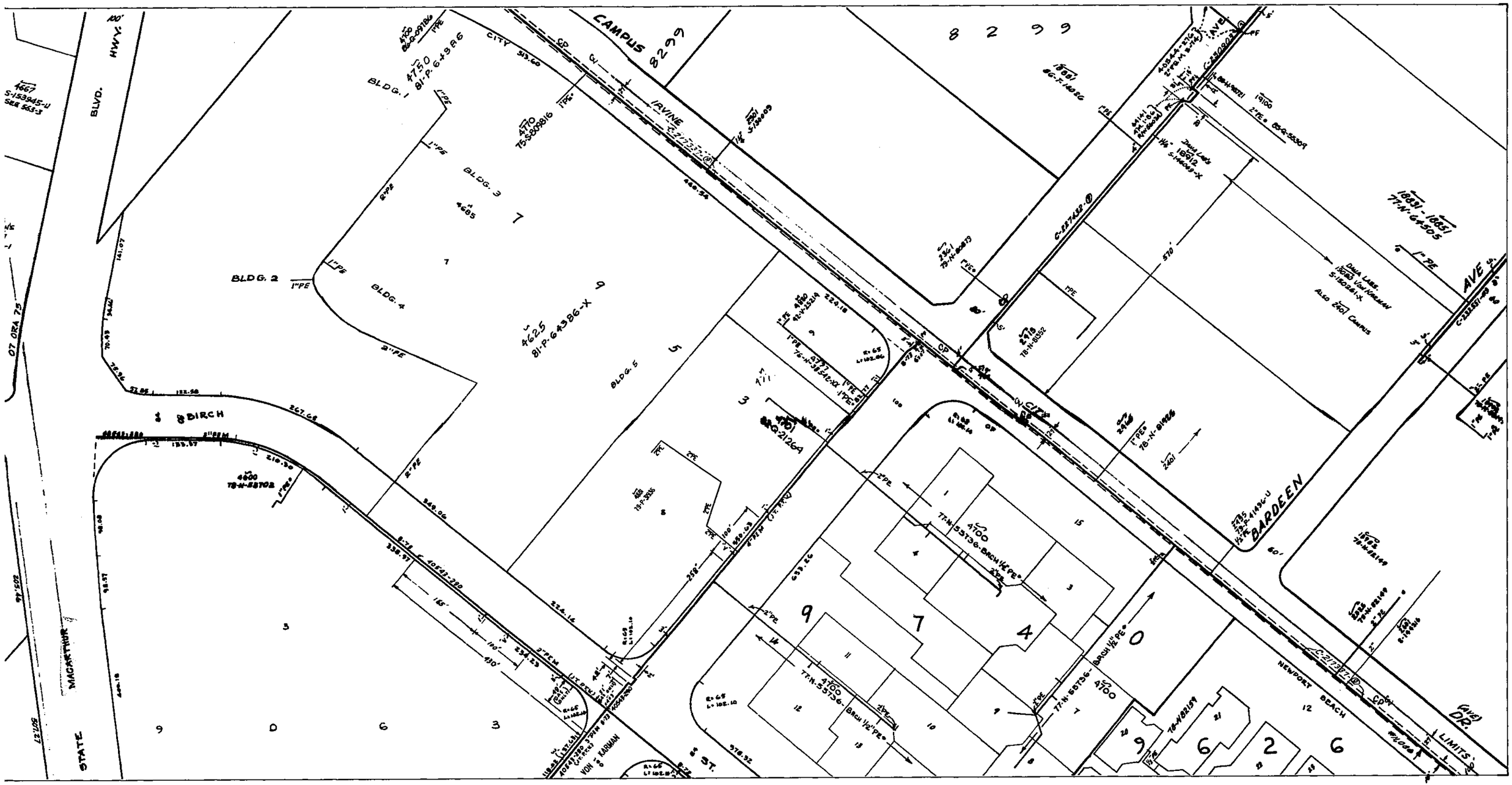
OC 561-2

OC 562-4X

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



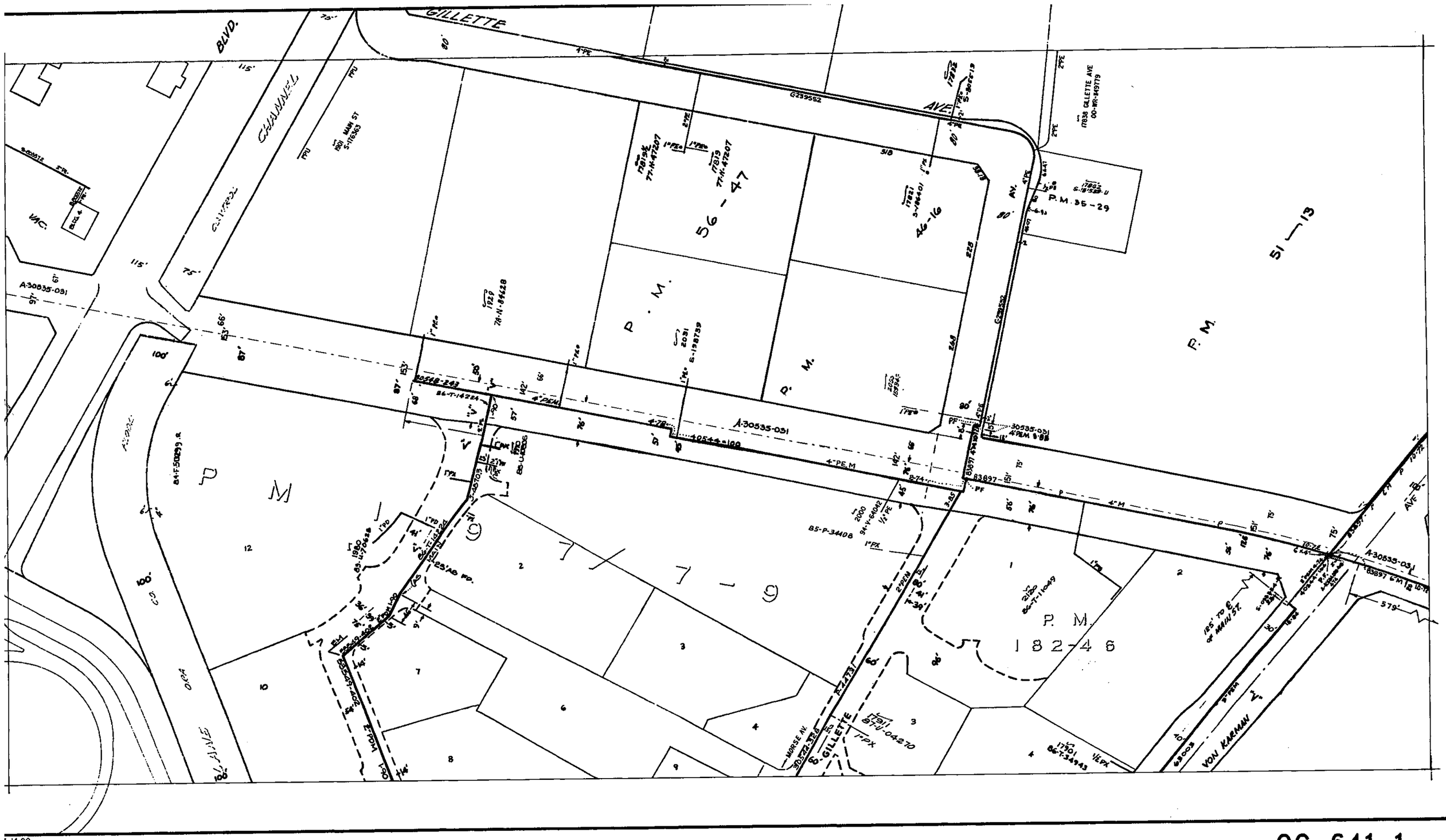
OC 562-4

OC 562-2X

THE SUBSURFACE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale


GILLETTE AVE.
CHANNEL
MAIN ST
P. M. 35-29
P. M.
56-47
46-16
51-13
7779
P. M. 182-46
A-30535-031
A-30535-03
VON KARMAN
S. GILLETTE
MORSE AV.
EDINGER
BLVD.
17838 GILLETTE AVE
00-MR-1499779
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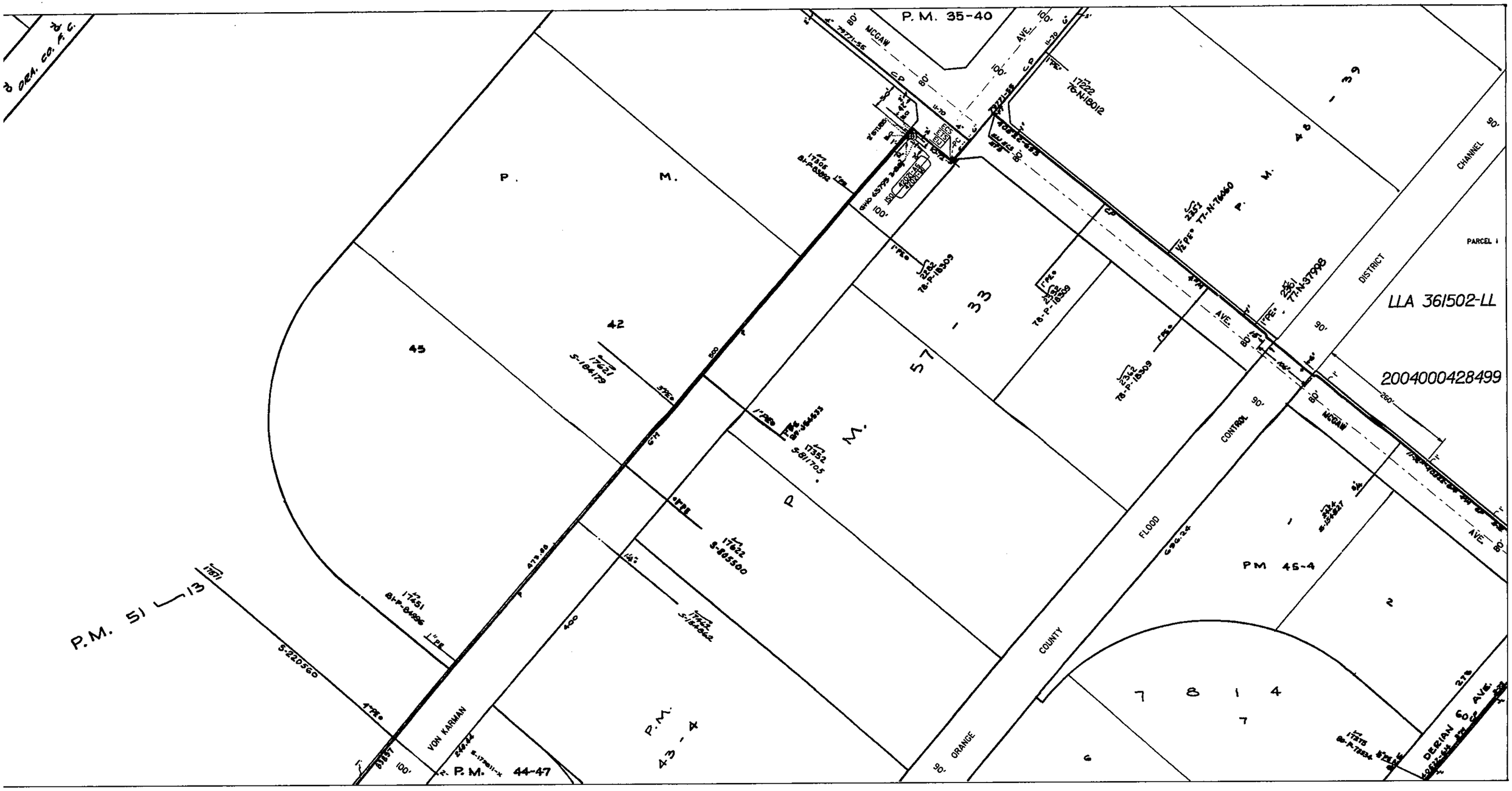


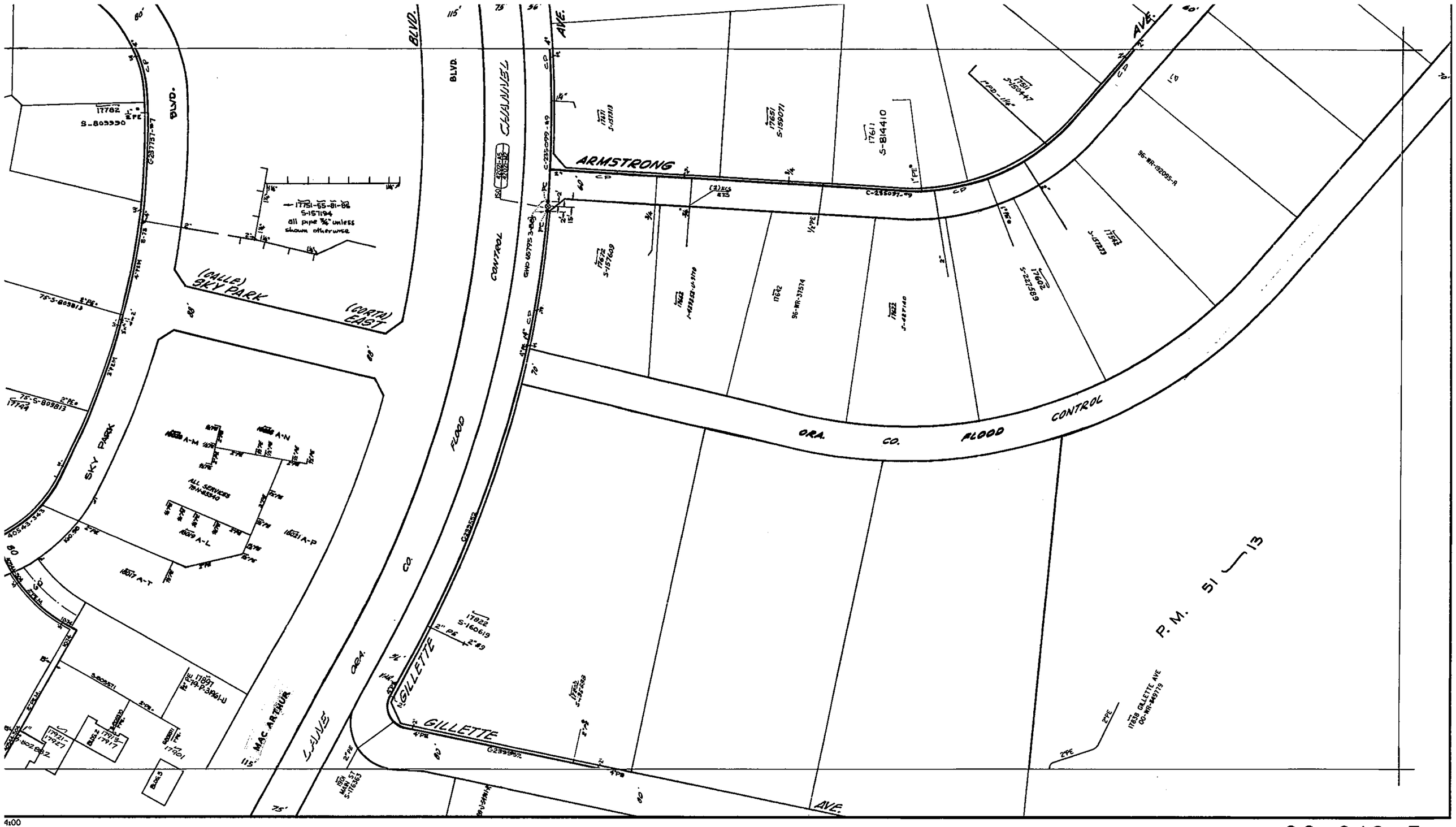
OC 641-2

OC 640-4X

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803



4:00

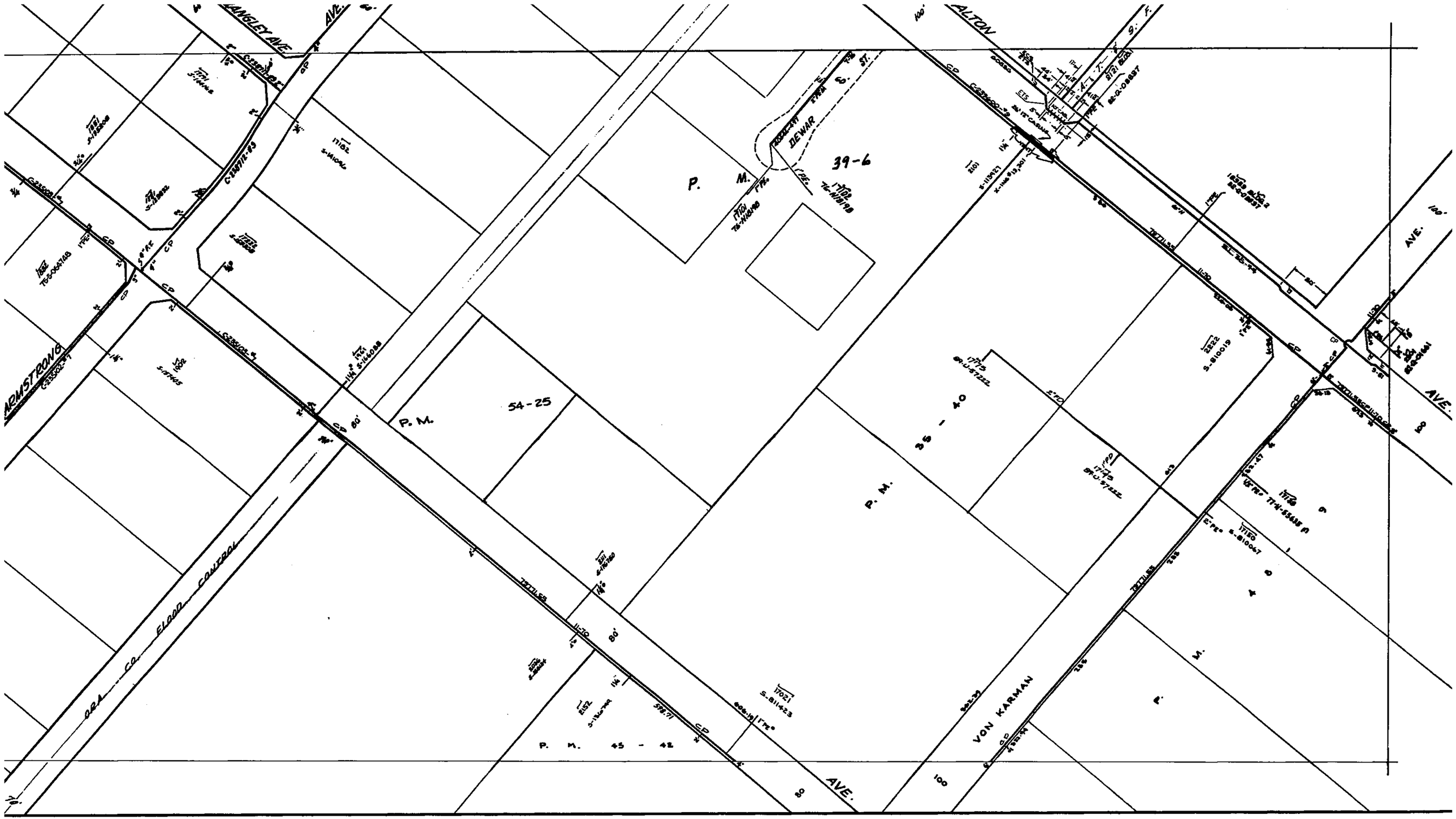
OC 641-1

OC 640-3

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



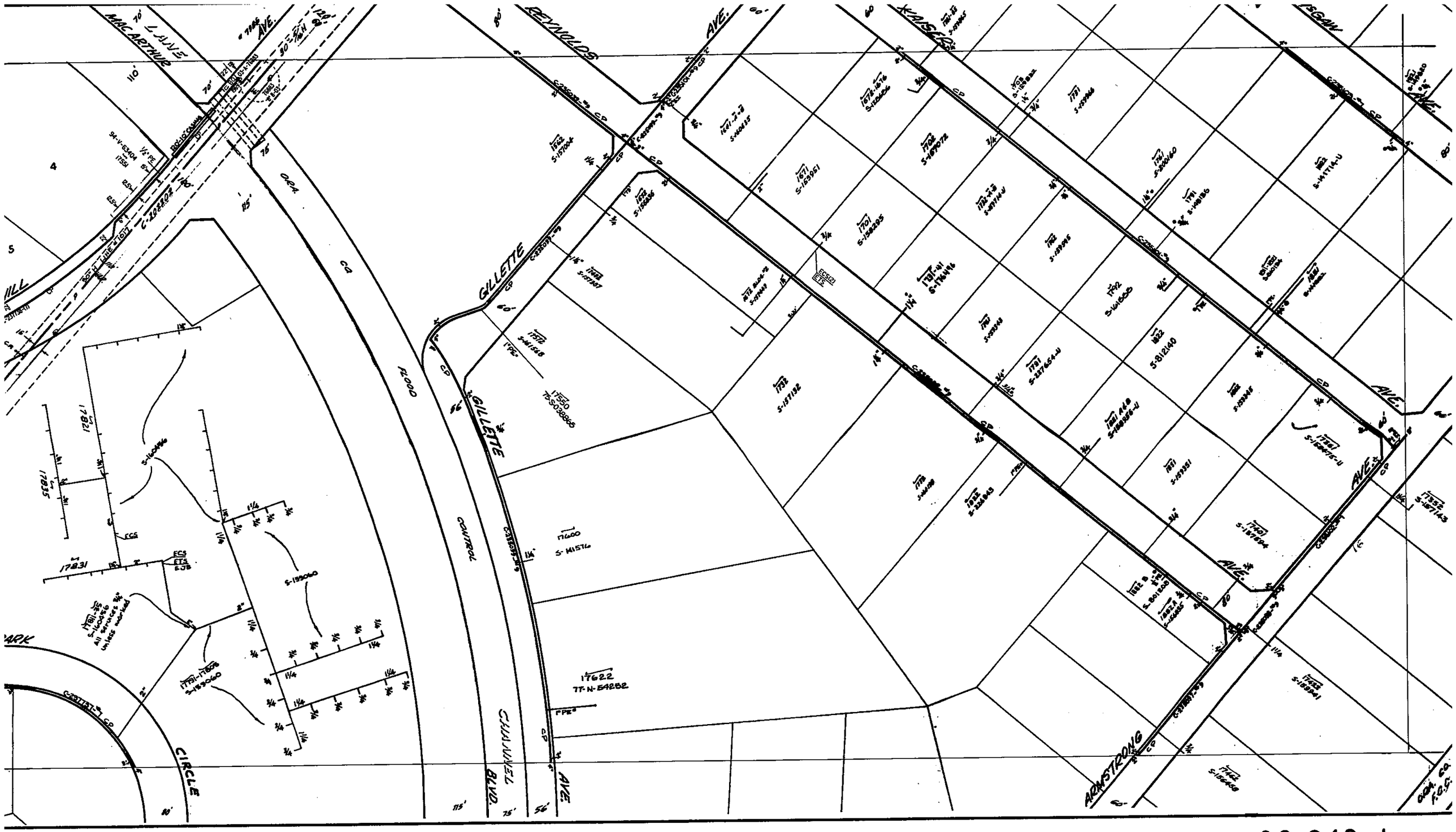
OC 640-4

OC 640-2

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1. Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803


MACARTHUR AVE.
REYNOLDS AVE.
KNAST AVE.
ISGAIR AVE.
GILLETTE
GILLETTE
FLOOD CONTROL CHANNEL
CHANNEL BLVD.
ARMSTRONG
CIRCLE
PARK
AVE.
AVE.
AVE.
AVE.
17550
72-S-038866
17622
77-N-54252
17400
S-H1576
17532
S-1571143
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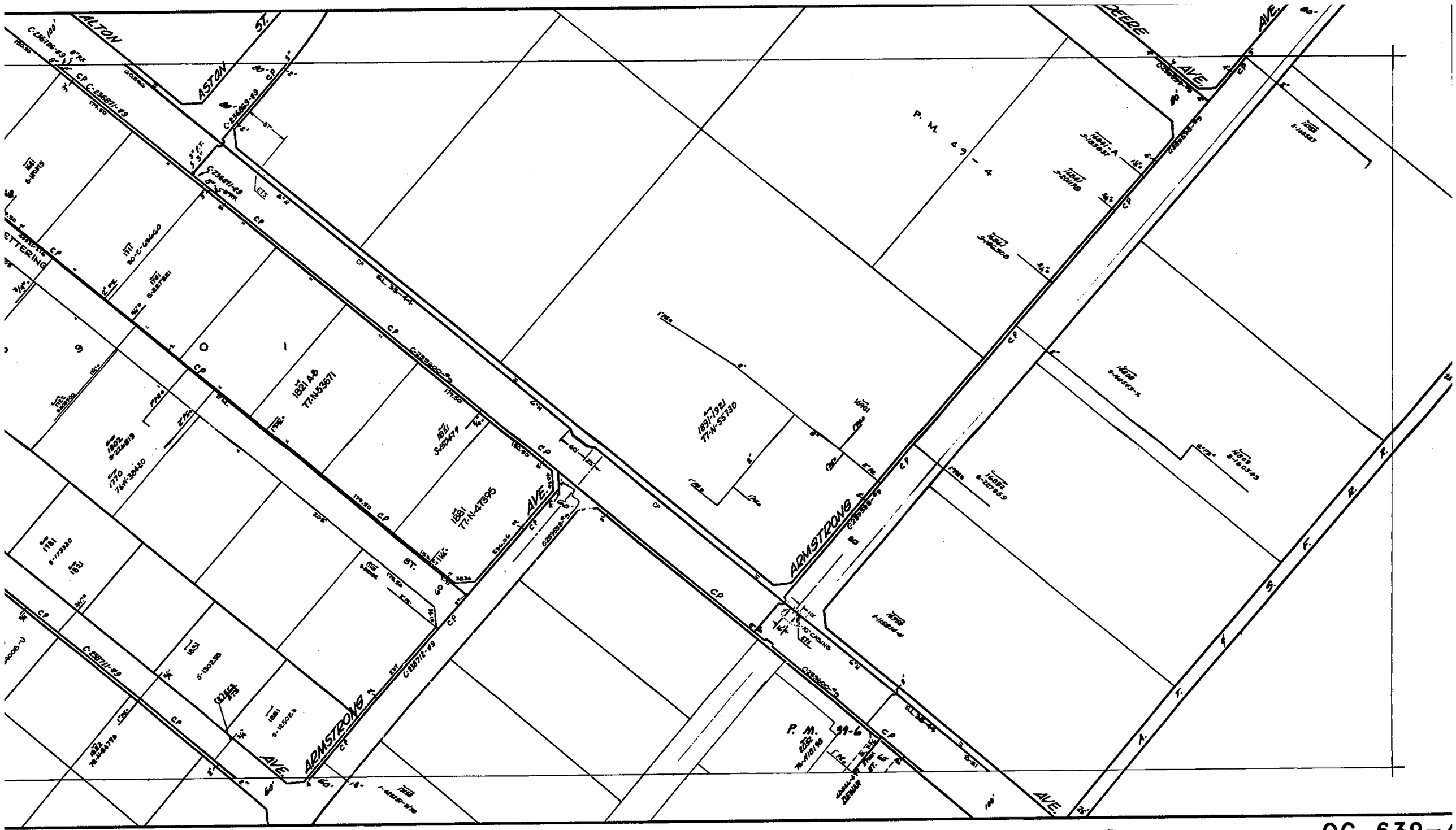
S-1571143-U
17532
S-1571143
17532
S-1571143
17532
S-1571143


ALTON ST.
ASTON AVE.
ARMSTRONG AVE.
DEERE AVE.
P. M. 49-4
P. M. 39-6
1891-1921 77-N-55730
1821 A-B 77-N-53671
1821 77-N-47395
1821 S-1502458
1821 S-1502459
1821 S-1502460
1821 S-1502461
1821 S-1502462
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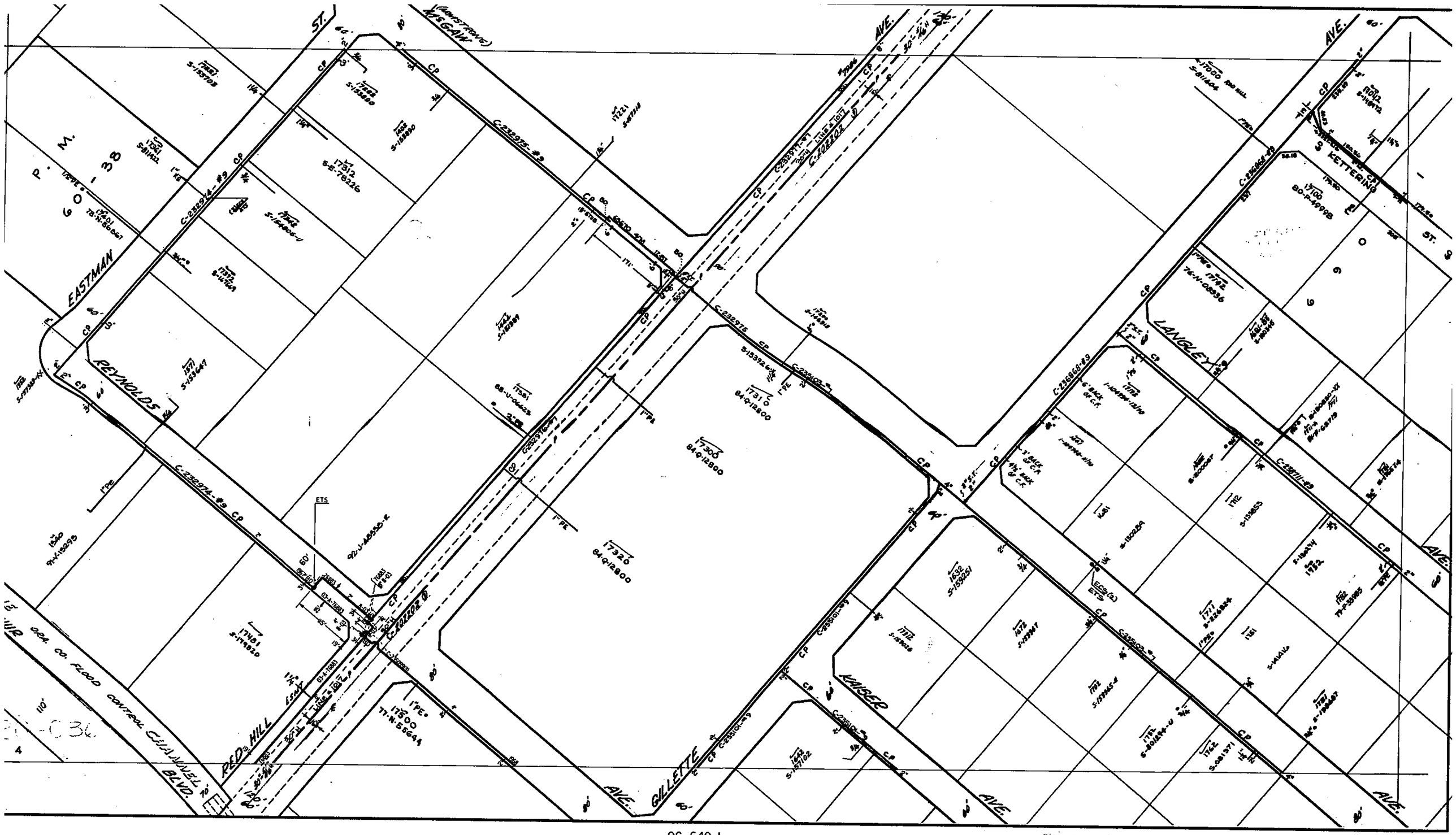
1821 S-1502468
1821 S-1502469
1821 S-1502470
1821 S-1502471
1821 S-1502472
1821 S-1502473
1821 S-1502474
1821 S-1502475
1821 S-1502476
1821 S-1502477
1821


P. M. 38
EASTMAN
REYNOLDS
RED HILL
ORA. CO. FLOOD CONTROL CHANNEL
BLVD.
ST.
AVE.
KETTERING
LANGLEY
KAISER
GILLETTE
C-232974-#9
C-232975-#9
C-232975
C-236668-89
C-236669-89
C-236670-89
C-236671-89
C-235801-89
C-235802-89
C-235803-89
C-235804-89
C-235805-89
C-235806-89
C-235807-89
C-235808-89
C-235809-89
C-235810-89
C-235811-89
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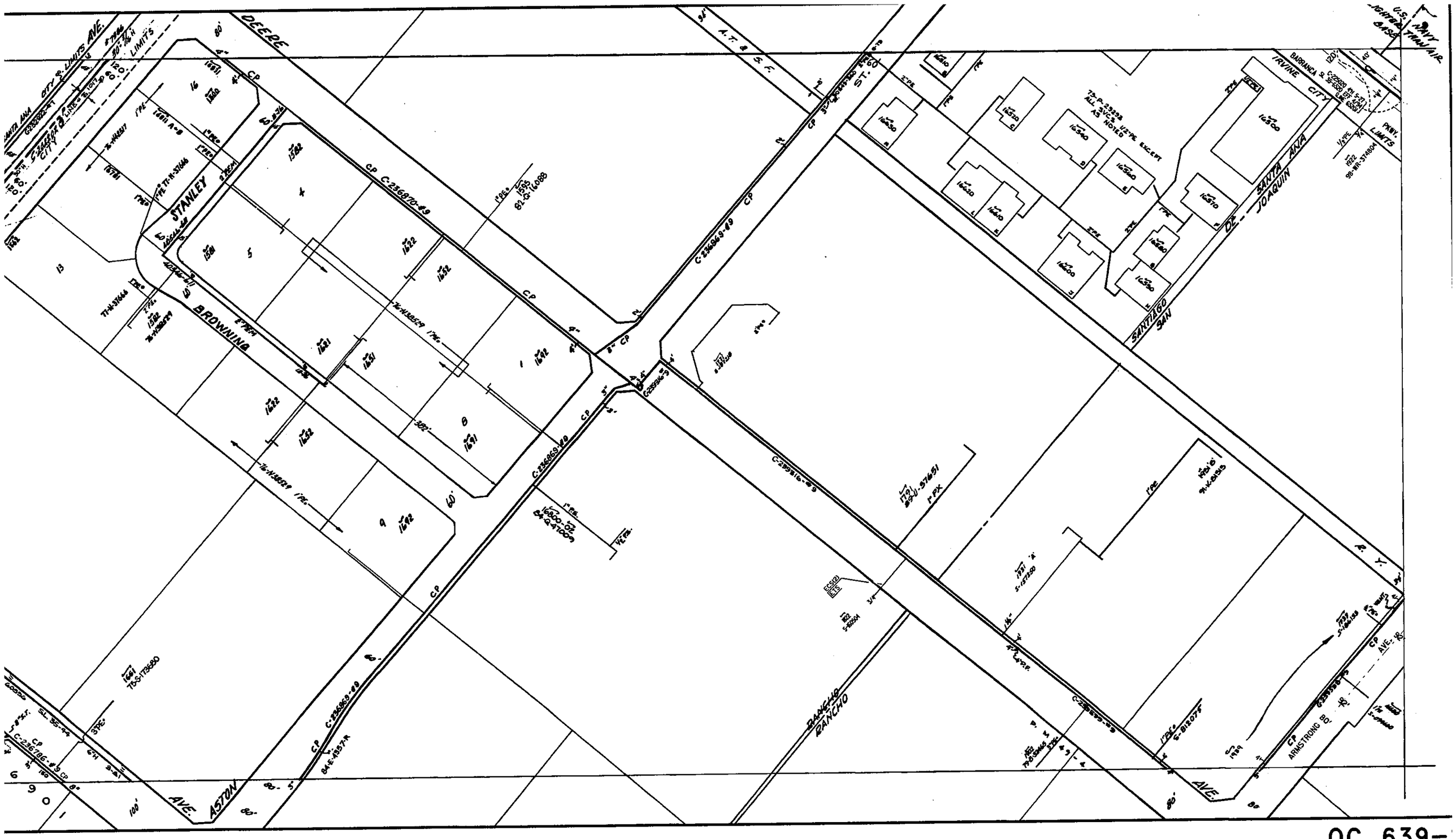
C-235840-89


DEERE
STANLEY
BROWNING
SANTIAGO
SAN JOAQUIN
SANTA ANA
IRVINE
BARRANCA
ASTON
AVE.
RANCHO
ARMSTRONG
U.S. NAVY
MARINE
CORPS
BASE
CITY
LIMITS
ST.
PKWY.
LIMITS
C-236870-49
C-236869-49
C-235816-49
C-235786-49
C-235558-49
C-235556-49
C-235557-49
C-235559-49
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C-235561-49
C-235562-49
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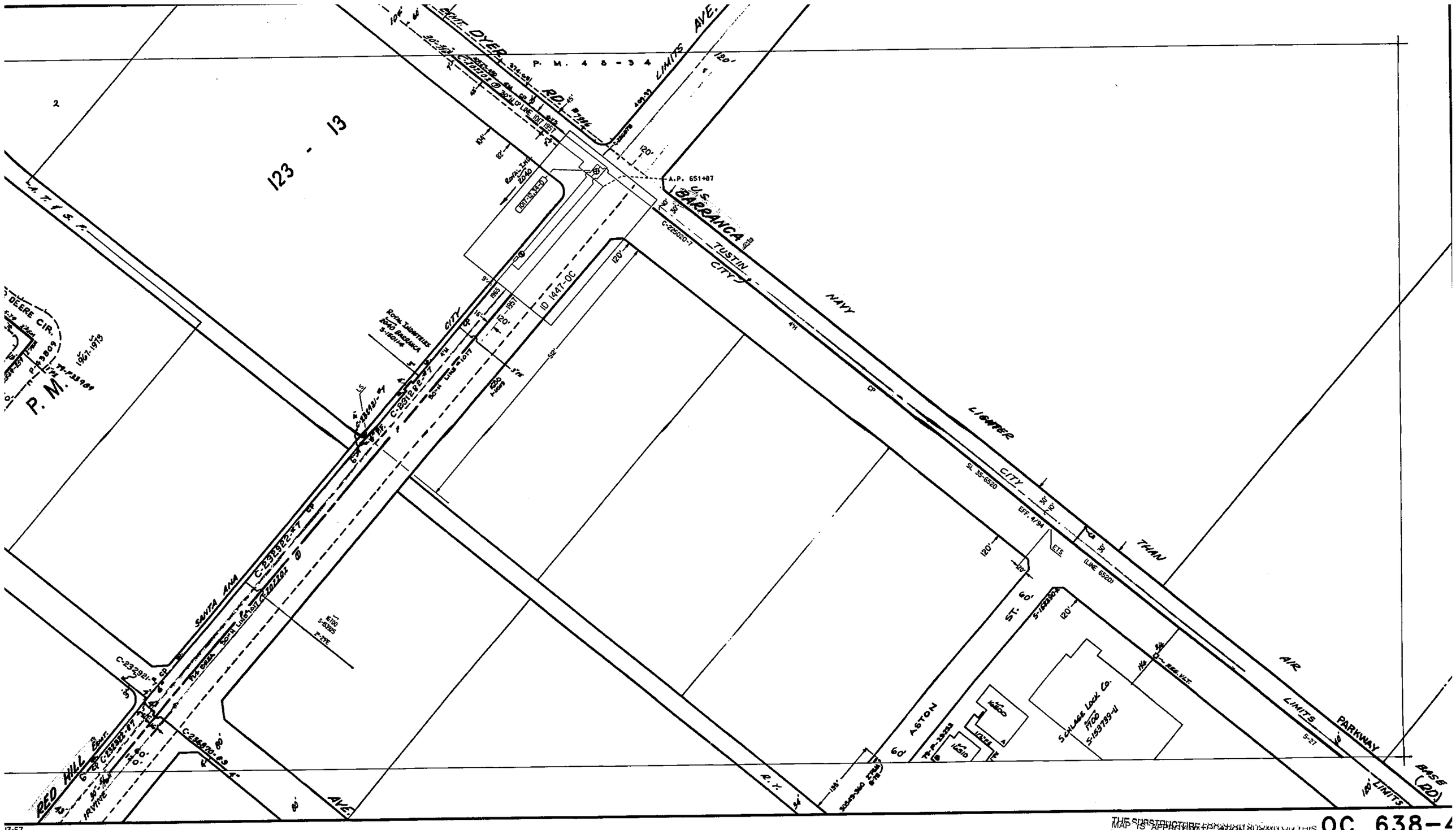
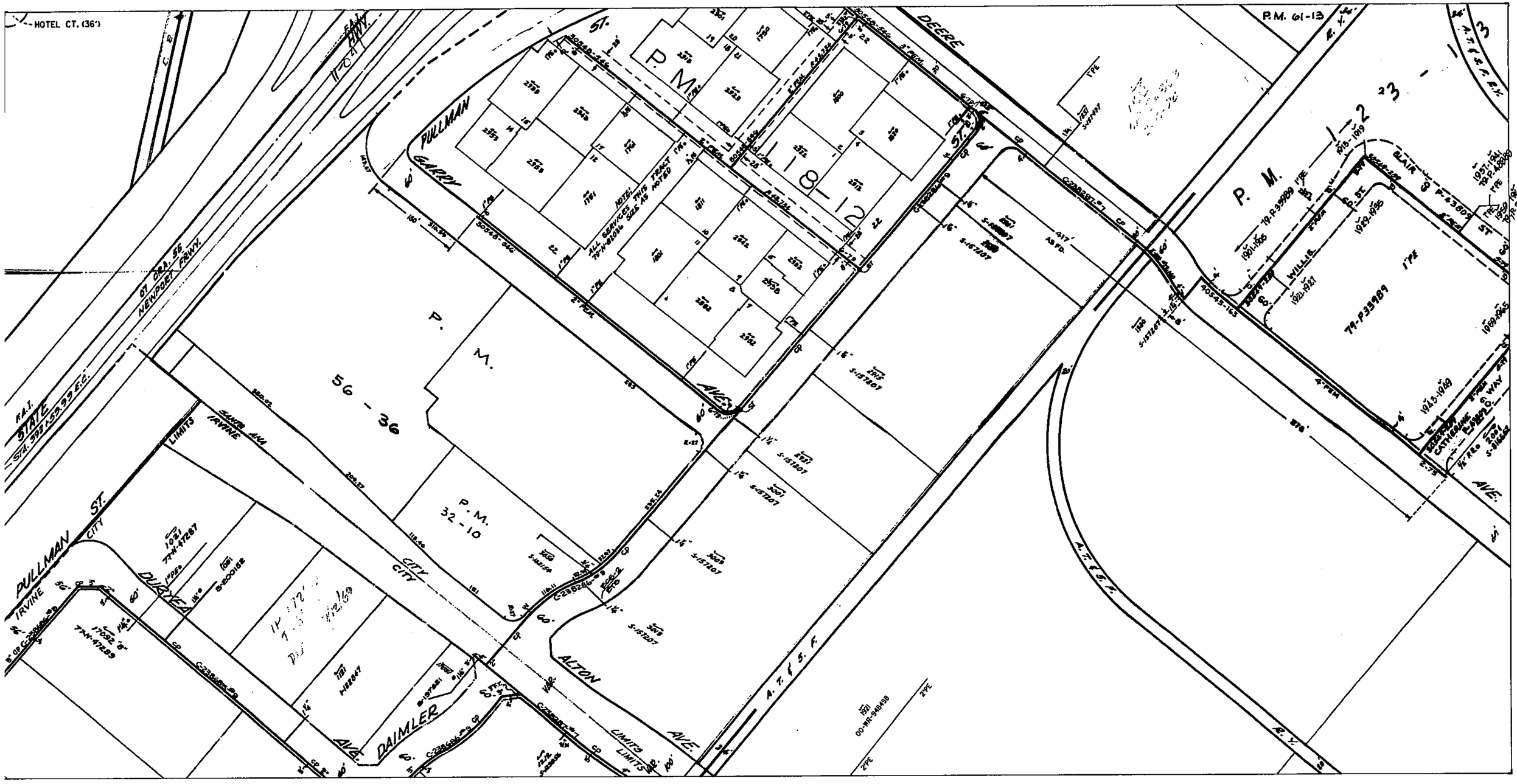
C-235593-49
C-235594-49
C-235595-49
C-235596-49
C-235597-49
C-235598-49

DUETZA AVE. ST. 60' 60' C-2384.84-89 3"G-2384.84-89 CP 2" 2" 1521 S-179821 1" 1" 1521 S-179821 3/4" 3/4" 1" 1" 1



THE SUBSTRUCTURE EXHIBITED ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.

SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803



3x56

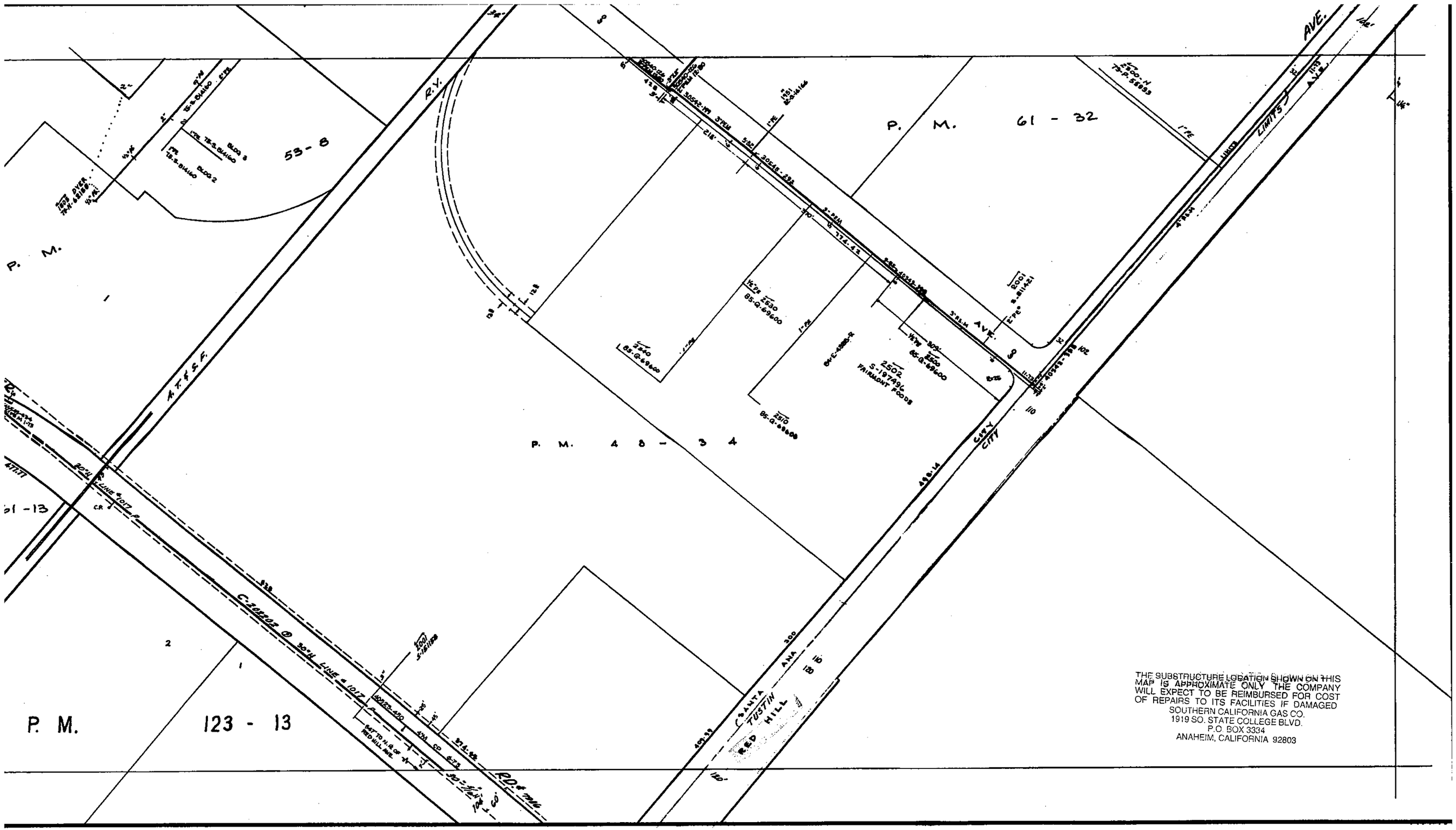
OC 639-1

OC 638-3

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1. Map Scale



638-4

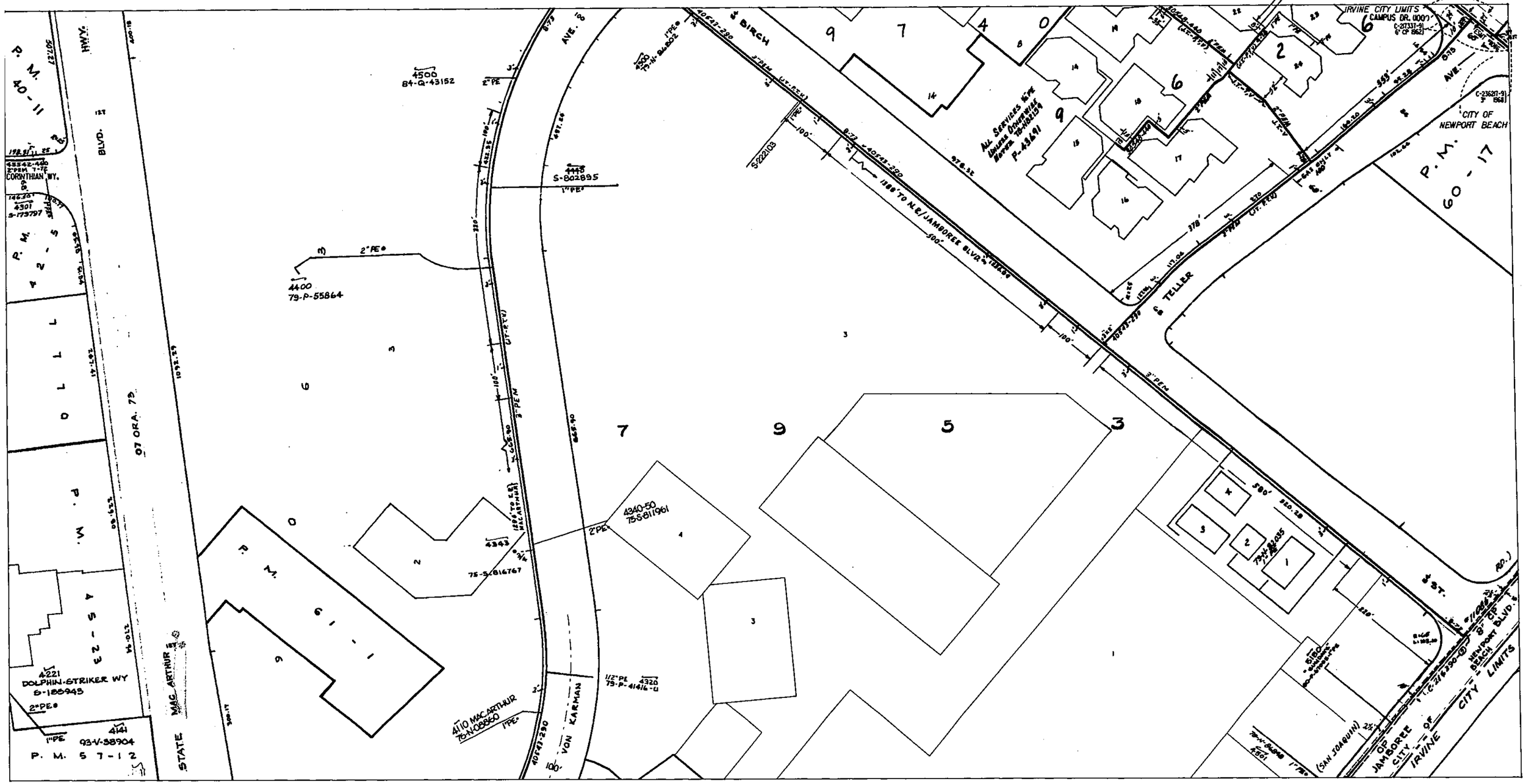
52 OC 0638 2

35 OC 0638 2

OC 638-2

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



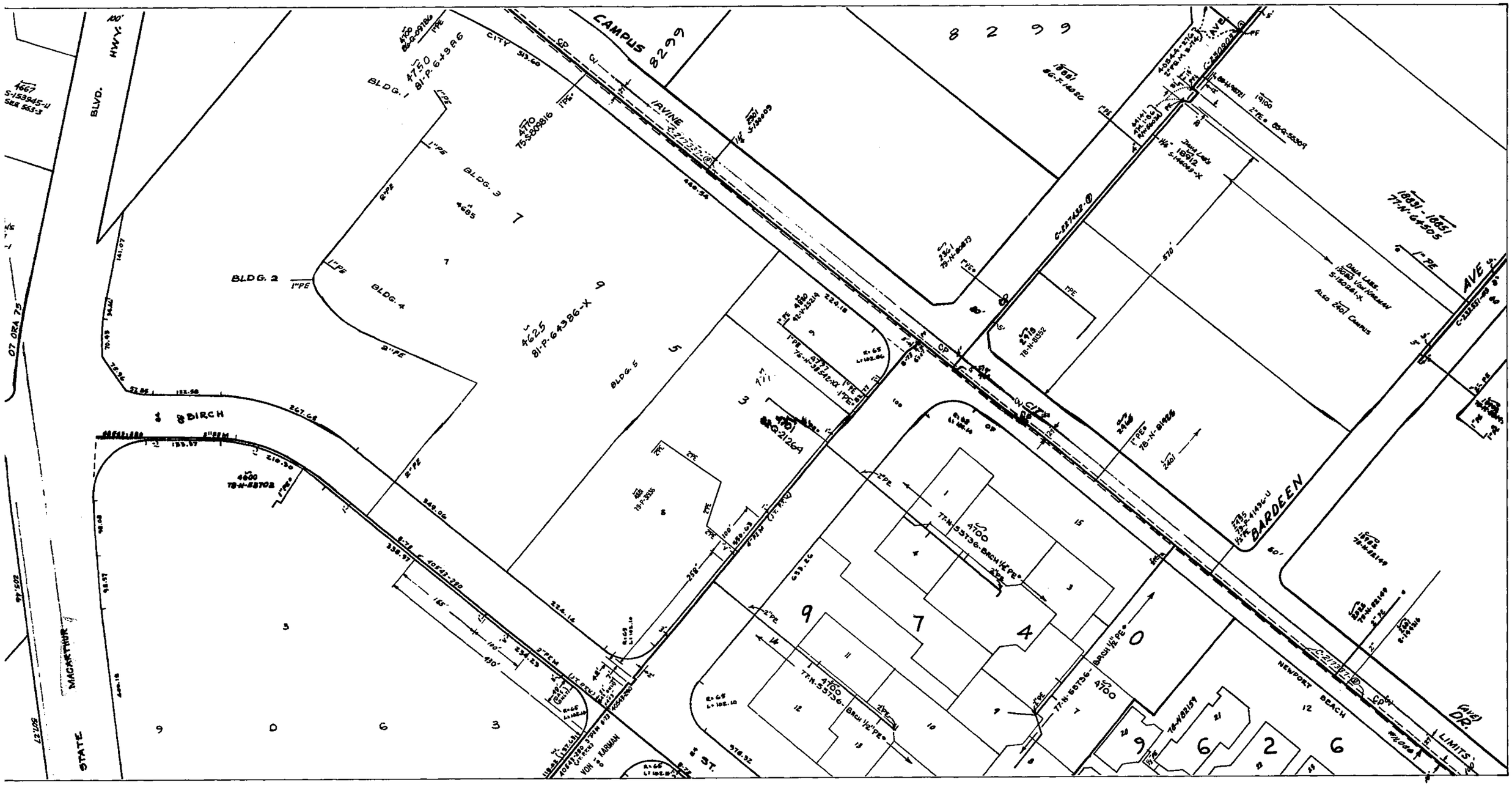
OC 561-2

OC 562-4X

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



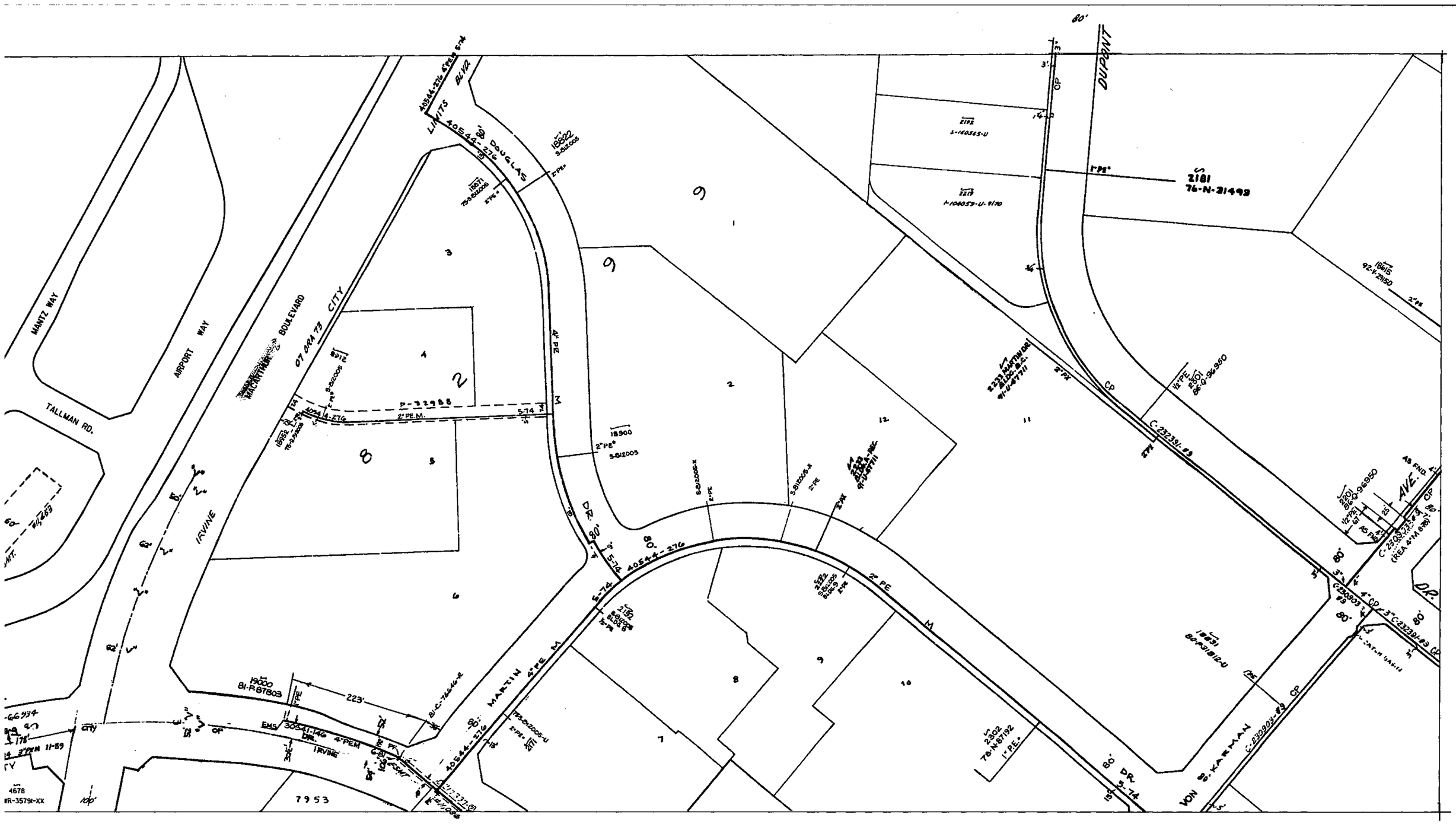
OC 562-4

OC 562-2X

THE SUBSURFACE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



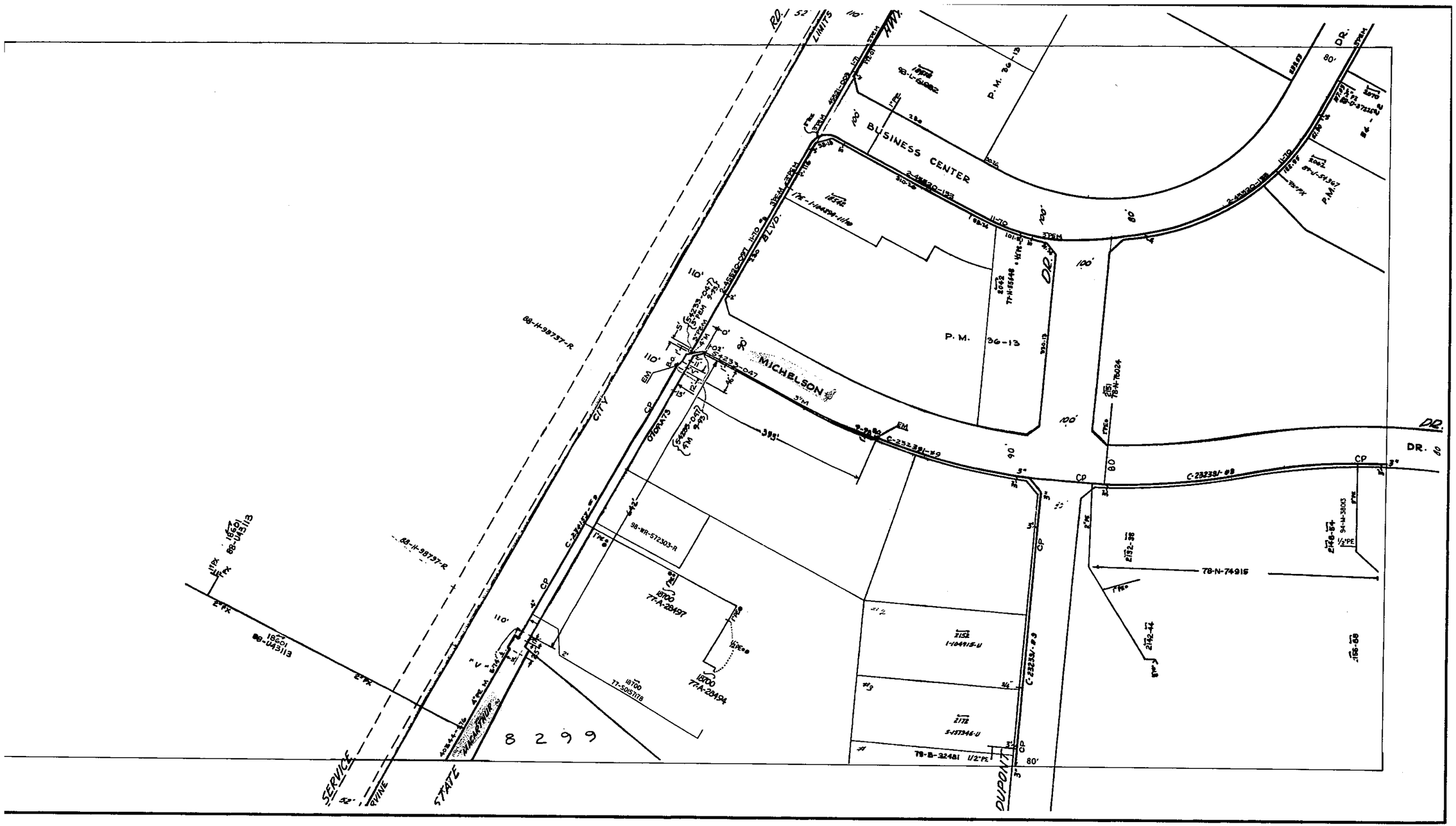
OC 562-2

OC 563-4X

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data SCALE: 166:1 Map Scale



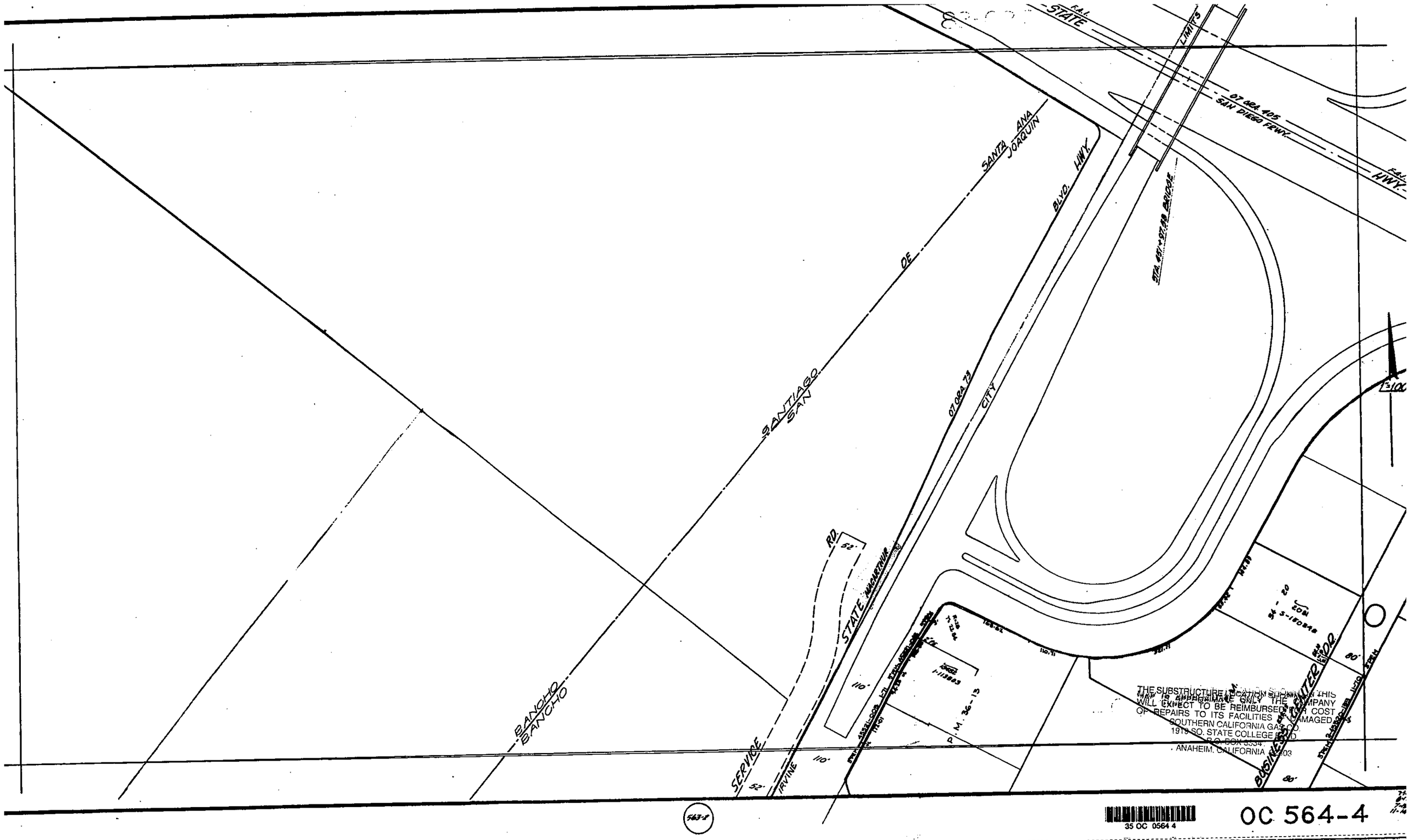
OC 563-4

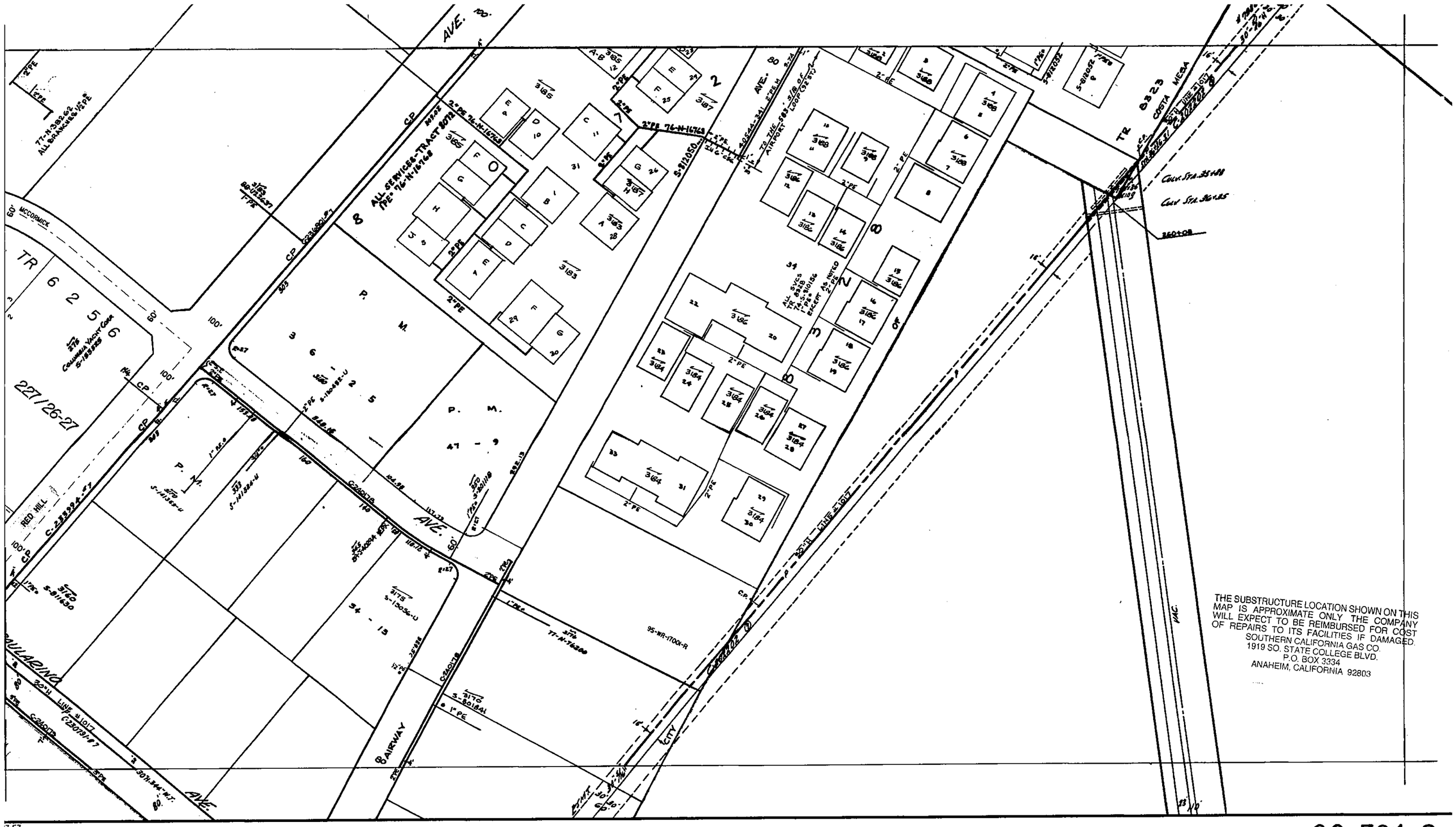
OC 563-2

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale


STATE
L. LIMITS
07 ORA 405
SAN DIEGO FRWY.
SANTA ANA
JOAQUIN
DE
SANTIAGO
SAN
BLVD.
HWY.
07 ORA 73
TOLL
CITY
STA. 491+97.48 ABUTMENT
RAMP
STATE MACARTHUR
RD.
SERVICE
IRVINE
BANCHO
BANCHO
P.M. 36-13
BUSINESS CENTER DR.
THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803
563-1
35 OC 0564 4
OC 564-4
166 0 166 332 664 Feet
Published Data. SCALE: 166:1, Map Scale

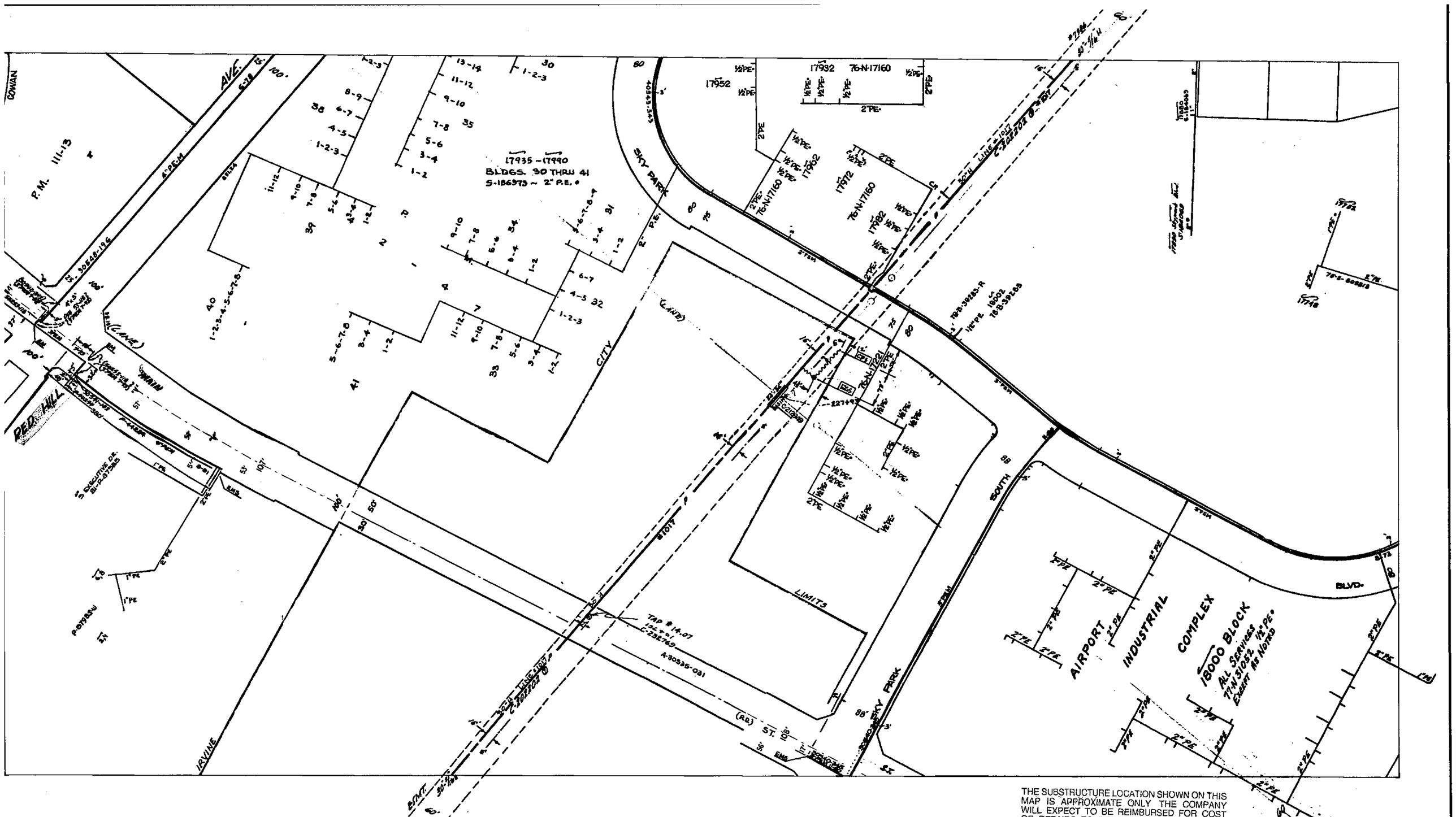


OC 563-I

OC 564-3

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED

SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

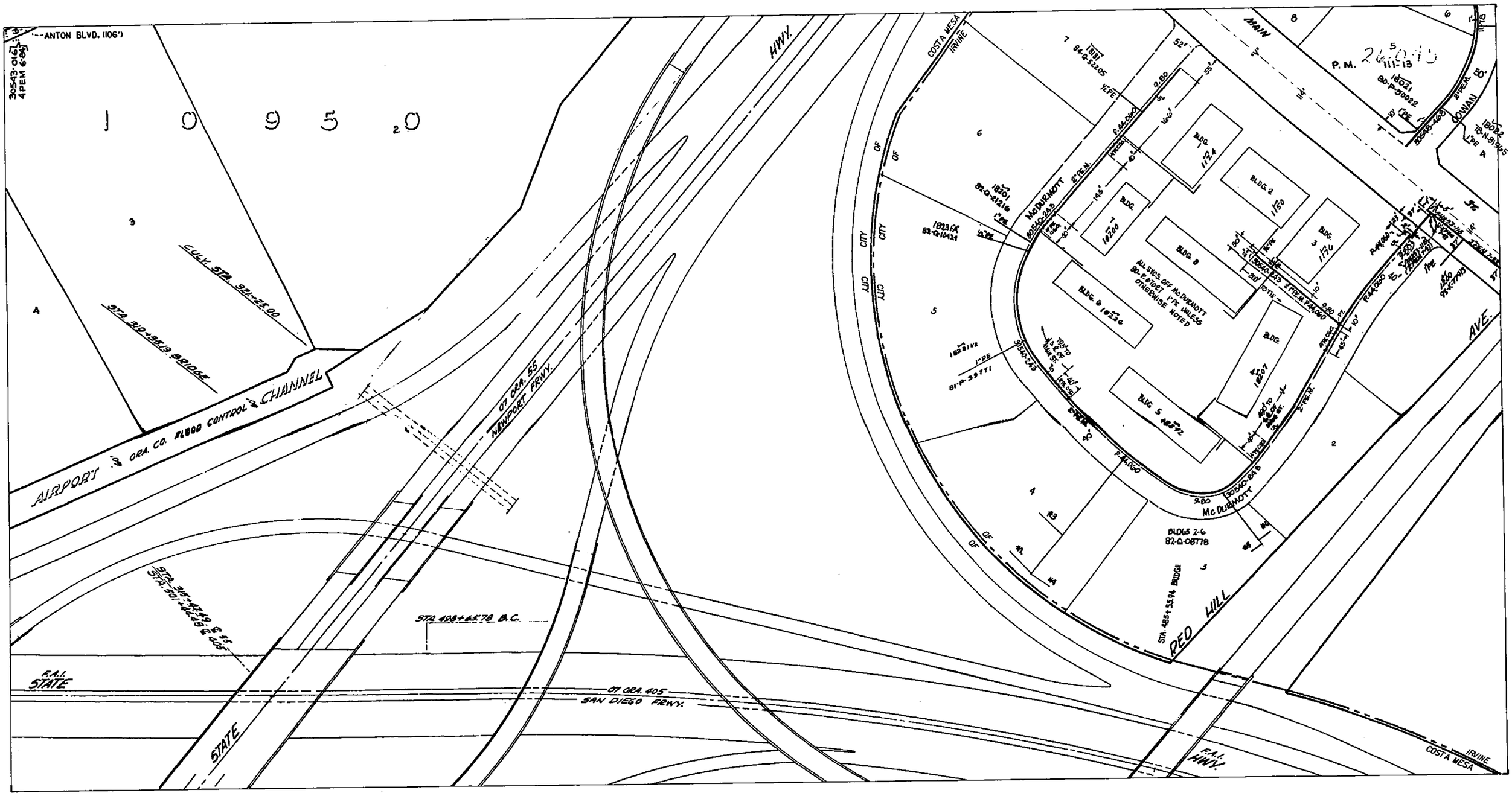
3:53

OC 564-2

OC 565-4

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale



17 13:53

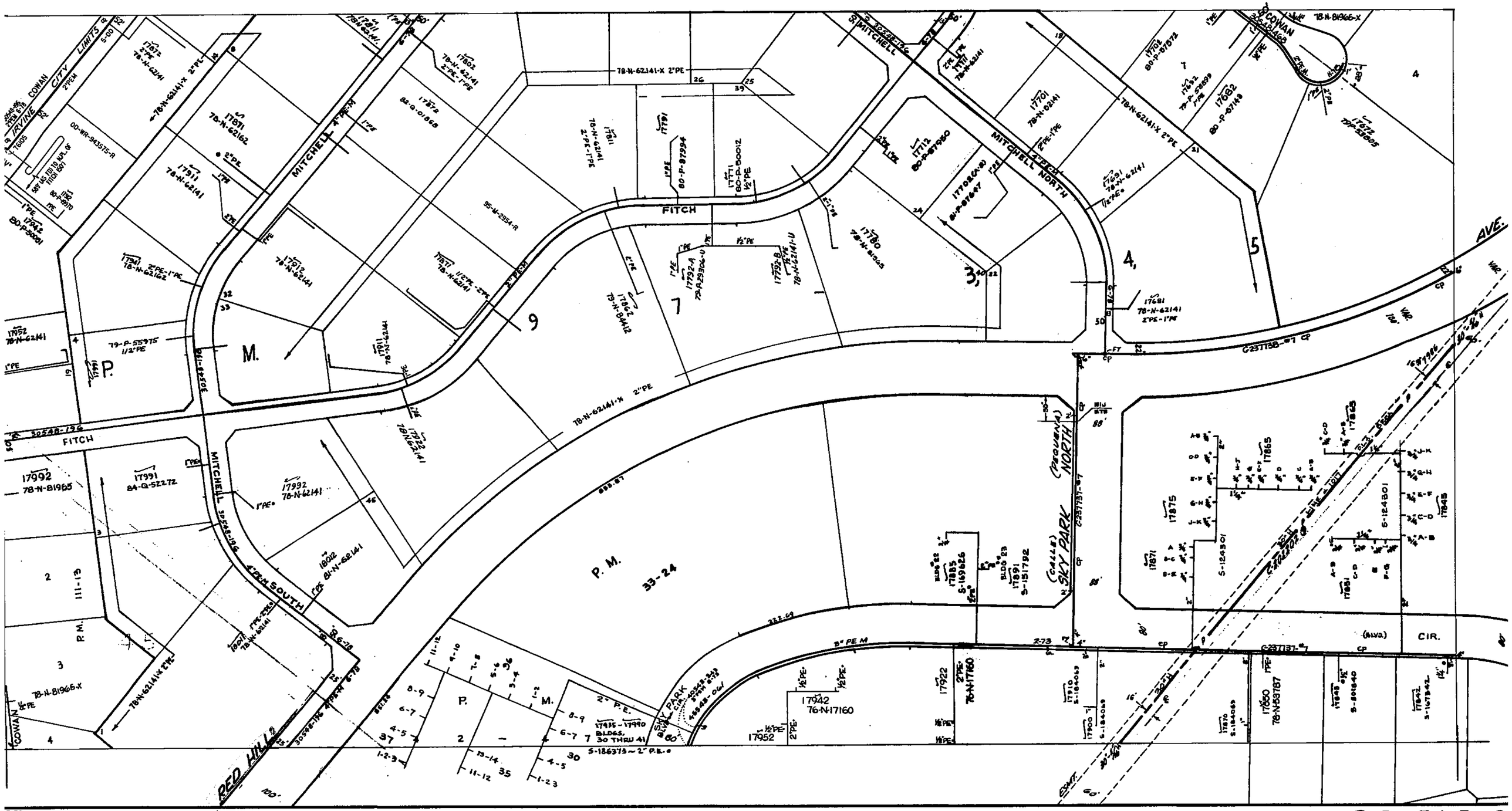
OC 564-I

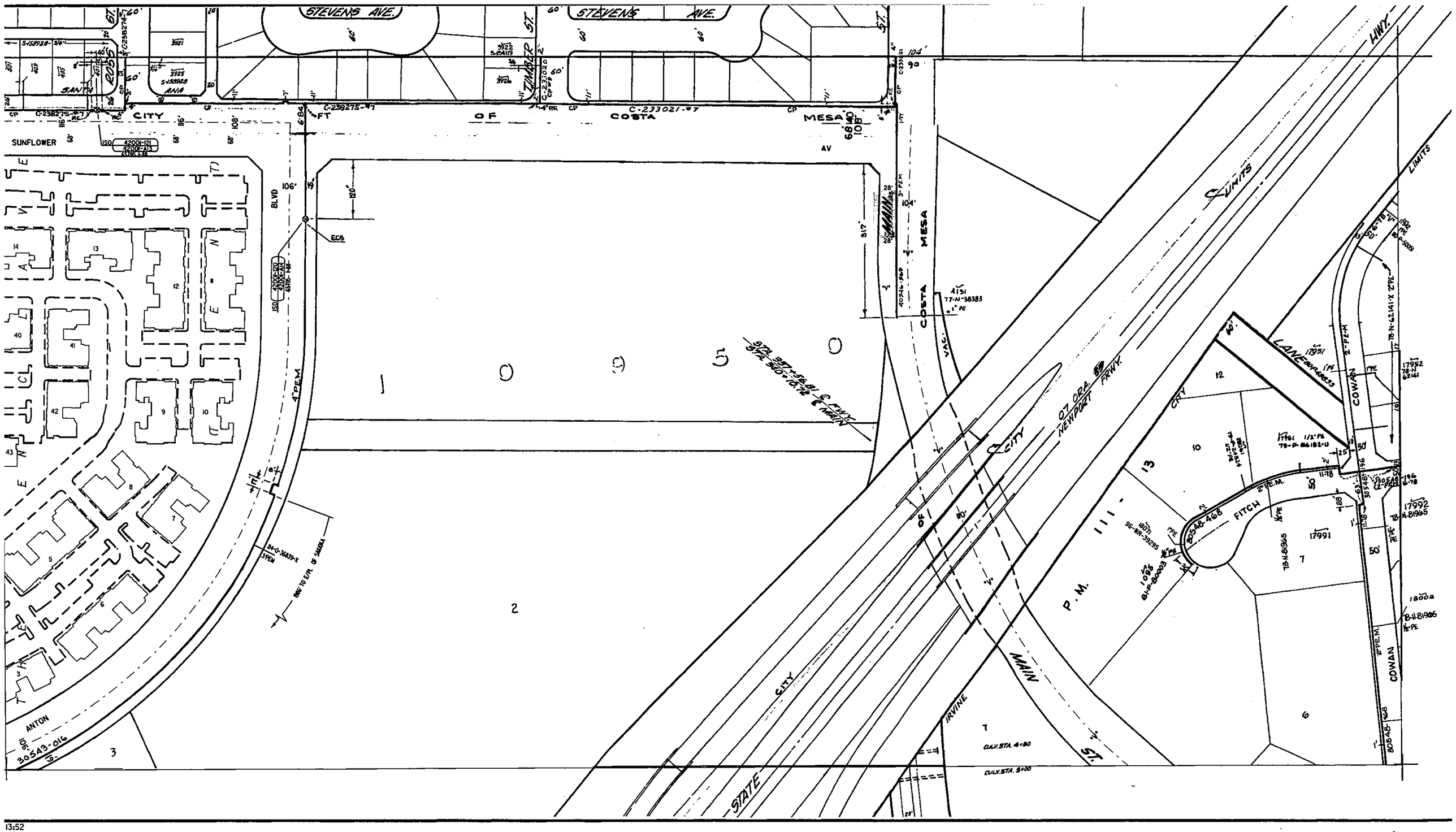
THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
~~1919 SO. STATE COLLEGE BLVD.~~
P.O. BOX 3003
ANAHEIM, CALIFORNIA 92803

OC 565-3

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1. Map Scale


CITY LIMITS
IRVINE
COWAN
MITCHELL 4 PE-M
MITCHELL
MITCHELL NORTH
FITCH
FITCH
MITCHELL 3PE-M SOUTH
RED HILL
SKY PARK CIRCLE
SKY PARK (CALLE) NORTH
SKY PARK CIR. (BLVD)
78-N-62141-X 2"PE
78-N-62141 2"PE-1"PE
78-N-62141-U
78-N-62141-V
78-N-62141-W
78-N-62141-Y
78-N-62141-Z
78-N-81965-X
78-N-81966-X
80-P-87594
80-P-87672
80-P-87680
80-P-87687
80-P-87688
80-P-87648
80-P-87659
80-P-50012
80-P-50061
82-Q-01068
84-Q-52272
79-P-55975 1/2"PE
79-P-58859 1"PE
79-N-94412
95-M-2354-R
78-N-81905
78-N-17160
78-N-59787
78-N-81965
78-N-62162
78-N-62141
78-N-62141 1/2"PE
78-N-62141 2"PE-1"PE
78-N-62141 1"PE
78-N-62141 1/2"PE-2"PE
78-N-62141 2"PE
78-N-62141 1"PE
78-N-62141 1/2"PE
78-N-62141 2"PE
78-N-62141 1"PE
78-N-62141 2"PE
78-N-62141 2"PE
78-N-62141 2



13:52

OC 565-3

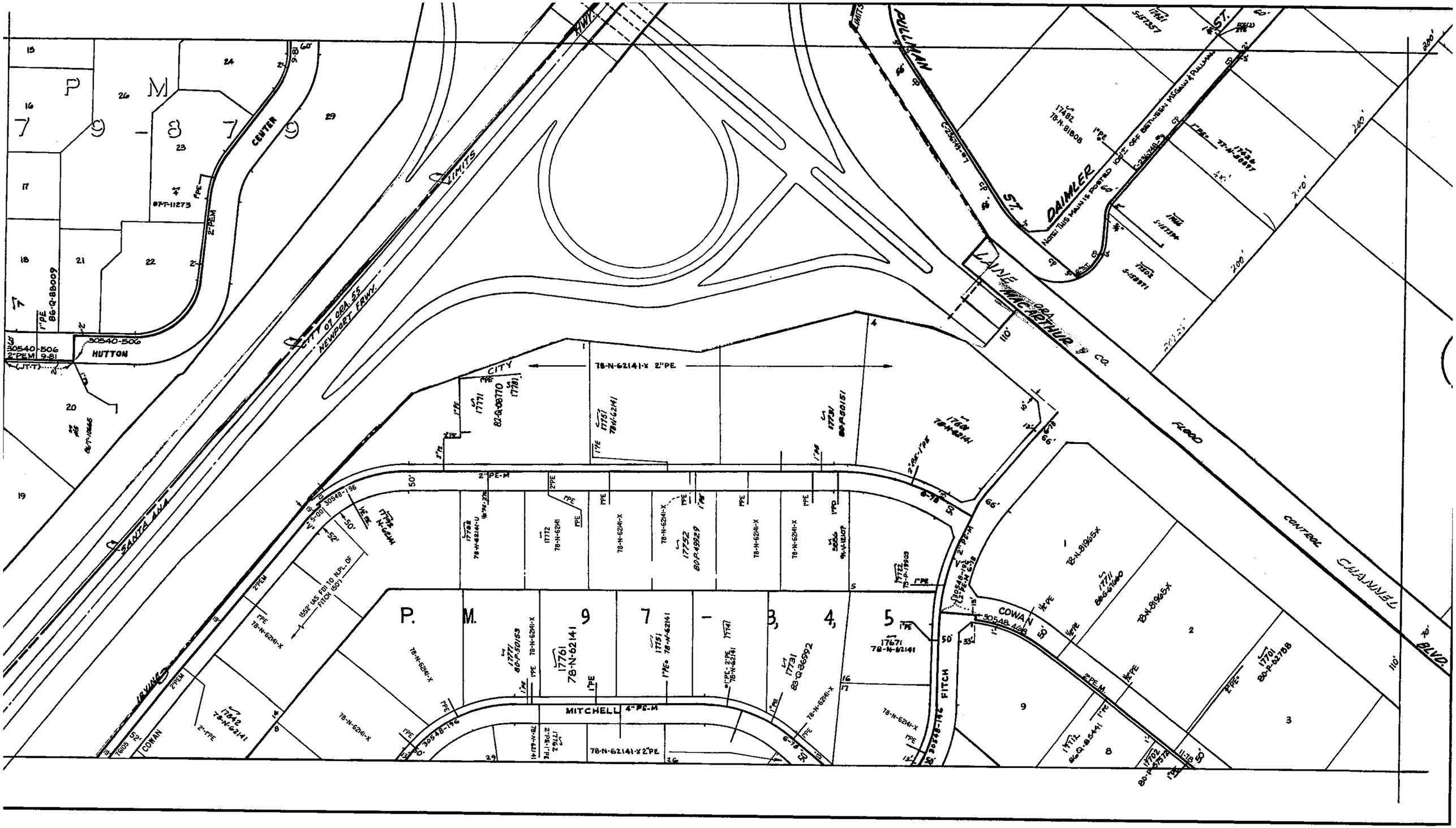
OC 565-

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1. Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED

SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803



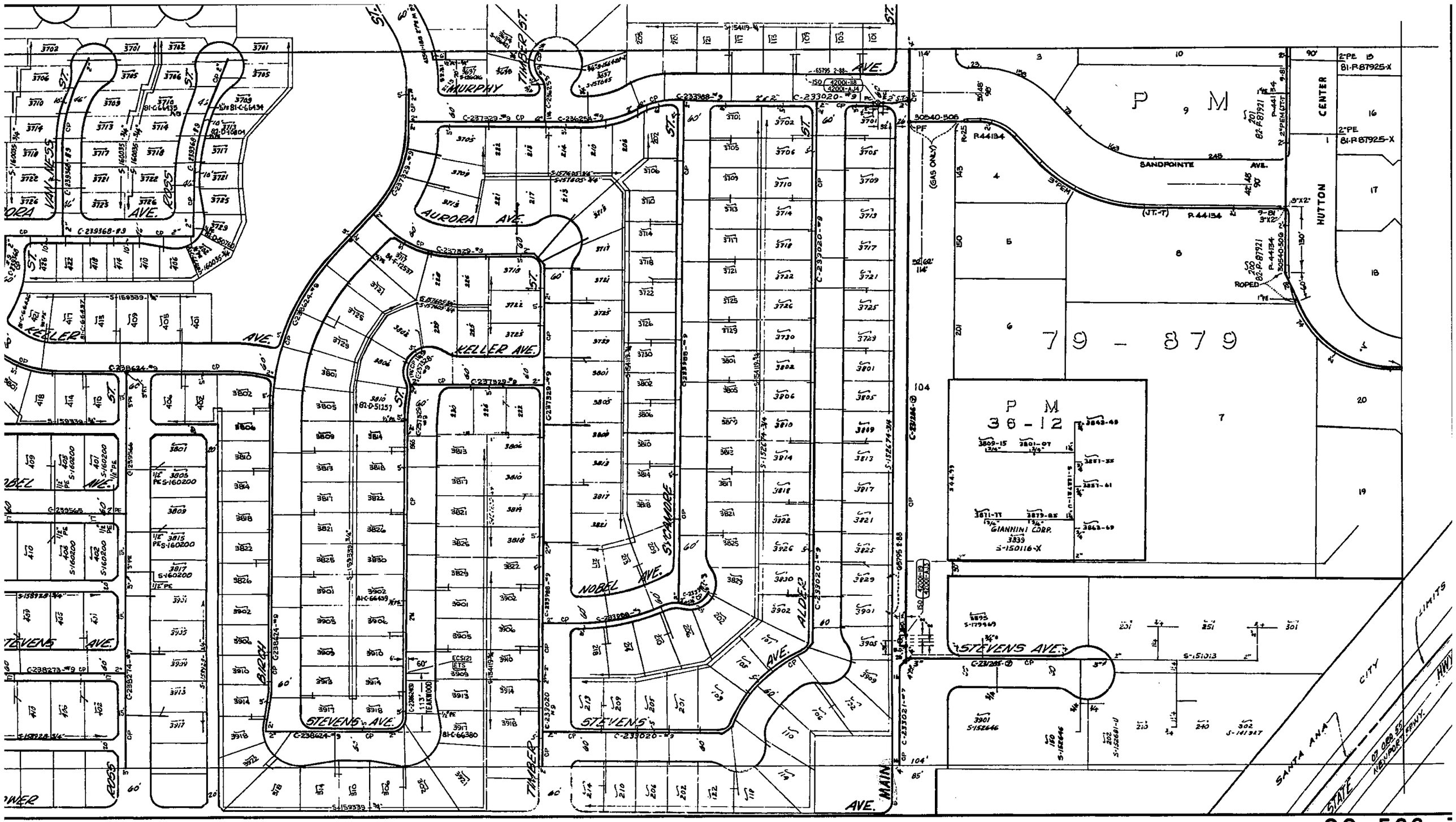
OC 565-2

OC 566-4

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD
P.O. BOX [illegible]
ANAHEIM [illegible]

166 0 166 332 498 664 Feet

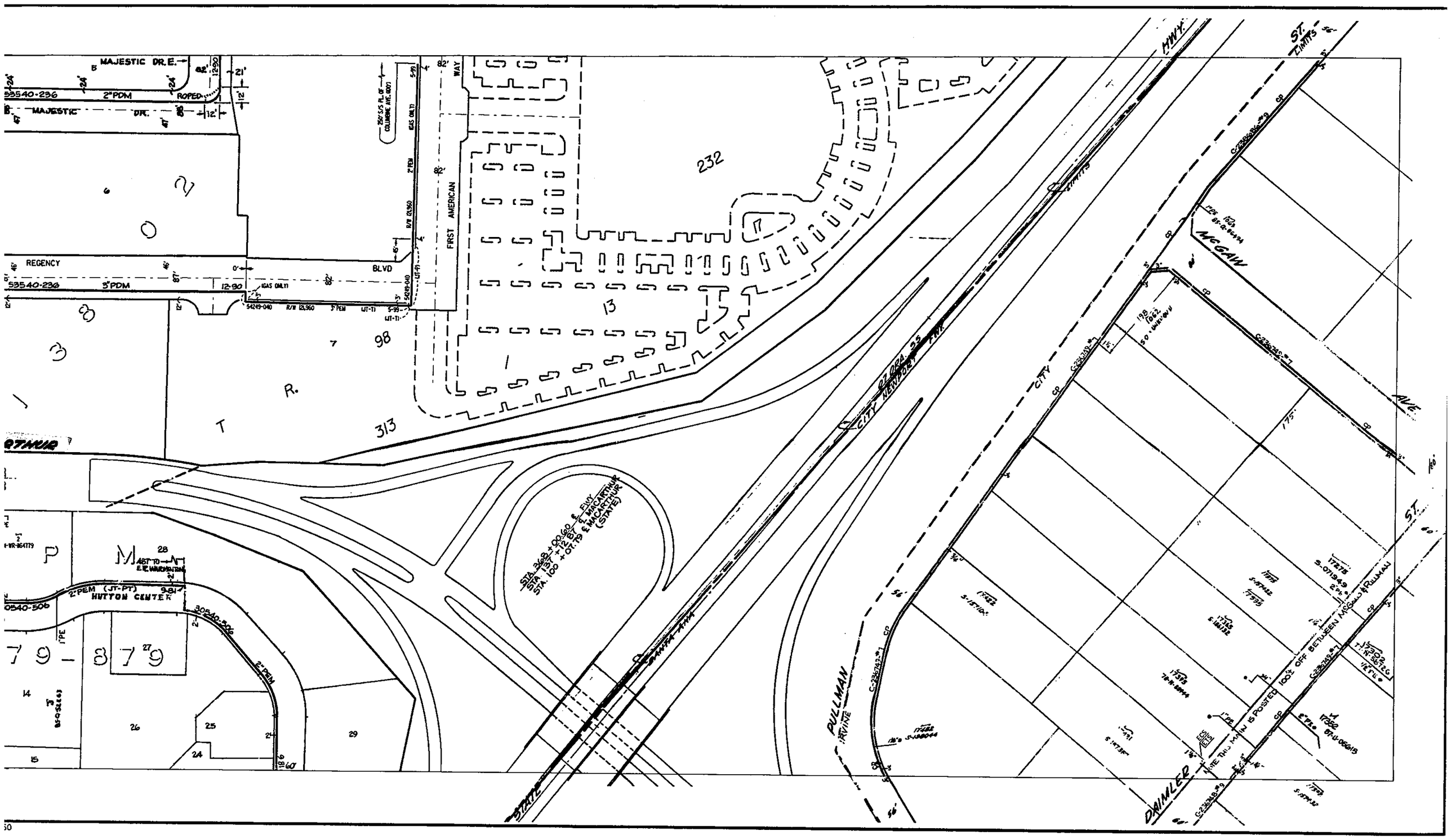
Published Data. SCALE: 166:1, Map Scale



166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale

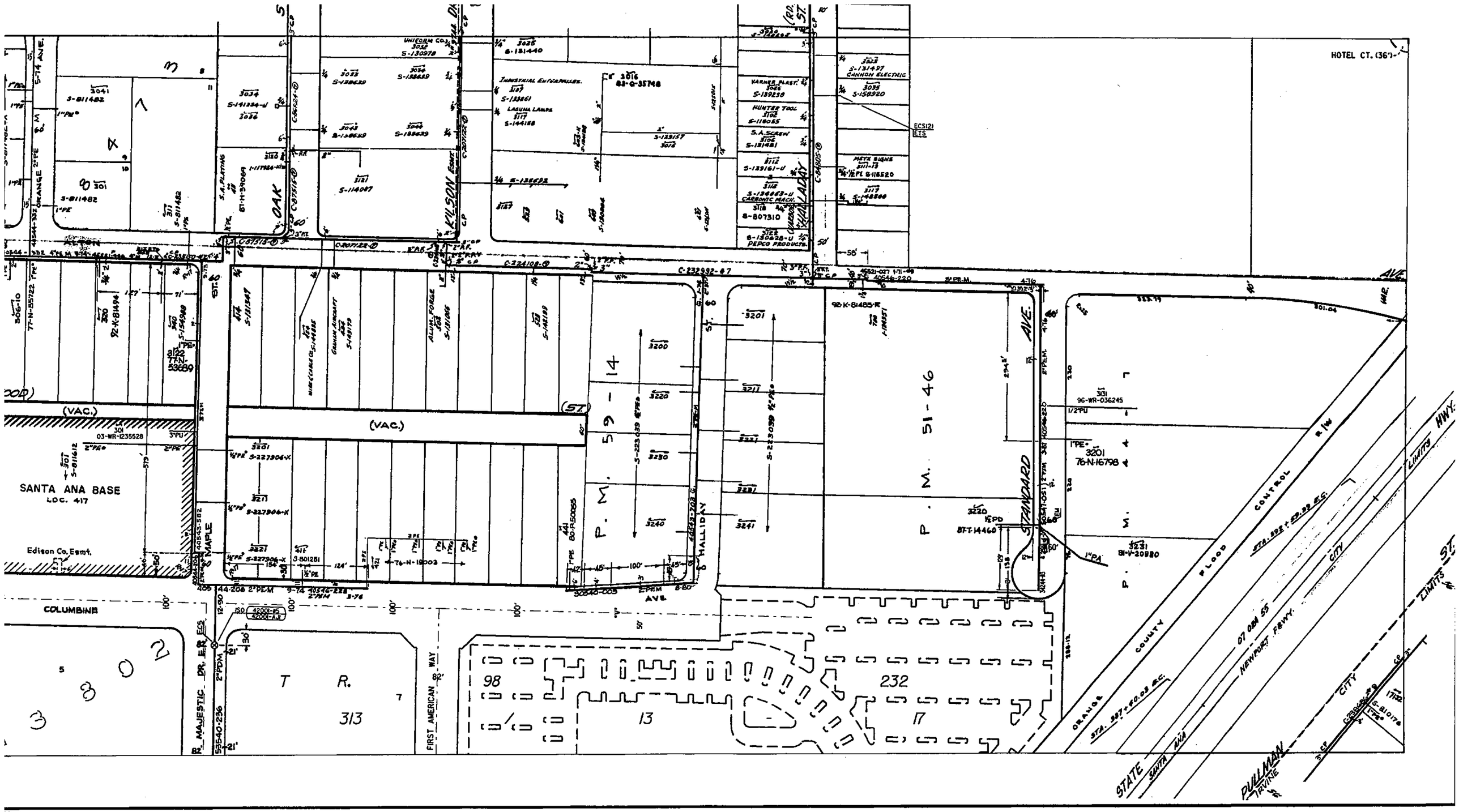
THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED.
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD.
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803



166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1. Map Scale

THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803

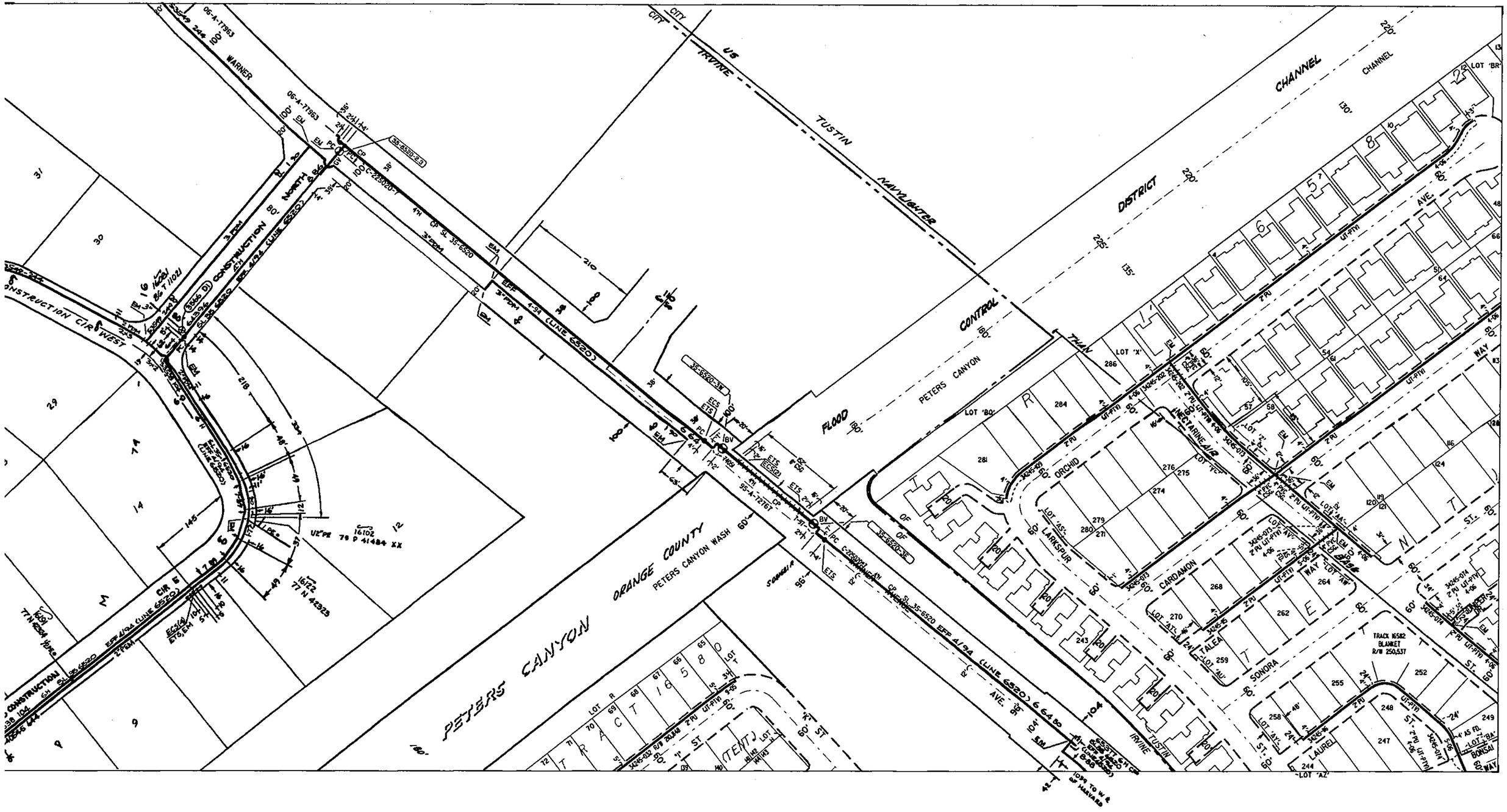


THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY. THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED

SOUTHERN CALIFORNIA GAS CO
1919 SO. STATE COLLEGE BLVD
P.O. BOX 3150
ANAHEIM, CALIF. 92803

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale


CITY
CITY
US
TUSTIN
IRVINE
NAVY LIGHTER
CHANNEL
CHANNEL
DISTRICT
220'
225'
135'
130'
FLOOD CONTROL
PETERS CANYON
PETERS CANYON
ORANGE COUNTY
PETERS CANYON WASH
WARNER
NORTH
CIR E
CIR W
CONSTRUCTION CIR WEST
CONSTRUCTION
IRVINE
TUSTIN
ORCHID
LARKSPUR
CARDAMON
TALEA
SONORA
LAUREL
BONSAI
WAY
AVE.
ST.
TRACT 1658
TRACT 16582
BLANKET R/B 250,537
LOT 'X'
LOT 'BQ'
LOT 'AT'
LOT 'AU'
LOT 'AZ'
LOT 'BR'
LOT 'BA'
(TENT.) LOT N
210
218
145
95'
180'
60'
80'
100'
UI-PTW
2 PU
3 PDM
4 TH
EM
EG
ETS
BV
PC
CP
SL
IPC
EFF 4/94 (LINE 6520)
95-A-12767
79 P 41484 XX
77 N 42923
77 N 42924
16102
16122
16582
35-6530-23
35-6530-3R
35-6520-3R
06-A-77963
06-A-77964
06-A-77965
06-A-77966
06-A-77967
06-A-77968
06-A-77969
06-A-77970
06-A-77971
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06-A-77989
06-A-77990
06-A-77991
06-A-77992
06-A-77993
06-A-77994
06-A-77995
06-A-77996
06-A-77997
06-A-77998
06-A-77999
06-A-78000
06-A-78001
06-A-78002

ORANGE COAST

SOUTH LOOP
TUSTIN
IRVINE
106'
RD
TRAIN
CITY
CITY
AIR
BASE LIMITS
LIMITS
64'
150'
06-X-T983
WARNER
IPE
2815
90-U-40676
IPD
100'
IPE
2525
90-X-44108
AV
06-X-T983
100'
THE SUBSTRUCTURE LOCATION SHOWN ON THIS MAP IS APPROXIMATE ONLY THE COMPANY WILL EXPECT TO BE REIMBURSED FOR COST OF REPAIRS TO ITS FACILITIES IF DAMAGED
SOUTHERN CALIFORNIA GAS CO.
1919 SO. STATE COLLEGE BLVD
P.O. BOX 3334
ANAHEIM, CALIFORNIA 92803
PETERS CANYON
CHANNEL
ORANGE COUNTY
FLOOD CONTROL
DISTRICT
220'
130'

OC 754-1

OC 754-3

166 0 166 332 498 664 Feet

Published Data. SCALE: 166:1, Map Scale

ORANGE COUNTY FIRE AUTHORITY
P.O. Box 57115, Irvine, CA 92619-7115 • 1 Fire Authority Rd., Irvine, CA 92602

Chip Prather, Fire Chief *(714) 573-6000*

January 24, 2007

City of Irvine
One Civic Center Plaza
Irvine, CA 92623-9575
Attn: Bill Jacobs

SUBJECT: **IBC Overlay NOP**

Dear Mr. Jacobs:

Thank you for the opportunity to review the subject document. The following are specific comments to the document:

OCFA recommends the following comments or mitigations:

HazMat
The project developer shall contact the Orange County Fire Authority Hazardous Materials Section (HMS) if any chemicals will be used, handled, or stored during construction or if the final design of the facility will include chemicals. If so, a chemical classification packet (Guidance Document G-06 available at www.ocfa.org) needs to be completed and reviewed. Additional requirements such as Hazardous Materials Disclosure, Business Emergency Plan, and/or California Accidental Release Program may be required.

In addition, we recommend that CaLARP facilities be identified.

Agreement: Developers for both new and infill projects may be required to enter into a Secured Fire Protection Agreement with the Orange County Fire Authority. This agreement is typically entered into with developers on a project specific basis to contribute a pro rata share towards funding capital improvements necessary to establish adequate fire protection facilities and equipment. The Secured Fire Protection Agreement is not related to the provision of an "*adequate tax base directed to the Structural Fire Fund to offset short and long range costs*", but rather to mitigating the impact of a project on OCFA as it impacts capital and infrastructure needs.

Mitigation: Prior to approval of any subdivision or comprehensive plan approval for the project, the designated site developer shall enter into a Secured Fire Protection Agreement with the Orange County Fire Authority. This Agreement shall specify the developer's pro-rata fair share funding of capital improvements necessary to establish adequate fire protection facilities and equipment, and/or personnel. Said agreement shall be reached as

early as possible in the planning process, preferably for each phase or land use sector of the project, rather than on a parcel by parcel basis.

Traffic Flow Mitigations:

In order to insure a fire safe project, the following items should be considered:

- Turning radius and access in and around the project site and buildings shall be designed to accommodate large fire department vehicles and their weight.
- Please ensure all roadways that have medians do not exceed 1000' without a turnaround. If medians are planned greater than 1000', please provide emergency turnaround access for heavy fire equipment.
- All traffic signals on public access ways should be installed or upgraded to include the installation of optical preemption devices.
- All electrically operated gates within the Project shall install emergency opening devices as approved by the Orange County Fire Authority.

In addition, we would like to point out that all standard conditions with regard to development, including water supply, built in fire protection systems, road grades and width, access, building materials, and the like will be applied to this project at the time of plan submittal.

Please contact me at 714-573-6199 if you need further information on this matter. Thank you.

Sincerely,

Michele Hernandez
Management Analyst, Strategic Services

Beth Hanson

From: Patti Krebs [pattik@iea.sdcoxmail.com]
Sent: Wednesday, January 31, 2007 4:39 PM
To: Beth Hanson
Subject: Planning Commission February 1 re: IBC. Could you please forward letter to Planning Commissioners. Thank you very much.

January 30, 2007

Mary Ann Gaido, Chair
Irvine Planning Commission
One Civic Center Plaza
Irvine, CA

Subject: Irvine Business Complex Vision Plan

Dear Chairwoman Gaido:

The Industrial Environmental Association is a 24-year old public policy organization representing manufacturing, high technology and research and development companies with members in the City of Irvine. We work with companies on a wide range of legislative, regulatory and policy issues that affect their facilities and operations.

We are writing to express our very deep concern over any proposals that would allow for conversion of industrial lands to residential or collocation of industrial and residential uses in the Irvine Business Complex. The compelling reasons for our concern stem from many years of experience in being engaged with neighborhood and community groups who routinely challenge daily industrial uses and operations, permitting applications and regulatory controls when these industrial facilities are located in too close of proximity to their homes.

Simply stated, industrial and residential uses are distinctly incompatible. Historically, there are numerous examples of mixed industrial/residential use communities that are in conflict. One of the greatest causes of urban industrial flight is encroachment of incompatible uses.

While office, commercial and retail uses can be appropriately placed adjacent to industrial uses, there are numerous reasons industrial uses need separation from residential development. A wide range of issues include differences in noise level standards, outdoor lighting, security fencing, emissions from processes or diesel generators, odors, round-the-clock operations, truck deliveries, visual impacts and other concerns.

We greatly appreciate the staff recommendations that address protecting the existing job base. However, we think that Item D needs to be modified to establish a minimum 1,000 foot buffer zone. The 1,000 foot distance is a typical trigger point at which numerous public agencies subject industrial facilities to additional review and scrutiny, which often results in burdensome and costly mitigation and control measures on the industrial facility.

The Irvine Business Complex is an exemplary representation of an urbanized industrial area, epitomizing the concept of smart growth with high-paying jobs being located within the environs of a thriving and vibrant city.

We strongly urge you to preserve the existing job base with suitable measures, such as the 1,000 foot transition requirement, to insure both retention and potential expansion of your core industrial users.

Sincerely,

Patti Krebs
Executive Director
Industrial Environmental Association

AIRPORT LAND USE COMMISSION
FOR ORANGE COUNTY
3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

February 1, 2007

City of Irvine Planning Commission
P.O. Box 19575
Irvine, CA 92623-5975

Subject: Comments on the Administrative Draft of the Irvine Business Complex Residential Mixed-Use (IBCRMU) Overlay District Zoning Code dated June 19, 2006.

Dear Members of the Planning Commission:

The Orange County Airport Land Use Commission (ALUC) offers the following comments on the City of Irvine Draft IBCRMU Overlay District Zoning Code for your consideration (Attachment 3 to the Planning Commission staff report for the EIR Scoping Meeting scheduled for Feb. 1, 2007).

Included below are development standards we recommend incorporating into the IBCRMU Overlay District Zoning Code. Because of the close proximity of the IBCRMU Overlay District to JWA, the set of regulations used for residential development should be tailored toward consistency with the *Airport Environs Land Use Plan for John Wayne Airport (JWA AELUP)* which will minimize incompatibilities between new residential development and the ongoing operations at JWA, to the extent possible. In addition, the mechanisms by which applicable development standards will be tied to an individual development and continue to be enforced should be identified.

Sound Attenuation: Include sound attenuation policies and EIR mitigation measures for all JWA Area (please note that JWA Area refers to the JWA Planning Area as defined in the *JWA AELUP*) residential development in order to minimize the noise impacts on the residences from present and projected future noise levels, including aircraft, helicopter and other noise sources. The sound attenuation requirements should, at a minimum, meet all current City interior and exterior noise standards.

Avigation Easement: Include policies and mitigation measures requiring all JWA Area residential development to record an avigation easement in the chain of title of each residential dwelling unit for noise and related aviation impacts in favor of the County of Orange, the airport proprietor of JWA, prior to issuance of building permits. The avigation easement should be in a form consistent with current Airport requirements.

(This avigation easement is separate from and in addition to the "Avigation Easement for Orange County Airport" recorded March 17, 1964 in book 6965, page 721, which represents a separate John Wayne Airport "ownership" avigation easement already existing over portions of the IBC)

Height Limitations: Include policies and EIR mitigation measures addressing height limitations on all JWA Area residential development to limit the height of any permanent or temporary structure, to a height under 203.68 feet Above Mean Sea Level ("AMSL"), reference National Geodetic Vertical Datum of 1929 (NGVD 29), consistent with current Orange County Surveyor Adjustment Datum.

Obstruction Lighting and Marking: Include policies and mitigation measures addressing lighting and marking on all JWA Area residential development to comply with the conditions and recommendations by the Federal Aviation Administration ("FAA") with respect to obstruction lighting and/or marking consistent with the criteria provided in FAA Advisory Circulars 70/7460-1 and 70/7460-1K.

Disclosure of JWA Proximity: Include policy and mitigation measures for occupancy disclosure to be provided in future sales literature and sales/rental/lease agreements for the residential developments stating that the property is located in the vicinity of JWA.

Deed Disclosure Notice: Include policy and mitigation measures for deed disclosure notification on all JWA Area residential development units which require a "Deed Disclosure Notice" of the avigation easement. This disclosure notice must be submitted to the City and signed as a part of each sales/rental/lease agreement.

Signage: Include policy and EIR mitigation measures for signage on all "John Wayne Airport Area" parks and recreational development which requires every local park, recreational area, and private recreational facility to place appropriate signage indicating the presence of operating aircraft.

In addition, since portions of the proposed overlay district fall within the 60 and 65 dB CNEL noise contours for JWA we recommend that the IBCRMU Overlay District Zoning Code include an exhibit illustrating these noise contours in relation to the overlay district area. The exhibit will help depict the noise environment for future development projects locating within the IBCRMU Overlay District and identify the need for any noise mitigation measures or building restrictions.

Please be aware that ALUC does not support new residential development within the 65 dB CNEL contour and we request that the proposed land use within the contour reflect only non-residential uses. The draft overlay district document does address residential

development within the 60 CNEL contour however no development restrictions for projects located within the 65 CNEL contour were discussed.

Thank you for the opportunity to comment on the Draft ICBRMU Overlay District Zoning Code and NOP. Please contact Lea Umnas at (949) 252-5123 or via email at lumnas@ocair.com should you require additional information.

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: **Planning Commissioners**

From: **Rich Salter, IBC Manufacturers Group**

On behalf of: **Ray Diradoorian, Allergan**
Mary Ann and Tony Desmond, Deft
Paul Queyrel, MPC Industries
Dave Marzullo, Parker Hannifin
Mike Derderian, Royalty Carpet Mills

Date: **February 1, 2007**

Subject: **IBC EIR scoping**

Thank you for the opportunity to comment on the scoping for the new IBC EIR. Welcome to our two new Commissioners and good to see you three old timers again.

Protecting the Existing Job Base

Page 3 of the staff report lists the #1 goal as "Protect Existing Job Base within the IBC," and the bullets are reprinted below with our comments in italics:

A. Establish Mature Industrial District in which residential uses are prohibited.

This District has turned out to be Construction Circle and the land under the airport landing/take-off zone west of Armstrong and MacArthur. Let's admit it: The reason residential is being prohibited in this area is due to the low-flying aircraft – not because we have established it to "protect existing job base in IBC." I've not seen any analysis of economic impact of saving jobs in this area vs. any other areas of IBC – how many jobs are saved in this Mature Industrial District vs. how many will be lost in the other areas of IBC? What types of jobs have been saved and lost? What is the total economic impact (jobs, wages, goods and services output) of saving only the jobs in this small area vs. losing jobs in the other areas? For example, most of Manufacturers Group's facilities are along Von Karman Avenue, so why was the Von Karman Avenue corridor not designated as a Mature Industrial District?

B. Retain Zoning rights for existing commercial and industrial uses.

Good, but what is provided to insure that future residents do not force existing commercial and industrial users to limit their business hours or expansion plans, and thereby force them out of IBC? The EIR should propose ways to insure that these Zoning rights are indeed retained.

C. Require a pre-application review to determine land use compatibility with surrounding businesses prior to submittal of a formal discretionary application.

It is very good to know that there will be a "pre-application" review to determine land use compatibility, and this will include the Industrial Adjacency Analysis within 1000 feet. It is important that this be done before application to flip a property to residential so that the City learns whether it is compatible before the developer expends significant funds on plans, drawings, and screen checks (staff time) and thereby cements his claim to new residential entitlement.

Also, the IAA needs to have specific limits (acceptable levels) of incompatible conditions (e.g., noise, odors, light and glare, proximity to hazmat, et al). We do not want to be here before the PC month after month with each residential application arguing over what is the acceptable noise level and what is unacceptable. The businesses and the developers both need and deserve certainty with respect to these acceptable limits so that they can make plans for their future land uses.

D. Establish a presumptive 200-foot buffer zone around existing key businesses in which residential units are prohibited.

It is good that staff is recommending some hard-zoned buffer, but 200 feet is not nearly the 1000 feet that we need. It is important to point out that all uses other than residential are allowed in the buffer: high-rise office, retail, manufacturing, etc. This buffer has already been enacted in other cities (as previously testified by Patti Krebs of IEA), and it is a real need for our survival: environmental laws require us to notice residents within 1000 feet when we propose to use new hazardous materials, and condo owners would obviously oppose this. The lack of a buffer would effectively limit our ability to expand and operate our businesses.

Economic impact

The staff report does not list economic impact as one of the issues to be studied in the EIR, and we strongly request that this impact be studied. While you might at first glance think that economic impact is not a CEQA issue, it certainly is in this case because the economic implications of this rezoning will cause large physical changes in IBC. For example, the addition of 14,000 housing units will displace millions of square feet of commercial and industrial uses, resulting in a massive change to the economic output and physical environment in IBC.

There are standard economic impact models that allow the forecasting of Direct, Indirect, and Induced impacts of business or housing projects on the area's economy. Both the broader Economic impact (jobs, wages, population supported, and output) should be studied as well as the Fiscal impact (incremental taxes and fees that flow to the City's coffers).

We have utilized economic models and shared the results with staff: the **types** of jobs displaced (and their **jobs multiplier**) are the keys to the economic impact. For example, our model shows that an Aircraft Parts Manufacturer has a jobs multiplier of 2.768, meaning that if it has 500 direct employees, it would support 1384 jobs, including 415 Indirect jobs (subcontractors, service providers, etc.) and 469 Induced jobs (those supported by the spendable income of its direct and indirect employees). This company supports a population of 1062 people with its Direct Jobs, 880 more with its Indirect Jobs, and 996 more with its Induced Jobs, for a total population supported of 2939 (nearly 3000 people supported by those 500 direct jobs). You can imagine how many jobs and people are supported by all the businesses in IBC that will be displaced by 14,000 du!

Displacing manufacturing jobs with housing or even retail jobs has a large economic impact. Retail is often a favorite with cities because it generates sales tax dollars. However, the basic wage rate for retail is lower than manufacturing and its jobs multiplier is half (1.3 vs. 2.7), so that the total economic benefit of retail is much much lower than manufacturing.

Another aspect that requires study is the **fiscal impact** (taxes and fees) – we do have a Fiscal Element in the General Plan and we need to keep it in balance with all the changes to the other elements. What is the fiscal impact of 14,000 housing units displacing commercial uses? I have been told that the property tax increment from housing that flows to the City does not cover the expense of services required (police, fire, etc), and that after about 10 years residential is a fiscal drain on the City. When will this long-term fiscal impact be identified? This is surely a subject that requires extensive study during the EIR process.

The City's decision makers need to have this information in order to make an informed decision about whether it makes sense to replace manufacturing uses with retail or residential.

New Traffic Study and Mitigation Program

We are very much looking forward to seeing the methodology to be applied to the new traffic study to be conducted for this EIR. Specifically, we expect that the IBC intersections that are now projected to operate below Irvine's residential standards will be mitigated to upgrade them to the same level of service (LOS) that is standard in our other residential villages. This mitigation program must be funded by the new development that causes the traffic problem, not by existing businesses.

Also, we expect that the traffic study will be based on realistic estimates of internal trip capture for mixed use sites based on data from truly comparable sites, and expect that you will use a reasonable estimate of the number of residents who can be expected to both live and work in IBC, again based on hard data such as surveys from existing IBC residents and businesses.

File=Allergan sub Report/tcd

2/1/07

To: The Honorable Planning Commission of the City of Irvine

Re: IBC EIR Scoping and related matters

From: Joseph DiMento

Introduction

My name is Joseph DiMento. I have been asked to give my professional opinion on several questions regarding the City of Irvine's recent actions in the Irvine Business Complex. These involve comprehensive programmatic environmental review under the California Environmental Quality, opportunities the City is missing for identifying significant environmental impacts of its ongoing actions in the IBC , possible conflicts between the existing industrial uses and proposed residential development, and other planning issues.

I have also been asked to comment on the consistency of the City's recent and proposed actions, allowing for dramatically increased residential use and accompanying decreases of industrial uses in the IBC, with the City's General Plan. This brief statement addresses only that question.

It is my opinion that the City's actions, which in aggregate would approve nine conditional use permits in the IBC and allow for a tripling of residential units, lead to inconsistencies with the city's General Plan. I base my conclusion on familiarity with the General Plan and on what I consider to be the leading thinking on this matter in the planning community. [I have a PhD in urban and regional planning and a law degree. I teach land use and development control law and policy and environmental law. I have

written and taught about local government planning for several decades. Among my areas of expertise are environmental impact analysis and the comprehensive plan and the consistency doctrine. I have written extensively about the latter including in several articles and a book entitled The Consistency Doctrine and the Limits of Planning.]

Analysis

In undertaking the consistency analysis, which is ongoing, of considerable importance are a number of objectives including Objective A-6 of the Land Use Element and Objective A-7, Urban Design, of The Irvine General Plan.

Objective A-6 of the Land Use Element is entitled "Land use compatibility." The goal is to "[a]chieve harmonious land use patterns throughout the City."

Among the policies articulated to achieve that goal:

"...ensure, through the discretionary review process, the public health, safety, and welfare of sensitive receptors/land uses when locating such uses in close proximity to the following land uses:

Uses which handle, generate, and/or transport hazardous substances...

Uses which create other land use conflicts.

"..ensure ... that the proposed sensitive receptors/land uses will not have an impact on the continued operation and/or expansion of...

Off-site hazardous waste facilities

Solid waste facilities

Manufacturing uses.."

It is my opinion that the siting of several thousand additional dwelling units in close proximity to facilities that use hazardous and toxic substances is inconsistent with this important goal.

The Initial Study for [Att-A] Central Park found "Substantial Change in Project Requiring Major EIR Revisions" for

VII. HAZARDS AND HAZARDOUS MATERIALS

...in that the project would

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...

...

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5..."

SEIRs for proposed developments in the IBC have also noted elevated cancer risk to adults and child park visitors "mostly due to the presence of vinyl chloride in groundwater and cadmium in the soil" (@ p. 4-45).

I have reviewed some of the strategies that the City has proposed or adopted to limit conflicts between residential and hazardous uses. I question their effectiveness. For one example:

"The applicant shall comply with the City's ... Good Neighbor Program for Sensitive Land Study"...[and elsewhere]..."the CC&R's for each project shall require that each HO...Maintain an emergency notification subscription following the expiration of the developer purchased subscription...[maintain a] data base of resident phone numbers....[and elsewhere]... and provide a shelter-in-place program... provide a Notification Letter and Safety Plan... that includes staff training, emergency tools, and first aide provisions, supervision of children and other individuals in an emergency situation, and a shelter-in-place program for when evacuation is not appropriate or practicable." And elsewhere..."The staff will attempt to ensure your child will be safe by taking them to the leasing office or an area determined to be reasonably safe."

For neighboring residents a mitigation approach of this kind is likely to create anxiety, rather than comfort. This has been the case in other jurisdictions as other testimony has chronicled. Residents are likely to focus on risks linked to ongoing sources within the IBC. They are likely to seeks means of discontinuing uses which they perceive to put them and their children at risk.

Dr. Phillip King has summarized the extent of the existing uses of hazards and other land uses which are undesirable neighbors to residents. He notes that there may be as many as 31 sites within the IBC with over 1000 kg (2200 lbs.) of hazardous material and 126 additional sites with at least 100 kg (220 lb.) of hazardous material. He further recognizes that ..."high-tech firms such as Verizon and Intellnet ....have enormous arrays of computers and data storage facilities which require continuous cooling 24 hours a day" creating the need for very noisy cooling fans and for thousands of gallons of diesel fuel for generators in case of a power outage or brownout. Diesel fuel is considered a carcinogen.

Residential industrial conflicts in insufficiently planned mixed used development have been noted in other cities. For example in Portland:
"The city often has to walk a fine line between encouraging mixed-use development and saving the city's core industries...Residents of newly built apartments often complain about the activities of nearby businesses, which were probably established in the neighborhood long before the residents moved in.....The changing dynamics of mixed-use projects often displace some businesses whose rents become unaffordable as the property values skyrocket. Some find their businesses no longer match the residential complexion of the neighborhood" The report recognized the need to "meld successfully the objectives of a very diverse groups of stakeholders" ["Mixed feelings about mixed-use"....about Portland's programs. ....]

Objective A-7, Urban Design. The goal is to "[c]reate a visually attractive and efficiently organized City." Among the policies articulated: "Conduct a comprehensive

concept planning process for each planning area to prevent piecemeal and inefficient community development and to resolve area wide planning issues prior to development approval." The City's vision for the IBC has evolved and changed over time. Since the 1992 EIR, changes have added thousands of proposed residential units and razed thousands of square feet of industrial use. This is occurring in a piece-meal fashion, creating conflicts between residential developer goals and some city policies including the creation of a visually attractive Jamboree corridor. The city has the opportunity to minimize inconsistencies with this and other elements of the General Plan by undertaking a comprehensive planning and environmental impact review process for the IBC before approving, through its *discretionary* review process, projects which may challenge overall planning goals.

I will be commenting on other inconsistencies between the path the City is taking and the path it laid out in its General Plan. I will also be commenting on the rationale for undertaking comprehensive, programmatic environmental impact analysis of the new vision, as it is my opinion that the 1992 EIR did not contemplate the type of project that is incrementally being developed in this most sensitive part of the City. I will be recommending buffer areas between residential and industrial uses based in part on citizens' responses to perceived risks. At this point I respectfully present my opinion that for good planning and practical reasons the City should not use its discretionary authority to approve additional residential uses which create inconsistencies with the City's fundamental planning goals.

J. F. C. DiMento

Joseph F. C. DiMento

Honorable Commission members:

My name is John Toner. I am an employee of Verizon Wireless, a company that employs nearly 2,500 people in the City of Irvine. For the past twelve years, I have run our Irvine Data Center located on Main Street in the Irvine Business Complex. Let me tell you a little bit about our operation.

The Irvine Data Center is the backbone of our wireless network for all states west of the Mississippi. It is essential for all parts of our business operations including activations, customer care, Internet access, etc. This facility is so important to our network that we have invested tens of million of dollars already and have plans to invest millions more in the immediate future. My data center is essential to providing communications to emergency responders such as police and firefighters; disaster recovery personnel; business and government customers including utilities; and the millions of individuals who rely on their phones for virtually all of their communications needs.

To do this, we operate the facility 24/7, 365 days a year. We have been doing this at Main Street without interruption for over sixteen years. We have achieved this great record because of the incredible backup systems we employ. These systems require continuously operating air conditioning systems and massive amounts of power. Of course, we always need to have generators to provide sufficient backup power in case of an electrical outage such as the one we had at 10:15 PM January 21st this year. To give you an idea of the magnitude of these generators, my facility could provide power for 2,400 homes. When we finish our current expansion our generators will be able to power 6,000 homes.

Unfortunately, to do these great things, our equipment generates noise. It is not the kind of noise you would want to hear in your home in the middle of the night or out on your patio enjoying time off with your family. While we comply with current noise ordinances, we fear that new residents next door to our facility would find the noise levels unacceptable. Current residential standards limit noise levels to <50 db at night, we produce noise levels at the current industrial/commercial standard of <70 db measured at the property line.

Verizon Wireless is very concerned with the possibility of additional residential uses in the Irvine Business Complex. The scope of an environmental impact report evaluating additional residential uses must include the following information and analysis:

1. Any EIR must reflect and provide for the mitigation of the adverse impacts that are sure to result from placing residential uses near industrial businesses. The existing businesses must be protected not only by grandfathering current standards, but requiring that the residential developers be responsible for mitigating any of the impacts resulting from the combination of residential and industrial type uses in the IBC, including noise, glare and traffic. Existing businesses must have the assurance and protection that they will not be forced out of business by new residents.

2. Existing businesses must be able to continue to rely on the industrial zoning so as to permit the expansion, upgrading and continued operation of those businesses. They cannot be subject to the fees, requirements and design criteria applicable to new residential uses.

3. Any new residential project should require an adjacency analysis if the project is within 1,000 feet of existing IBC uses that may impact residential use. This adjacency study must include input from and participation by the existing IBC users so that the City has reliable and complete information on these potential impacts. It must be done at the earliest stages of the application process so that incompatible projects can be identified before the developer goes too far in the process. At a minimum, residential projects should not be permitted within 200 feet of the property line of such existing IBC uses.

We will provide further input on the initial study in writing but thank you for allowing us to comment.

DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS – M.S.#40
1120 N STREET
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SACRAMENTO, CA 94273-0001
PHONE (916) 654-4959
FAX (916) 653-9531
TTY (916) 651-6827

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February 5, 2007

Mr. Bill Jacobs
City of Irvine
P.O. Box 19575
Irvine, CA 92623-9575

Dear Mr. Jacobs:

Re: Notice of Preparation of an Environmental Impact Report for the Draft Irvine Business Complex Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36); SCH#2007011024

The California Department of Transportation (Caltrans), Division of Aeronautics (Division), reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA). The Division has technical expertise in the areas of airport operations safety, noise, and airport land use compatibility. We are a funding agency for airport projects and we have permit authority for public and special-use airports and heliports. The following comments are offered for your consideration.

The proposal is for the Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code for Planning Area 36 which could yield a potential of 24,535 additional residential dwelling units beyond the 14,407 existing, pending and approved units, assuming a theoretical, but unlikely, worst case scenario within the 2,800 acre IBC. The project site is located adjacent to the east and north of the John Wayne Airport.

In accordance with CEQA, Public Resources Code Section 21096, the Caltrans Airport Land Use Planning Handbook (Handbook) must be utilized as a resource in the preparation of environmental documents for projects within airport land use compatibility plan boundaries, or if such a plan has not been adopted, within two miles of an airport. The Handbook is a resource that should be applied to all public-use airports. The Handbook is published on-line at http://www.dot.ca.gov/hq/planning/aeronaut/.

Portions of the project site appear to be within the Runway Protection Zone (RPZ), Inner Approach/Departure Zone, Inner Turning Zone and the Outer Approach/Departure Zone for the John Wayne Airport as defined in the Caltrans Handbook. The RPZ is the most critical of the airport safety zones, considered to be at "very high risk" due its proximity to the end of the runway. The Handbook generally recommends prohibiting all new structures within the RPZ. Just beyond the RPZ is the Inner Approach/Departure Zone, which is considered to be at "substantial risk." The RPZ together with the inner safety zones encompass 30 to 50 percent of the near-airport aircraft accident sites. The Handbook generally recommends prohibiting residential uses except on large, agricultural parcels within the Inner Approach/Departure Zone. A description of these impacts must be thoroughly addressed through the environmental

process.

John Wayne Airport is a busy airport with approximately 350,124 annual operations. The IBC appears to be proposing a Town Center within the 65 decibel (dB) Community Noise Equivalent Level (CNEL) aircraft noise contour according to the Airport Environs Land Use Plan for John Wayne Airport. The Notice of Preparation explains that residential uses will be allowed within the Town Center. Residential uses within these high noise levels, regardless of what the land is zoned, is inconsistent with Public Utilities Code Section 21670 (a)(1), which states that it is in the public interest "to promote the overall goals and objectives of the California airport noise standards...and to prevent the creation of new noise...problems." The Airport Noise Standards (California Code of Regulations, Title 21, Chapter 6, Section 5000 et seq.), in part, states: "The purpose of these regulations is to provide a positive basis to accomplish resolution of existing noise problems in communities surrounding airports and to prevent the development of new noise problems." This proposed project could lead to new noise problems with a greater number of persons exposed to high aircraft noise levels.

Pursuant to the Airport Noise Standards, the County of Orange declared John Wayne Airport to have a "noise problem." The regulations require a noise problem airport to reduce the size of its "noise impact area" (NIA), which is the area within the airport's 65dB CNEL aircraft noise contour that is composed of incompatible land uses. Allowing new residential uses within the airport's 65db CNEL contour could result in an increase, rather than the required decrease, in the size of the airport's NIA. To prevent this project from increasing the airport's NIA, if this project is approved and built, each residential unit should grant to the airport proprietor an avigation easement for aircraft noise. Additionally, all residential units should be constructed to ensure an interior CNEL due to aircraft noise of 45dB or less in all habitable rooms. The easement and construction methods, however, will not change exterior aircraft noise levels. It is likely that some future residents will be annoyed by aircraft noise in this area. Aircraft noise levels represent a significant adverse impact on the project.

Public Utilities Code, Section 21659 prohibits structural hazards near airports. In accordance with Federal Aviation Regulation, Part 77 "Objects Affecting Navigable Airspace" a Notice of Proposed Construction or Alteration (Form 7460-1) may be required by the Federal Aviation Administration (FAA). For further information or a copy of Form 7460-1, please refer to the FAA website https://oeaaa.faa.gov/oeaaaEXT/portal.jsp.

Section 11010 of the Business and Professions Code and Sections 1102.6, 1103.4, and 1353 of the Civil Code (http://www.leginfo.ca.gov/calaw.html) address buyer notification requirements for lands around airports. Any person who intends to offer land for sale or lease within an *airport influence area* is required to disclose that fact to the person buying the property.

In addition to submitting the proposal to the Airport Land Use Commission, it should also be coordinated with airport staff to ensure that the proposal will be compatible with future as well as existing airport operations.

Aviation plays a significant role in California's transportation system. This role includes the movement of people and goods within and beyond our state's network of over 250 airports. Aviation contributes nearly 9 percent of both total State employment (1.7 million jobs) and total State output ($110.7 billion) annually. These benefits were identified in a study entitled, "Aviation in California: Benefits to Our Economy and Way of Life," and is available on-line at http://www.dot.ca.gov/hq/planning/aeronaut/. Aviation improves mobility, generates tax revenue, saves lives through emergency response, medical and fire fighting services, annually transports air cargo valued at over $170 billion, and generates over $14 billion in tourist dollars, which in turn improves our economy and quality of life.

The protection of airports from incompatible land use encroachment is vital to California's economic future. The John Wayne Airport is an economic asset that should be protected through effective airport land use compatibility planning and awareness. Although the need for compatible and safe land uses near airports in California is both a local and a State issue, airport staff, airport land use commissions, and airport land use compatibility plans are key to protecting an airport and the people residing and working in the vicinity of an airport. Consideration given to the issue of compatible land uses in the vicinity of an airport should help to relieve future conflicts between airports and their neighbors.

These comments reflect the areas of concern to the Division of Aeronautics with respect to airport-related noise and safety impacts and regional airport land use planning issues. We advise you to contact our District 12 Office in Irvine at (949) 724-2000 concerning surface transportation issues.

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-7075.

Sincerely,

Ron Bolyard

RON BOLYARD
Airport Environmental Specialist

c: State Clearinghouse, Orange County ALUC, John Wayne Airport

DEPARTMENT OF TRANSPORTATION
District 12
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8894

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Mail and Fax

February 6, 2007

Mr. Bill Jacobs
City of Irvine
P. O. Box 19575
Irvine, CA 92623-9575

File: IGR/CEQA
SCH#: 2007011024
Log #: 1817
SR#: I-405, SR-55 & SR-73

Subject: Notice of Preparation (NOP) of the Draft Environmental Impact Report (DEIR) for Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code

Dear Mr. Jacobs:

Thank you for the opportunity to review and comment on the **NOP of the DEIR for IBC Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36)**. The project proposes to yield a potential of 24,535 additional residential dwelling units beyond the 14,407 existing, pending and approved units, assuming a theoretical, but unlikely, worst case scenario within the 2,800-acre IBC. The IBC is generally bounded by the former Tustin Marine Corps Air Station to the north, the San Diego Creek channel to the east, John Wayne Airport and Campus Drive to the south, and the SR-55 to the west in the City of Irvine, California.

Caltrans District 12 is a responsible agency on this project, and has the following comments:

The DEIR needs to include a traffic analysis to examine how the project will impact the I-405, SR-55 and SR-73. Please develop a mitigation impact program for mitigation measures that reflect the rough proportionality or the equitable responsibility for traffic impacts that may be caused by the project. Also, identify the responsible parties, funding and monitoring of any potential mitigation measures. A funding mechanism including regional traffic impacts needs to be established for the transportation improvement mitigation measures. The Department would like to work together with the City to promote an efficient transportation system and a healthy community. Any traffic impacts on the State transportation system should be evaluated based on Caltrans Traffic Impact Study (TIS) Guidelines which is available at:
http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf

Please continue to keep us informed of this project or any other future developments, which could potentially impact the transportation facilities. If you have any questions or need to contact us, do not hesitate to call Lan Zhou at (949) 756-7827.

Sincerely,

for RYAN CHAMBERLAIN
Branch Chief, Local Development/Intergovernmental Review
District 12

c: Terry Roberts, Office of Planning and Research

Linda S. Adams
Secretary for
Environmental Protection

Department of Toxic Substances Control

Maureen F. Gorsen, Director
5796 Corporate Avenue
Cypress, California 90630

Arnold Schwarzenegger
Governor

February 6, 2007

Mr. Bill Jacobs
City of Irvine, Planning Department
P.O. Box 19575
Irvine, California 92623-9575

NOTICE OF PREPARATION (NOP) FOR DRAFT IRVINE BUSINESS COMPLEX (IBC) VISION PLAN AND MIXED USE CODE PROJECT (SCH# 2007011024)

Dear Mr. Jacobs:

The Department of Toxic Substances Control (DTSC) has received your submitted document for the above-mentioned project. As stated in your document: "The Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code for Planning Area 36 which could yield a potential total of 24,535 additional units beyond the 14,407 existing, pending and approved units, assuming a theoretical, but unlikely, worst case scenario within the 2,800 acre IBC".

Based on the review of the submitted document DTSC has comments as follows:

1) The EIR should identify and determine whether current or historic uses at the project site may have resulted in any release of hazardous wastes/substances.

2) The EIR 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).
   - Envirostor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
   - 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 EIR 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 at the site, an environmental assessment should be conducted to determine if a release has 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 laws, regulations and policies.

4) Proper investigation, sampling and remedial actions overseen by the appropriate agency, if necessary, should be conducted at the site prior to the new development or any construction.

5) If any property adjacent to the project site 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."

6) The project construction 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, properly dispose of it rather than placing it in another location. Land Disposal Restrictions (LDRs) may be applicable to these soils. Also, if the project proposes to import soil to backfill the areas excavated, proper sampling should be conducted to make sure that the imported soil is free of contamination.

7) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. A study of the site overseen by the appropriate government agency might have to 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.

8) Certain hazardous waste treatment processes may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.

9) If the site was used for agricultural purposes or if weed abatement may have occurred, onsite soils may contain pesticide and agricultural chemical residue. If the project area was used for poultry, dairy and/or cattle industry operations, the soil may contain related dairy, animal, or hazardous waste. If so, activities at the site may have contributed to soil and groundwater contamination. Proper investigation and remedial actions, if necessary, should be conducted at the site prior to construction of the project.

10) If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exists, the EIR should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight.

If you have any questions regarding this letter, please contact Mr. Al Shami, Project Manager, at (714) 484-5472 or at "ashami @ DTSC.ca.gov".

Sincerely,

Greg Holmes
Unit Chief
Southern California Cleanup Operations Branch - Cypress

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 #1604

2/8/2007

Bill

Dear Mr. Jacobs,

My name is Pamela. I moved to Irvine October 24, 2006 three days before my 60th birthday. My birthplace is Palo Alto that beautiful college town where of course Stanford University is located. My parents still live there as they feel there is no better place to live! Well, I can't stop telling them how beautiful, peaceful and just like Palo Alto Irvine really is!! Irvine has that college town atmosphere also with its friendly people, great parks, trails and is a safer place to live than Palo Alto these days.....which brings me to the article about the growth along Jamboree.

I agree with Councilwoman Christina Shea that she is opposed to the purpose of making this area a mixed-use village. I also agree with Larry Agran that the area should be called "Jamboree Village" instead of "Irvine Business Complex".

Let us not...change the character of our "village" and let too many hi-rise buildings take over the area or build sky high town homes, apartments and condos.

Yes, more business is more money and jobs for our citizens, but it doesn't mean we cannot come up with a plan that fits in with the look, style and character of our village of Irvine.

I am so sorry this took so long to get to you as I have a very old computer and need to look into purchasing another. My son got it finally working temporarily. Thank you for your call and I hope I get to meet you on Feb.27 at 4pm.

Pamela Bettencourt Gordon

Fondly,

Pamela Bettencourt Gordon
184 Veneto
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Ph:650-281-5257
e-mail: plbetten@rcn.com

February 20, 2007

Mr. Bill Jacobs, AICP
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Peer Review – Traffic Studies for the Irvine Business Complex

Dear Mr. Jacobs;

On behalf of and at the request of the Cities of Newport Beach and Tustin, I have performed peer reviews of reports prepared in the past by or for the City of Irvine to document the traffic impacts and related mitigation measures associated with development in the Irvine Business Complex (IBC). The focus of my review was the appropriateness of the applied methodologies in terms of adequately capturing proposed development's traffic impacts. Following are my comments relative to the methodologies and assumptions applied based on the review of the following documents.

- *2005 Traffic Monitoring Report for Irvine Business Complex Sliding Interim Year Analysis*
- *Draft Irvine Business Complex Subsequent Environmental Impact Report – Avalon Jamboree Village*, September 2005
- Ordinance 93-14, dated October 1993
- IBC Rezoning, Phase I – Mode Split Analysis, December 11, 1990

Standards of Significance

Irvine is using LOS E as their threshold for acceptable operation. This is not consistent with Caltrans standards and no indication is given whether Caltrans has accepted this standard for application to their intersections. It is understood that Newport Beach has set LOS E as the threshold for intersections along the border between the two Cities.

A project impact is significant if the v/c (volume-to-capacity ratio) exceeds the applied standard, which varies according to location, *and* the project's contribution is a change of 0.02 or greater. If both of these conditions are met, migitation is required to maintain operation at the threshold of acceptability. It is unclear how any mitigation would ever be achieved if all of the individual projects contribute only a small incremental increase; this does not appear to be consistent with provisions of CEQA relative to cumulative impacts.

Methodologies & Assumptions

Methodologies

The analysis of link segments is based on volume-to-capacity calculations using daily volumes. The capacities applied are based on very simplistic assumptions related only to the number of lanes. To achieve more results the analysis should be based on peak hour volumes, and capacities should be tailored to each street so that functions affecting capacity such as on-street parking, density of signalized

intersections, pedestrian and bicycle activity, and transit busses stopping in travel lanes are taken into account.

Auxiliary lanes were assumed with lower capacity, but still with only one capacity value for all conditions. All of the capacity assumptions should be looked at more carefully and crafted to fit each specific roadway rather than using an all-encompassing standard.

For arterial operation the total volume crossing a screenline was summed and compared to the sum of the capacity for all of the streets making up that screenline. This approach does not take into account directional flow. It also allows the flow on an individual road to exceed its capacity by 10 percent, yet remain at acceptable operation provided that the group as a whole is at LOS E or better. Further analysis is only required if the v/c is greater than 1.1. This approach is unreasonable and provides unrealistically optimistic results. The volumes are obtained through use of a model, so trips would already have been distributed to take advantage of the route with the least congestion and most available capacity. By averaging volumes over a screenline, further distribution is assumed, allowing maximum use of capacity along several routes. If trips could reasonably be diverted to an alternate route, the model should have assigned them in that manner. The model would presumably assign trips to a route that has less capacity for a reason, so to then reassign these trips to another route simply because it has more capacity appears to be unreasonable. Analysis should be for individual corridors during peak hours, and not for a collection of roadways based on daily volumes. Calculating operation as if the trips were spread evenly over four or five streets when the actual distribution is known is unreasonable.

Similarly, to get to the v/c for a group of intersections, the v/c for each individual intersection is used to determine the *average* for the group. The standards applied allow v/c values of up to 1.10 for individual intersections, and up to 1.00 for Groups. Again, there is no basis for assuming that trips will be diverted to another intersection merely because it has more theoretical capacity. Each intersection should be evaluated on its own, and not as part of a group.

Trip Generation Rates and Transfers

For the "Avalon Jamboree Village" project, a comparison with ITE rates for various office, industrial and residential land use categories indicates that the industrial trip results are equal to the *lowest* category, office trips are *lower* than the results for any of the categories, and the residential trips are lower than some standard rates and higher than others. It appears likely that these lower rates are likely the result of assumed transportation demand measures and other methods for achieving more efficient use of the street system. Unfortunately, many of the infrastructure improvements included in the IBC program and assumed to be in place by 2005 are still not constructed. The trip rates for this project may therefore be considerably lower than what is actually being experienced in the area. Care should be taken to ensure that future analyses use trip rates that accurately reflect each proposed project.

The Avalon Jamboree project is receiving a transfer of development rights (TDR) equivalent to 39.231 ksf of office space. While the project site is located north of I-405, the sending site is located *south* of I-405 (Figure 5.8-1). It is unclear how these two sites can be considered as generating equivalent trips when they affect different road segment and intersections, and generate different trips directionally as well as in terms of turning movements. The methodology should include limitations to ensure that transferred trips would have similar traffic impacts; to ensure this they would need to be geographically close and generate trips in a similar directional pattern.

Future Conditions

The Horizon year for the *Sliding Interim Year Analysis* as well as those preceding it was seven years. The methodology being applied to these analyses is now more than 15 years old, and many of the future year assumptions indicated in the original staff report detailing the study methodology, some of which were assumed to be complete more than ten years ago, are still not in place. Since the implementation of capacity enhancements is lagging far behind the development it is intended to serve, a horizon of at least 15 to 20 years would be more appropriate.

A growth rate is applied to segment and intersection counts to achieve future volumes. These are then used along with planned infrastructure improvements to determine future year v/c results. Again, this approach appears rather simplistic when there are tools available that will provide better model projections, and given the magnitude of this development area, more detailed modeling appears to be in order.

Study Area and Periods

The study area for the *Sliding Interim Year Analysis* includes two intersections that are primarily in the City of Newport Beach, but does not extend beyond the Irvine City Limit. It seems unreasonable to exclude intersections in an adjacent community that provide access to a regional facility, such as the connections from Jamboree Road and Campus Drive to SR 73.

It is recommended that consideration be given to including a midday analysis for locations which experience higher volumes during the middle of the day than during either peak.

Data

Some of the traffic counts used for the *Sliding Interim Year Analysis* were obtained in June and July of 2005 (§2.1). Since the study area includes UC Irvine, these counts may understate existing volumes, especially for intersections near the campus. Care should be taken to ensure that counts for intersections near the campus are taken when school is in session.

Study Results

One of two screenlines in the *Sliding Interim Year Analysis* with unacceptable operation based on its daily volume-to-capacity ratio is #11, which includes trips into and out of Newport Beach. Campus Drive west of University defines the border between Irvine and Newport Beach, and has five study intersections that are shared by the two jurisdictions. It is noted that this segment was deficient in 2002, and continues to deteriorate, and also that it is anticipated that this roadway will be widened from two lanes to four, though there is not a specific timeline for completing these improvements. Analysis is provided of the segment of Campus Drive that is completely in Irvine (University to Carlson) based on peak hour volumes, and this evaluation indicates that it is operating at LOS A or B during the morning and evening peak periods, so no mitigation is deemed necessary even though the segment from Carlson west is operating unacceptably.

Again for 2010 conditions, analysis of Campus Drive was provided only for the portion in Irvine, which has operation at LOS C or better. The segment that divides Irvine and Newport Beach is not evaluated though the screenline indicates a v/c ratio of 1.65, or seriously deficient operation. It is concluded that

no mitigation is needed on Campus Drive because the peak hour analysis resulted in acceptable LOS. This conclusion is seriously flawed in that it did not look at the entire segment. In order to allow continued development that affects the deficient portion of this corridor west of University, the City of Irvine should establish a process with the City of Newport Beach to collect funding for and construct the necessary widening.

The "Avalon-Jamboree" study contains results for "non-cumulative" and cumulative conditions (Table 5.8-6), but it is unclear whether the Project is included in either of these scenarios or not, though it does say that cumulative includes projects "under review by the City". Clarification of what is included in various scenarios should be provided in future reports.

We hope these comments will assist the City of Irvine in preparing future analyses to better reflect potential traffic impacts associated with the development of the IBC.

Sincerely,



Dalene J. Whitlock, P.E., PTOE
Principal

DJW/djw/NBE001.L1.doc

c: Sabrina V. Teller, Esq., Remy, Thomas, Moose and Manley, LLP, attorneys for the Cities of Newport Beach and Tustin

IRVINE RANCH WATER DISTRICT

15600 Sand Canyon Avenue • P.O. Box 57000 • Irvine, California 92619-7000 • (949) 453-5300 • www.irwd.com

February 20, 2007

William D. Jacobs, AICP, Principal Planner
City of Irvine
One Civic Center Drive
Irvine, CA 92713-9575

SUBJECT: Notice of Preparation - Draft IBC Vision Plan & Mixed Use Overlay

Dear Mr. Jacobs:

Irvine Ranch Water District (IRWD) has recently completed a review of the Notice of Preparation (NOP) for the Draft Environmental Impact Report that will be prepared for the Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code. We have also reviewed the most recent Draft Irvine Business Complex Mixed Use Community Vision Plan dated June 16, 2006. Based on our review, we note the following concern as it relates to land owned by IRWD adjacent to the IBC and referenced in the above documents.

IRWD would like to comment on Figure 3 of the IBC Vision Framework Plan in the NOP which depicts a "conceptual location" for a Community Park on land owned by IRWD at the southeast corner of Michelson Drive and Carlson Avenue (Planning Area 23). This area is similarly depicted in the Draft IBC Vision Plan.

We believe this depiction is not correct. This property is outside of the IBC boundaries and is designated as High Density Residential and Preservation on the General Plan Land Use Map. Additionally, this site was identified as a "development area" in the 1988 Open Space Initiative. We are requesting that the conceptual Community Park designation for this site be removed from the referenced plans.

In a related matter, a letter from Richard Diamond, Director of Water Resources & Environmental Quality for IRWD, is being sent to you that addresses IRWD's comments on the NOP concerning our current and future water and sewer facilities.

Thank you for the opportunity to comment on the NOP and Vision Plan.

Sincerely,

Terrell Loomis

Terrell Loomis, Treasurer

CC: Paul Jones, General Manager, IRWD

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February 21, 2007

VIA FEDEX

City of Irvine
Department of Community Development
Attn: Bill Jacobs, AICP, Principal Planner
One Civic Center Plaza, P.O. Box 19575
Irvine, CA 92623-5975

Re: Comments regarding Notice of Preparation of a Draft Environmental Impact Report—IBC Vision Plan and Residential Mixed Use Overlay Zoning Code

Dear Mr. Jacobs:

On behalf of the Cities of Newport Beach and Tustin (collectively referred to herein as the "Cities"), we have reviewed the Notice of Preparation ("NOP") of a Draft Environmental Impact Report ("DEIR") for the IBC Vision Plan and Residential Mixed Use Overlay Zoning Code ("Project") and the accompanying Initial Study ("IS") circulated by Irvine for the Project pursuant to the California Environmental Quality Act, Public Resources Code, §§ 21000 et seq. ("CEQA"), the CEQA Guidelines, California Code of Regulations, title 14, §§ 15000 et seq. ("CEQA Guidelines"), and the Planning and Zoning Law, Gov. Code, §§ 65000 et seq. The Cities appreciate your consideration of the following comments concerning the NOP/IS and scope of the DEIR for this Project.

The Cities commend Irvine's decision to prepare an EIR for this Project as opposed to the previously prepared Negative Declaration for the Project. The EIR will presumably evaluate all of the individual and cumulative impacts caused by the overall residential conversion program that has been ongoing within the Industrial Business Complex ("IBC"). As the Cities have said in previously submitted comments, the prior

Subsequent EIRs and Addenda prepared for individual projects have not adequately examined the cumulative impacts caused by this overall conversion program. Here, the NOP/IS does not indicate whether Irvine will prepare a program, master or first tier EIR. As you know, the distinctions between these EIR forms are significant, as they impact not only the level of analysis required in this EIR, but in subsequent project-level EIRs as well. The Cities recognize that preparing an adequate program, master or first tier EIR is a challenging task, and the Cities remain available for consultation with Irvine. If you wish to receive additional comments, beyond what is set forth below, regarding the DEIR please feel free to contact me at the number listed above or any of the following individuals:

Newport Beach:
City Attorney, Robin Clauson, or
Assistant City Attorney, Aaron Harp, at (949) 644-3131.

Tustin:
Douglas C. Holland, Special Counsel, (714) 558-7000.

I. General Observations Regarding the Notice of Preparation/Initial Study and Recommendations for the DEIR.

A. The Notice of Preparation and Initial Study are Insufficient.

The NOP/IS fails as an informational document and improperly defers analysis. The CEQA Guidelines require that an initial study 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 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.

(CEQA Guidelines, § 15063(d).) Here, the NOP/IS for the Project provides an inadequate project description and fails to adequately describe the environmental setting. The NOP/IS's separate project description section, Section 8, does not provide sufficiently detailed discussion of the project and is incomplete. Neither this brief section, nor any other section of the NOP/IS, describes, with any level of detail, the IBC Vision Plan ("Vision Plan") or the Residential Mixed Use Overlay Zoning Code ("IBCRMU Overlay Zone"). Additionally, the section does not indicate whether one or

more Town Centers will be included in the Project.[1] Section 8 does mention that the proposed Project "serves as planning guidance to address the influx of new residential development in the area," but it does not describe the planning guidance or how it will be implemented.

Under CEQA, an accurate and complete 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 *sina 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 (italics in original).) The CEQA Guidelines define a "project" as

> the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is . . . [P] (1) An activity directly undertaken by any public agency including but not limited to . . . enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700.

(CEQA Guidelines, § 15378(a).) The IBCRMU Overlay Zone clearly falls within this definition. (See *Bozung v. LAFCo* (1975) 13 Cal.3d 263, 277 (holding that a zone change and an approval of an annexation were parts of the "project" under CEQA.) Assuming

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[1] / This omission is significant, given the higher densities that will be permitted in Town Centers, and given that the current draft of the IBCRMU Overlay District indicates that a zone designated Town Center will be located on the border between the IBC and Newport Beach. (See Draft IBCRMU Overlay District (June 2006) at p. 5.) References to Town Centers have been deleted from the current draft of the Vision Plan. (See, e.g., Draft Vision Plan Part 3, at p. 2.)

The NOP/IS indicates that inclusion of one or more Town Centers will be considered as "alternatives", suggesting that they will be considered a means to "avoid or substantially lessen and of the significant effects of the Project." (See CEQA Guidelines, § 15126.6, subd. (a).) But given the higher densities of Town Centers, this is clearly not the intended meaning. The Project description in the DEIR should clearly identify the number of proposed Town Centers and their location(s), and whether they are being considered as true CEQA alternatives, or as policy options.

that the Vision Plan will be processed as a General Plan Amendment,[2] it also falls within this definition of "project" and should have been described and analyzed in the NOP/IS.[3]

The "Checklist Discussion" portion of the IS is inconsistent in its approach to development within the IBC. In some sections it states that the Project itself will not approve development, but in other sections it states that the DEIR must analyze the impacts caused by the development that will occur as a result of the Project. Such inconsistency runs counter to the requirements of CEQA. (See *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association* (1986) 42 Cal.3d 929, 936 (stating that the process of environmental impact assessment must be "open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a *consistently described project*. . . ." (emphasis added).) As we explain below, the Cities concur with the conclusion that the DEIR must analyze the impacts caused by the development it will induce, and urge Irvine to formulate a consistent, comprehensive and honest approach to the DEIR's analysis.

B. The DEIR Must Analyze the Whole of the Action.

The section entitled "Determination," located on page 9 of the NOP, indicates that the proposed Project may have a significant effect on the environment and that an EIR is required. Unlike the NOPs for past individual projects proposed within the IBC, this section of the NOP does not state that Irvine intends to rely upon earlier analyses and mitigation measures contained within EIR No. 88-ER-0087, known as the "IBC EIR." Thus, we understand from the NOP's Determination section that Irvine intends to prepare an independent and stand-alone project EIR for the Project. Such a program or master EIR would be appropriate for Irvine's widespread residential conversion of the IBC.

As stated in the Cities' previous comments concerning other individual proposed projects within the IBC, the Cities request that the EIR for this project pay particularly close attention to three areas that could result in significant impacts to the Cities: recreation, transportation/traffic and cumulative impacts. The Cities' concerns are especially strong here because this proposed Project concerns land use development

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[2] / The Cities observe that the Vision Plan should be processed as a General Plan Amendment ("GPA"). Enactment of the IBCRMU Overlay Zone would require, at a minimum, formal adoption of the new land use policies that the Vision Plan sets forth. Refusal to adopt the Vision Plan as a GPA would necessarily result in inconsistency between the IBCRMU Overlay Zone and the current General Plan. Such inconsistency would violate Irvine's Zoning Ordinance section V.E-101.4, which provides that "[a]ll actions, approvals and procedures taken with respect to or in accordance with, this zoning ordinance shall be consistent with the City of Irvine General Plan."

[3] / The Vision Plan is only mentioned in two of the response areas within the section entitled "Checklist Discussion": Biological Resources and Population and Housing. And even where the Vision Plan is mentioned, it is not clear that its potential for impacts was evaluated.

throughout the IBC, an area immediately adjacent to both Cities. The Cities request that the executive summary for the DEIR identify their concerns concerning recreation, transportation/traffic and cumulative impacts as "areas of controversy," as required by CEQA Guidelines section 15123, subdivision (a)(2).

Irvine's approval of this proposed Project, as it is currently designed, would have widespread ramifications on the Cities, especially in light of the fact that Irvine has already approved a number of individual projects within the IBC utilizing the stale 1992 IBC EIR. Together, these projects have added thousands of new residences and dozens of businesses within the IBC, but the Addenda to the 1992 EIR and Subsequent EIRs ("SEIRs") prepared for these projects have not included sufficient analysis of traffic, parks and recreation and cumulative impacts nor adequate mitigation measures to minimize these impacts.

The Vision Plan and the IBCRMU Overlay Zone, if adopted, will allow continued widespread conversion to residential uses in an area that historically restricted such uses. (See 1992 IBC EIR.) Moreover, by promoting the development of infrastructure required for residential uses, the proposed Project will intensify this conversion process. Without implementation of adequate mitigation measures, the Project will lead to further deterioration of air quality and traffic and circulation conditions in the region and increased pressure on neighboring jurisdictions' parks and recreation facilities. In order to ensure accurate identification and thorough mitigation of all direct and cumulative impacts of widespread land use conversion within the IBC, the Cities encourage Irvine to conduct a thorough program environmental review for the Vision Plan and IBCRMU Overlay Zone. (See CEQA Guidelines, § 15168.) As described below, such review must at a minimum include:

- An accurate description of the whole of the Project,
- A comprehensive evaluation of the current setting within the IBC,
- Analysis of each direct and cumulative Project impact,
- The Project's reasonably foreseeable future impacts,
- The Project's potential to induce growth,
- A thorough evaluation of all feasible mitigation measures, and
- Analysis of a range of reasonable alternatives to the Project.

In addition to the mandatory requirements specified in CEQA Guidelines sections 15122-15130, the DEIR must also address any significant irreversible environmental changes that would be involved in implementing the proposed Vision Plan. (CEQA Guidelines, §§ 15127, 15126.2(c).)

The CEQA Guidelines require that an environmental document describe the project "in a way that will be meaningful to the public, to other reviewing agencies, and to the decision-makers." (CEQA Guidelines, § 15124 (Discussion).) The project

description in the DEIR must adhere to CEQA's requirements. Here, the Project constitutes a program for development activities within the IBC.

The DEIR must analyze both the Project's direct and cumulative impacts. (See CEQA Guidelines, §§ 15126.2(a), 15130.) Failing to do so would constitute a form of "piecemealing" which would violate CEQA. (See *Orinda Ass'n v. Bd. of Supervisors* (1986) 182 Cal.App.3d 1145, 1171; see also *Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles* (1986) 177 Cal.App.3d 300, 306.) "Under CEQA, the agency must consider the cumulative environmental effects of its action before a project gains irreversible momentum." (*City of Antioch v. City Counsel* (1986) 187 Cal.App.3d 1325, 1333.) As mentioned above, numerous projects within the IBC have already been constructed, approved, or are currently pending, so the time for analyzing cumulative impacts is past due. Indeed, Irvine deferred this analysis when it decided to proceed with these other projects even while developing its Vision Plan for the IBC. (See, e.g., Request for City Council Action, [IBC] Residential/Mixed-Use Development Strategy (April 12, 2005) at p. 4.) Now that Irvine has decided to conduct a program level environmental review, it must perform a comprehensive impact analysis.

Moreover, to satisfy the informational requirements of CEQA, [4] the DEIR must analyze all reasonably foreseeable impacts. (CEQA Guidelines, § 15064(d); see also *City of Antioch, supra*, 187 Cal.App.3d 1325.) Failing to analyze reasonable foreseeable impacts eviscerates one of CEQA's prime purposes, to have, "at the earliest feasible time, project sponsors . . . incorporate environmental considerations into project conceptualization, design, and planning." (CEQA Guidelines, § 15004, subd. (b)(1).) By stating that "[t]he proposed project in and of itself does not permit additional development within the IBC," the NOP/IS appears to avoid analysis of reasonably foreseeable impacts; this mistake should not be made in the DEIR. (See NOP/IS at p. 7.) Instead, CEQA requires that Irvine complete a thorough environmental review of the Vision Plan and the IBC Overlay Zone before it prepares project-level EIRs and before approving any more significant residential projects within the IBC. In light of this mandate, the Cities request that Irvine continue its tentatively scheduled 2007 Planning Commission and City Council meetings to consider individual projects within the IBC until this Project's EIR is complete.[5]

The May 2006 version of IBCRMU Overlay Zone would have changed the zoning code to conditionally permit residential uses in areas that were previously zoned for non-

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[4] / It is noteworthy that when the informational 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. Resources Code, § 21168.5; see also *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 1428.)

[5] / See Attachment A: IBC Projects for 2007, Tentative Schedule (Updated 1/23/2007).)

residential mixed-use development, but these provisions appear to have been deleted from the current version. (See Draft IBCRMU Overlay Zone, Deleted Section 5-8-11, at p. 3.)[6] Consequently, while increased residential development within the IBC remains highly likely, it is apparently no longer an absolute certainty. Nevertheless, current, pending and future development activities within the IBC must be analyzed in this DEIR, to the extent that such activities are reasonably foreseeable.

> 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. . . .

(CEQA Guidelines, § 15165.) Thus, if the DEIR does not consider the residential and other development that will follow approval of the Project, the DEIR would impermissibly segment the whole of the project. (See *Laurel Heights Improvement Assoc. v. Regents of the Univ. of California* (1988) 47 Cal.3d 376, 391 fn. 2 (*Laurel Heights 1*).) The Court in *Laurel Heights 1* established a two-prong test for determining what future consequences should be assessed for a project:

> [A]n EIR must include analysis of the environmental effects of future expansion or other action if: (2) 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.

(*Laurel Heights 1*, *supra*, 47 Cal.3d 376 at 396.)

Here, the NOP/IS did not specifically identify the amount of residential and other development that would inevitably result from approval the Project, nor did it specify whether one or more high-density "Town Centers" will ultimately be developed within the IBC. The DEIR must provide more specific information regarding the quantity of reasonably foreseeable development that would occur as a consequence of adopting the Vision Plan and IBCRMU Overlay Zone. The DEIR must also adequately analyze all of

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[6] / The first full paragraph on page 7 of the NOP/IS mentions that "residential projects in the IBC must be processed through the existing City processes, which include a General Plan Amendment and zone change." Apparently, even after adopting the Vision Plan and IBCRMU Overlay Zone, Irvine would continue to process residential development applications in a piecemeal manner, adopting individual GPA's and zone changes for each proposed project. This strategy would render Irvine's General Plan meaningless as a planning tool, because it would be continuously amended for the numerous residential projects that would be encouraged by the IBCRMU Overlay Zone. Instead, Irvine should consider adopting versions of the Vision Plan and IBCRMU Overlay Zone that would not require subsequent individual GPAs and zone changes.

the potentially significant environmental impacts that would result from this foreseeable development activity.[7]

The DEIR cannot defer analysis of potentially significant environmental impacts 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 also *Bozung, supra*, 13 Cal.3d at p. 282; see also *Mt. Sutro Defense Committee v. Regents of the Univ. of Cal.* (1978) 77 Cal.App.3d 20, 34 (noting that environmental problems should be considered at a point in the planning process "where general flexibility remains").)

Furthermore, CEQA requires lead agencies to adopt feasible mitigation measures (or feasible environmentally superior alternatives) in order to substantially lessen or avoid otherwise significant adverse environmental impacts. (Pub. Resources Code, §§ 21001, subd. (d), 21002, 21002.1, 21081, subd. (a); CEQA Guidelines, §§ 15002, subd. (a)(3), 15021, subd. (a)(2), 15091, subd. (a)(1).) To effectuate this requirement, EIRs must set forth mitigation measures that decision makers can adopt at the findings stage of the CEQA process. (Pub. Resources Code, §§ 21061, 21081, 21100, subd. (b)(3); CEQA Guidelines, §§ 15091-15093, 15126, subd. (e), 15126.4.)

The DEIR must provide specific feasible mitigation measures that will minimize the impacts caused by the Project as well as the impacts caused by reasonably foreseeable future development. (See Pub. Resources Code, § 21003(b).) Any mitigation measures that Irvine concludes are feasible, and should thus be implemented, must be enforceable. (See CEQA Guidelines, § 15126.4(a)(2).)

Finally, the DEIR must

> consider a reasonable range of alternatives to the project, . . . which (1) offer substantial environmental advantages over the project proposal [citation]; and (2) may be 'feasibly accomplished in a successful manner' considering the economic, environmental, social and technological factors involved.

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[7] / The NOP/IS utilized a standard checklist to identify the Project's potentially significant environmental impacts. In addition to the categories identified in the checklist, the Cities urge Irvine to study a number of potentially significant impacts that are unique to the intense redevelopment program envisioned for the IBC. These unique impact types were outlined in a comment letter that was previously submitted to Irvine. (See Attachment B: Letter from Edward Shaffer to Irvine dated February 27, 2006.) The Cities concur with Mr. Shaffer's expressed concerns and incorporate his comments by reference.

(*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 566.) Here, Irvine should consider, for example, an alternative that limits development to fewer residential units or fewer conversion sites than the current plan envisions. Such an alternative would likely have reduced impacts on the environment.

II. Specific Comments Concerning the Initial Study and Recommendations for the DEIR.

The following comments have been prepared in response to the NOP section entitled "Evaluation of Environmental Impacts," which includes the checklist and checklist discussion. Generally, where Irvine has determined that the DEIR must analyze an impact, the Cities support Irvine's determination and urge Irvine to analyze each potentially significant impact that would be caused by the whole of the action and to evaluate all feasible mitigation measures for each impact.

A. Section I. Aesthetics.

Subsections a-b. The NOP concludes that the Project will not cause an adverse affect on the scenic vista or damage a scenic resource. The Cities are unable to confirm whether this will be the case, since the "planning guidance" that the Project is said to provide is not described. Thus, the Project may have significant adverse effects on these aesthetics categories which must be addressed in the DEIR.

B. Section III. Air Quality.

Subsection c. The Cities remain concerned that the Transfer of Development Rights ("TDR") Program upon which Irvine continues to rely is based on outdated assumptions and data. The TDR Program was established in 1992, and was based on the programmatic IBC EIR prepared for the rezoning of the IBC to almost exclusively office and industrial uses. Now the development rights that were assigned to these office and industrial parcels are being traded around the IBC for use with other office, commercial and residential projects. It is not clear to the Cities, however, that the same assigned trip budgets for office and industrial uses can be used as trip budgets for residential uses, as the number and peak times of trips generated by each use differ. Additionally, the Cities assert that the relocation of trip generation from one end of the IBC to another has and will continue to change trip distribution and traffic conditions in the IBC and the Cities, diminishing the effectiveness of mitigation measures in the 1992 EIR. Moreover, residential development within the IBC now far exceeds the amount contemplated in the 1992 IBC EIR. Previous Addenda to the 1992 EIR and SEIRs prepared for other IBC projects did not sufficiently explain how the TDR Program is updated and utilized.

The DEIR should clearly describe whether the TDR Program will continue to be utilized to limit development intensity within the IBC. If the TDR Program will continue

to be utilized, the DEIR should also analyze whether the IBC EIR's projections for levels of traffic generated at individual parcels pursuant to granted development rights were ever borne out. In addition, because development rights were based in part upon assumptions that mitigation would be in place, the DEIR should verify that the roadway improvements specified in the IBC EIR's Mitigation Monitoring and Reporting Plan were actually carried out and are effective in mitigating the impacts of development rights in their new locations. Without the above explanations and verification, the TDR Program, as it is currently designed and implemented, may not be appropriate for both this Project and the several other pending and approved residential projects within the IBC.[8]

According to CEQA Guidelines, section 15125, subdivision (a), issuance of the NOP for the Project defines the date for the "environmental baseline." The DEIR's analysis of air quality impacts caused by mobile sources must begin with an accurate description of existing traffic conditions, such conditions must be current as of at least January 8, 2007, the date the NOP was issued. The Cities urge Irvine to conduct a comprehensive traffic study within the IBC, so that the current baseline for analyzing the impacts of this and other projects is based upon real data and not outdated conjecture.

In addition, the DEIR's analysis of cumulative impacts to air quality should address both local and regional impacts. An analysis of regional impacts must address the broader area of non-attainment, which includes the rest of the City of Irvine, as well as the surrounding communities of Newport Beach, Costa Mesa, Tustin, and perhaps Santa Ana and Orange County. Projects in these other communities and sites throughout the IBC area will cumulatively impact the already terrible air quality in the region.

Subsection d. Because the Project will promote residential development within an already industrialized area, it may expose sensitive receptors, such as children, to the pollutants and odors produced by existing neighboring manufacturing operations. Thus, the DEIR must address this and other potentially significant impacts to sensitive receptors.

C. Section IV. Biological Resources.

Subsections a-b. The NOP/IS's description of the Project is not sufficiently detailed such that potentially significant impacts to biological resources can be ruled out. The narrative addressing the potential for impacts to state and federally listed candidate, sensitive, or special status species only addresses whether development activities associated with the "Creekwalk" would have such impacts. The only description provided for development of the Creekwalk, item 3 in Figure 5, does not provide enough

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[8] / See, e.g., Attachment A.

detail regarding the proposed landscaping and the proposed bridges to rule out the potential for impacting listed species. Moreover, other aspects of the Project may have effects on listed species.[9] Thus, the DEIR must address the Project's potential effects on listed species.

Subsections c-d. It is not clear from the description of San Diego Creek whether the Project area contains riparian habitat, riparian vegetation, wetlands, or sensitive natural communities. The draft Vision Plan mentions riparian habitat, but only in passing. (See Draft Vision Plan Part 8, at p. 1.) Due to the inadequate Project description, it is not possible to determine whether the Project will have impacts to these categories of biological resources. For example, Project work along the Creekwalk may affect riparian vegetation or riparian habitat, or it may result in the fill of wetlands. Because the potential for significant adverse impacts has not been ruled out in the IS, such potential should be addressed in the DEIR.

D. Section V. Geology and Soils.

Subsection a(i). The NOP/IS states that the "project site is not located within a designated Alquist-Priolo Zone and thus no impacts due to fault and rupture are anticipated." (NOP/IS at p. 21.) The checklist does not limit consideration of known faults to those listed on the Alquist-Priolo Earthquake Fault Zoning Map, but includes the clause "or based on other substantial evidence of a known fault." (See Checklist.) Here, there is other substantial evidence of known faults in the vicinity of the Project. 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. (See, e.g., 1992 IBC EIR, § IV, L-2-3.) Moreover, Irvine's own General Plan acknowledges these faults are active and states that the IBC requires "careful planning" to minimize the harm from seismic activity. (General Plan, Element D.) Thus, the DEIR must address whether rupture of a known earthquake fault would expose people or structures to potential substantial adverse effects.

E. Section III. Land Use and Planning.

Subsection a. The NOP/IS again reiterates that the Project would not itself approve specific residential development, but instead "propose[s] standards and guidelines for new residential development approved under a separate [GPA] or Zone

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[9] / In fact, such impacts are likely, given that prior environmental studies have concluded that the San Diego Creek Channel and San Joaquin Marsh contain at least five listed endangered or threatened species: Belding Savanna Sparrow, Light-footed Clapper Rail, California Least-tern, California Brown Pelican and least Bell's Vireo. (See Attachment C: letter from Geoffrey Willis to Bill Jacobs re Draft Negative Declaration for IBCRMU and Vision Plan, dated February 15, 2006, at p. 2, 8-9 (citing the 1992 IBC EIR).)

Change process. . . ." (NOP/IS at p. 24.) A review of the Draft Vision Plan reveals, however, that the Project itself will allow a dramatic intensification of land use patterns within the IBC.[10] Thus, it is not only foreseeable but certain that the proposed Vision Plan and IBCRMU Overlay Zone will result in a continued and potentially intensified explosion of residential development. However, as discussed above, Irvine's approach suggests that future project specific EIRs and not this Project's DEIR will analyze specific impacts to land use and planning. The Cities reiterate their objection to any segmenting of the required environmental review: the direct and cumulative impacts caused by all reasonably foreseeable development must be analyzed in this DEIR. Postponing the substantial analysis of cumulative impacts to subsequent project-level EIRs will result in underestimating those impacts and, consequently, inadequate mitigation.

Subsection b. As mentioned above, if the Vision Plan is not adopted as a GPA, then the IBCRMU Overlay Zone, and any projects approved under the adopted zone, would be inconsistent with Irvine's General Plan. This potentially significant impact must be also analyzed in the DEIR. (See *Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* (2001) 91 Cal. App. 4th 342, 356 (citing CEQA Guidelines, § 15125, subd. (d)).)

F. Section XI. Population and Housing.

Subsections a-c. The figure provided in this section for the total number of dwelling units differs from the figure provided in Section 8. In Section 8, the stated number for existing, pending and approved units is 14,407. In this section 14,407 is described as the number of units that the Vision Plan and IBCRMU Overlay Zone would allow. We doubt that this is what is intended. The DEIR should specifically identify the total number of existing, pending and approved dwelling units as well as the number of dwelling units that are reasonably foreseeable following approval of the Project. The Project's strong potential to induce growth must be analyzed.

G. Section XIII. Recreation.

Subsection a. The DEIR should analyze the Project's individual impacts to recreation facilities, as well as the cumulative impacts caused by other pending and

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[10] / For example, the description for the urban neighborhood (UN) land use designation indicates that building heights of up to seven stories would be allowed within areas zoned as such. (See Draft Vision Plan Part 3, at p. 2.) The entire border between Newport Beach and the IBC would be zoned as UN.

Significantly, the IBCRMU Overlay Zone would "allow[] all property owners to maintain their current zoning if that is their preference. The overlay zone only applies to properties for which new residential development is proposed." (Draft Vision Plan Part 3, at p. 7.) This provision could lead to a "patchwork" of zoning designations.

reasonably foreseeable residential development projects within the IBC. The Cities maintain that previously approved residential projects within the IBC did not adequately mitigate their impacts to parks and recreation facilities. Together these projects have already added hundreds of residents to the IBC. In-lieu fees were exacted for the purpose of developing the required parks and recreational facilities and yet, to this day, very few public park facilities have been developed. Here, the Vision Plan specifies that only in-lieu fees will be used as mitigation measures. (See Draft Vision Plan Part 7, at p. 5.) The DEIR must demonstrate that such fees will actually result in mitigation of the Project's direct and reasonably foreseeable impacts on recreation facilities.

The Cities are especially concerned about this issue. The Cities are neighboring communities with parks and open space areas that are increasingly impacted by the growing number of Irvine residents who lack adequate parks and other recreational facilities within the IBC area and are therefore forced to utilize those of the neighboring Cities.

Subsection b. Creation of the Creekwalk, and other similar infrastructure improvements, may have adverse physical effects on the environment, which must be analyzed in the DEIR and mitigated to the extent feasible.

H. Section XIV. Transportation/Traffic.

Subsections a-b. Again, the Cities caution against Irvine's continued reliance upon the 1992 IBC EIR and the associated TDR Program to analyze the Project's potential individual and cumulative impacts on traffic, even if the reliance here is through incorporation by reference, rather than through tiering. The Cities' traffic engineering consultant, Dalene Whitlock of W-Trans, has reviewed documents pertaining to Irvine's traffic study methodology, including documents concerning past applications of the TDR program, and has prepared a brief peer review summary. (See Attachment D.)

Irvine's own records show that since the 1992 approval of the IBC planning area, Irvine has approved many times the amount of residential development intensity originally contemplated for the IBC area. This rapid conversion of a formerly predominantly office and industrial area to high-density residential uses has had profound and adverse effects on the area's traffic levels. It is no longer legally appropriate nor publicly informative to rely on a document with such little relevance to today's conditions. Thus, the baseline upon which the DEIR analyzes the Project's potential impacts to traffic must be based upon current data, including all of the approved and pending development projects within the IBC as of January 8, 2007, the date of baseline for this DEIR.

The size of the proposed Project makes it a project of regional significance that will likely affect transportation facilities within neighboring jurisdictions, including the

Cities. Consequently, Irvine is required to consult with the Cities, the County, and Caltrans, as it would other responsible agencies, concerning the Project's potential impacts on regional traffic. (See Pub. Resources Code, § 21092.4.) Moreover, Irvine is required to adopt feasible mitigation measures that will reduce or eliminate the Project impacts that occur outside of Irvine's boundaries and such measures must be described in the DEIR. (See, e.g., *City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 366-367; see also *County of San Diego v. Grossmont-Cuyamaca Community College Dist.* (2006) 141 Cal. App. 4th 86, 104.)

Newport Beach commissioned the preparation of a supplemental traffic analysis, dated July 21, 2006, which augments another traffic study report dated March 22, 2006. The traffic analyses in these reports were conducted to determine the potential effects that Newport Beach's General Plan update would have upon Irvine. The supplemental traffic analysis is enclosed for your reference. (See Attachment E.) Irvine should make similar efforts to determine the potential effects that cumulative and individual development in the IBC would have upon the Cities. The Cities recommend that the DEIR's analysis of traffic impacts from this and other IBC projects utilize a methodology similar to that employed in Newport Beach's report.

While the Cities maintain that the basis for the TDR Program is potentially inaccurate and irrelevant, if Irvine insists upon using it for this Project's DEIR and for future project-level DEIRs, the previously utilized sending and receiving sites for each TDR must be identified, and the development rights for each IBC parcel, identified in the IBC Database, must be described in the DEIR to ensure that the analysis of the Project's impacts to local and regional traffic is accurate. This information will also provide the public, including the Cities, a basis for understanding how this Project, and future project-level DEIRs will utilize the TDR Program to mitigate its traffic impacts.

Furthermore, any changes to traffic circulation patterns that are included in the proposed Project must be fully analyzed in the DEIR. (See Draft Vision Plan Part 2, at p. 4; see also, *id.*, Part 6, at p. 1.) Such changes may substantially impact levels of service on existing roads and intersections, and may adversely affect traffic and transportation in the neighboring Cities.

I. Section XVI. Mandatory Findings of Significance.

Subsection a. The NOP/IS incorrectly states that "there are no rare or endangered plants or animal species within the project area." As noted above, at least five listed species are located within the vicinity of the Project. The Project's potential to impact these species is significant and must be analyzed in the DEIR.

Subsection b. The NOP/IS appropriately identifies potentially significant cumulative impacts that may be caused by this Project. Both individually significant and

cumulative impacts are certain to occur since the Project comes after numerous residential projects have been approved within the IBC and the Project contemplates substantial additional development. In the Cities' view, this will be one of the most important sections for the DEIR given the large numbers of new residential units within the IBC that are pending or have already been approved, which now total more than 14,000 units, and given that this Project would induce further residential development.

Thank you for considering these comments. Please feel free to contact me directly if you have any questions regarding these comments.

Very truly yours,

Sabrina Teller

Sabrina V. Teller

Enclosures

cc: (via fax w/o encl.):
Mayor Webb and Members of the Newport Beach City Council
Robin Clauson, Newport Beach City Attorney
Aaron Harp, Newport Beach Assistant City Attorney
Sharon Wood, Newport Beach Assistant City Manager
Newport Beach Environmental Quality Affairs Committee
Dalene Whitlock, W-Trans
Douglas Holland, Special Counsel, Tustin

ATTACHMENT A

IBC Projects for 2007
Tentative Schedule

IBC Projects for 2007
Tentative Schedule
Updated 1/29/2007

1. 2851 Alton (IBC: 170 Condos)

PC Hearing: February 2007
CC Hearing: March 2007

Case Planner: Pam Principal: Stephen H.

2. Martin Street Condos (IBC: 82 units)

PC Hearing: February 2007
CC Hearing: March 2007

Case Planner: Hernan Principal: Stephen H.

3. 2502 Barranca (IBC: 99 units)/16542 Millikan Residential (IBC: 151 units)

PC Hearing: June 2007
CC Hearing: July 2007

Case Planner: Kelly Principal: Stephen H.

4. 2802 Kelvin (IBC: 177 apartments)

PC Hearing: June 2007
CC Hearing: July 2007

Case Planner: Pam Principal: Steve W.

5. Avalon Jamboree Village Phase II (16091 Jamboree Road) (IBC: 180 apartments)

PC Hearing: September 2007
CC Hearing: October 2007

Case Planner: Bill R. Principal: Steve W.

6. 17150 Von Karman (IBC: 469 condos)

PC Hearing: September 2007
CC Hearing: October 2007

Case Planner: Stacy Principal: Steve W.

7. Metropolis (2500 Main) (IBC: 381 condos)

PC Hearing: October 2007
CC Hearing: November 2007

Case Planner: Hernan Principal: Stephen

ATTACHMENT B

Letter dated February 27, 2006, to Bill Jacobs, Principal Planner, City of Irvine, from Edward L. Shaffer, Archer Norris

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February 27, 2006.

VIA EMAIL AND REGULAR MAIL
Bill Jacobs, Principal Planner
Department of Community Development
City of Irvine
One Civic Center Plaza
P.O. Box 19575
Irvine, CA 92623-9575

Re: Irvine Business Complex Residential Mixed Use Overlay District, IBC Vision Plan, and Draft Negative Declaration

Dear Mr. Jacobs:

We have reviewed the City of Irvine's proposed Irvine Business Complex (IBC) Residential Mixed Use Overlay District Administrative Draft dated January 17, 2006 (the "IBC Zoning") with its "Vision Plan", the Initial Study and Environmental Evaluation prepared by the City, and the Draft Negative Declaration that the City intends to adopt. We submit the following comments on behalf of Deft Incorporated and Parker Hannifin Corporation, two businesses located in the IBC. Notwithstanding that the negative declaration was circulated with a supposed comment deadline of February 16, the City must consider the challenges raised in this letter to avoid fatal defects in any zoning approval.

In brief, California law requires that the City prepare an environmental impact report ("EIR") before it considers approving the IBC Zoning. Furthermore, the City must first amend its General Plan to reflect the changes in land use envisioned by the zoning ordinance. Approving the zoning by itself and relying only on the proposed negative declaration will leave the City's actions vulnerable to legal challenge – causing substantial cost and delay.

Rich Salter of The Salter Group submitted two memos dated February 6, 2006 on behalf of Deft and Parker Hannifin, commenting on the zoning ordinance and the negative declaration. The City also received two letters dated February 15, 2006 which provided extensive criticisms of the proposed negative declaration: from Geoffrey Willis of the law firm Sedgwick, Detert, Moran & Arnold on behalf of Allergan, and from Michael Colantuono of the law firm Colantuono & Levin on behalf of the City of Newport Beach. These letters and memos all are part of the official record for the City's actions, and they should be considered incorporated into this letter in full to supplement and support our comments.

Mr. Willis and Mr. Colantuono's letters together provide a comprehensive explanation of California Environmental Quality Act ("CEQA") law and a thorough analysis of defects in the City's proposed negative declaration. Their analyses show there is no doubt that an EIR is required in this situation. I will not repeat all the facts, statutes and cases they cited, but simply summarize key principles and legal standards that apply and provide some additional facts and reasons to support our point.

City Cannot Defer or Segment CEQA Study.

The City cannot hide behind its claim that the IBC Zoning by itself does not approve development and so has no environmental impacts. Details of the IBC Zoning make it clear that it would authorize residential development in areas where it now is prohibited – a fundamental change in land use regulation with potentially significant ramifications. Even if the City's claim were true, this would not allow the City to avoid proper CEQA review. If that were so, no action adopting a general plan or zoning ordinance would ever require an EIR or mitigated negative declaration to recognize potential impacts and provide mitigation. We know this is not correct, as California courts have routinely required EIRs for general plan and zoning ordinance amendments (see cases cited by Mr. Willis). The courts frequently deal with deficiencies in environmental studies covering the impacts of general plan and zoning amendments, without letting the agency off the hook by saying: "Never mind, you did not really have to consider impacts at this stage anyway."

The City also cannot defer proper CEQA study by claiming that future individual projects will undergo full environmental review. CEQA considers a "project" to be the complete range of approvals needed to allow an action that might have physical environmental effects. Agencies are encouraged to conduct review at the earliest stage feasible in the planning process, so long as the descriptions of future development and the estimates of impacts are not too remote or speculative. The goal is "to enable environmental considerations to influence project program and design" and to "incorporate environmental considerations into project conceptualization, design and planning" (CEQA Guidelines §15004(b)). For example, without proper CEQA review we have no way to confirm that requiring just 200 feet of buffer around Key Businesses is adequate. After the IBC Zoning is adopted it will be difficult for the City to impose larger buffer requirements on individual projects. The City Council and the public are entitled to have the benefit of all relevant environmental data and analysis regarding the consequences of adopting the IBC Zoning. (See *Fullerton Joint Union High School Dist. v. State Bd. of Education* (1982) 32 Cal. 3d 779 at page 798.)

Cities commonly prepare EIRs on general plans and zoning regulations that are much less specific than the IBC Zoning. While environmental studies at this stage are allowed to be more conceptual and generalized than review of actual proposed construction, they cannot be waived entirely. CEQA encourages preparing general "Program" EIRs or "Master" EIRs at this stage,

with more detailed focused EIRs or mitigated negative declarations tiering off the general studies when specific developments are proposed.

The City also cannot attempt to rely on future project-specific studies because that would minimize the overall cumulative effect of the IBC Zoning and potentially miss the need and opportunity for broad program-level mitigation measures. Such mitigations commonly are adopted by cities and counties as part of approving new general plans, specific plans and area-wide rezonings. In fact, by following this approach Irvine might find later that it is not legally allowed to impose mitigations on individual projects that the City might want and expect – a result we are sure the City does not intend. This "piecemealing" violates one of the key safeguards of CEQA: to avoid segmenting a project and failing to recognize its full impacts.

City Cannot Hide Behind Lack of Evidence of Impacts

The City may argue an EIR is not required because there is no evidence of potential impacts. Details pointed out by Mr. Willis, Mr. Colantuono and Mr. Salter negate that claim. Information provided in the negative declaration shows that the City recognizes the likelihood of impacts (e.g., increased sewage and water volumes, lack of parkland, conflicts with nearby business activity).

There is a fundamental CEQA principle involved in this situation, which requires more studies by the City before the IBC Zoning may be considered. The burden is on Irvine – not the public – to fully evaluate the potential for adverse environmental effects and show there will be no significant impacts.

> The courts have established that a legally defensible negative declaration must provide some explanation of its environmental conclusions. This requirement prevents lead agencies from conducting a superficial analysis of a project's potential impacts in the initial study and then defending their decision to adopt a negative declaration by pointing to the absence of evidence of any significant environmental injury.

Kostka & Zischke, Practice Under the California Environmental Quality Act, §6.18 (CEB, 2005 update) citing *Citizens Ass'n for Sensible Dev. v. County of Inyo* (1985) 172 Cal. App. 3d 151, *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 311 ("The agency should not be allowed to hide behind its own failure to gather relevant data."), and other California cases. It is not the public's responsibility to do the City's job of hiring consultants and studying traffic, air quality and other issues. If there is no data to support the City's position, the court will presume there is a potential impact requiring study (see *Sundstrom*).

So long as a fair and credible argument can be made that there is a reasonable risk of impact, an EIR is required. In this case, the argument that Irvine must prepare an EIR is insurmountable.

Additional Topics Not Covered by Negative Declaration

In addition to all the concerns raised by Mr. Willis, Mr. Colantuono and Mr. Salter, we have identified certain topics where the IBC Zoning may lead to impacts that the City must address, and additional issues raised by this situation. Only a thorough and objective analysis will determine if these items represent significant adverse effects requiring mitigation or provide a legal basis for mandating an EIR. Alternatively, consideration of each issue may lead the City to reconsider the wisdom of adopting the IBC Zoning, or at least to make selective revisions to the proposed new regulation.

1. Effects of Prolonged Construction?

Given the substantial amount of business-to-residential conversion envisioned and authorized by the IBC Zoning, will there be impacts from a prolonged and steady period of demolition and construction? This may involve dust, noise, construction vehicle activity, traffic interference, etc. Is there a risk that the older business structures contain asbestos, lead paint or other hazardous materials, so demolition and disposal of the materials may cause impacts affecting both new surrounding residents and construction workers? Is there adequate capacity for disposal or recycling of the massive amounts of demolition and construction debris likely to be generated during the conversion process?

2. Adequacy of Proposed Buffer?

The negative declaration does not fully appreciate the risks of bringing so many people into proximity with business operations. What evidence supports relying on only a 200-foot buffer to provide adequate protection? What are the potential impacts of allowing thousands of people to live near these businesses in terms of air quality, noise, light and glare, truck traffic, hazardous materials, and other risks? There is no evidence in the negative declaration that the compatibility analysis and other assessments required under IBC Zoning §5-8-6.B.2.c fully address this question, and the IBC Zoning does not explain how all that information about nearby business activity will be used in deciding whether to allow a new residential project. Again, adequacy of the proposed data gathering requirements and clarification of how the data will be used must be evaluated now in a full EIR, not deferred to ad-hoc interpretation by staff when faced with individual projects.

3. Discourage and Hamper Future Business Operations?

Notwithstanding the City's claim that the IBC Zoning will only apply to properties that choose to redevelop, how will it affect future operations of existing businesses or attempts to expand or open new business operations as they become hemmed in by surrounding residences? As housing is built nearby, how will that affect business attempts to add loading docks or new materials handling activities? It is likely that future residents will try to curtail existing and block new business activity they view as detrimental. Residents will complain to City officials, oppose applications for use permits or building permits, and lobby for new restrictions.

Over time both residents and City officials will treat the existing businesses as nonconforming uses and hound them out of the IBC. I have seen this happen in other cities where it became official policy to encourage use conversion, so business modernization efforts were discouraged and regulations were adopted that interfered with normal trucking and operating practices. This scenario is suggested by language in the IBC Zoning (e.g., §5-8-2.D which sounds like businesses will be tolerated but not encouraged; §5-8-4.B (should read "A") which anticipates a "transition from existing uses"). If this is the City's true secret agenda, it must be openly recognized and the full effects of such a transition must be studied now.

4. Secondary Effects of Business Relocation?

Will there be secondary effects from displacing a large number of existing businesses in the IBC? For example, if those businesses relocate elsewhere in the vicinity but continue dealing with other businesses that remain in the IBC, will that cause new truck traffic in and out of the area not covered by the supposed overall traffic cap relied on by the negative declaration? If alternative locations are limited, will there be an adverse effect on those areas from concentrating the refugee businesses? Are there particular nearby communities where businesses are likely to move, that should be consulted as to impacts?

5. Truck/Resident Safety Conflicts?

The negative declaration envisions new parks and schools to serve the increased population, and the Vision Plan shows new bikepaths throughout the IBC. What safety issues do these raise as residents interact with commercial and industrial trucking on busy streets?

6. Cumulative Issues?

What other development is expected to occur in the vicinity that must be considered to provide a valid cumulative impact analysis? Are there plans for increased airport operations? Is Irvine considering changes in other parts of the city that might have unexpected cumulative effects on public services or other topics combined with IBC development? Are there plans to expand UC-Irvine? We note that the initial study (#10 on p.3) describes business and residential development approved or proposed in surrounding areas, as well as public improvements such as overcrossings that will alter circulation patterns. The Vision Plan (p.9) notes County plans to

expand airport facilities, and also recognizes that pending development north and east of the IBC (Tustin, El Toro and Spectrum Center) will lead to substantial travel through the IBC to reach the airport. However, the negative declaration's conclusion there will be "no cumulative impact" (pages 31-32) ignores the question of other projects in the vicinity.

CEQA requires the City to consider other potential activity represented by (a) projects approved but not yet built, (b) projects with pending applications or otherwise being formally considered, and (c) development being considered that is sufficiently foreseeable and not overly remote or speculative. This evaluation should include projects nearby but outside the Irvine city limits, and should consider the build-out potential allowed under the current general plans of Irvine and surrounding communities. In this regard, a February 15, 2006 comment letter submitted on behalf of the City of Newport Beach by the law firm Colantuono & Levin states on page 1 that the City is ready to supply Irvine with a list of pending and expected projects for use in the EIR's cumulative impacts analysis – which indicates that this negative declaration has failed to adequately consider regional cumulative development issues.

7. Population Increase Underestimated?

What evidence supports the City's assumption of only 1.3 residents per new dwelling unit? This would require at least 70 percent of the units to be occupied by only one person with the other 30 percent by two people – without even taking into consideration families with children. This occupancy assumption is not reasonable.

According to the Vision Plan (p.14), 11 percent of existing residents in the IBC are under 18 years old, so the City must assume there will be some children living in these new homes. The Vision Plan apparently agrees because it proposes child care facilities "within walking distance of residences" (p.30) and shows pictures of children (p.56) and play equipment (p.62). The IBC Zoning mentions tot lots as a potential improvement in residential courtyard open space and a playground for neighborhood parks (§5-8-21.F). We understand City staff and the school districts have discussed the need for additional school capacity to serve this development.

Will IBC projects be exempt from the City's obligation under state law to provide a supply of housing for families as well as singles and couples? How does the General Plan Housing Element treat this question? The cost of housing also may lead to higher occupancy levels even without many families. We suspect the "1.3 per unit" standard cannot be supported, making other analyses in the negative declaration invalid. (We also note Mr. Willis' challenge to the conclusion that only 10,000 dwelling units will be built; if true, the actual population increase may be substantially higher and the impacts from a larger population even greater.)

8. Need for Emergency Medical Services?

Is there sufficient capacity in hospitals to serve the increased population, or will this trigger the need for new hospital space? The negative declaration briefly discusses police and fire department staffing needs (without an adequate evaluation of impacts or needed mitigations).

However, there is no mention of what agency or private ambulance company provides EMS in the IBC. Most service calls in residential areas involve medical emergencies rather than police enforcement or fire fighting. The City must consider questions of EMS response times and staffing needs, as well as emergency room and general hospital service issues.

9. Consistency with Airport Plans?

Has the City consulted with the Airport Land Use Commission ("ALUC") regarding the IBC Zoning, as required by Public Utilities Code §21676(b). This involves land use as well as CEQA concerns. The draft Vision Plan (p.9) states: "the County is planning to improve facilities at the airport which will have major implications for the IBC." The negative declaration and IBC Zoning seem to ignore the issue of airport operations and its future growth. The negative declaration does state that no residential development is permitted in the area identified by the Irvine General Plan as within the airport's crash hazard area (item (e) on page 21), but fails to confirm that the General Plan's delineation matches the most current airport planning. Furthermore, crashes are not the only hazards and impacts related to airport operations. For example, we understand that the landing pattern for general aviation aircraft crosses over the heart of the IBC, causing noise and safety concerns. The limited airport-related provisions in IBC Zoning §5-8-5.C are not a substitute for both full CEQA analysis and consultation with the ALUC.

10. Water Supply Assessment Required?

Because adoption of the IBC Zoning will authorize development of thousands of dwelling units, this may trigger the requirements of California Public Resources Code §21151.9 and Water Code §10910 et seq. to obtain a water supply assessment from the local water district. At a minimum, proper CEQA analysis requires a clear understanding of changes in water needs and the availability of a reliable source of water to serve the new residents. The City cannot proceed down this path of development approval while still in the early stages of "working with the IRWD [Irvine Ranch Water District] to identify means to provide water supply facilities for up to 10,000 new units within the IBC area" (Negative Declaration page 30, item (d)). This is especially important given the potential that the City has underestimated and rezoning could allow many more than 10,000 new homes and 13,000 new residents. As an indirect impact, the City also should evaluate the potential for restrictions on the ability of businesses to continue operating or expand, if water becomes scarce.

11. Increased Demands on Other Public Services?

The Negative Declaration briefly discusses and dismisses the potential for impacts on governmental facilities, fire and police protection, parks and schools (pp.27-28). These evaluations are inadequate and do not satisfy the most minimal CEQA requirements. The Negative Declaration then claims that no other public facilities will be affected. However, there is no mention of foreseeable impacts from thousands of new residents using other public services and facilities such as libraries and City Hall. The plan to create smaller blocks with more roads

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will place increased demands on road maintenance and other public works functions. New and enlarged pipelines, pump stations and other utility facilities will be needed. A proper EIR must evaluate these questions.

IBC Zoning Must Be Consistent With Current General Plan

The General Plan is recognized under California law as being the "constitution for all future developments" to which any local decision affecting land use must conform. *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal. 3d 531; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553 (see generally Curtin's California Land Use and Planning Law, Chapter 2, by Daniel J. Curtin, Jr.) It is undisputed that zoning must be consistent with the City's General Plan. The California Supreme Court has most emphatically **condemned** the practice of adopting a zoning amendment first and then adjusting the general plan to fit:

> The Planning and Zoning Law itself precludes consideration of a zoning ordinance which conflicts with a general plan as a pro tanto repeal or implied amendment of the general plan. The general plan stands. A zoning ordinance that is inconsistent with the general plan is invalid when passed (deBottari v. City Council (1985) 171 Cal.App.3d 1204, 1212 [217 Cal.Rptr. 790]; Sierra Club v. Board of Supervisors (1981) 126 Cal.App.3d 698, 704 [179 Cal.Rptr. 261]) and one that was originally consistent but has become inconsistent must be brought into conformity with the general plan. (§ 65860.) The Planning and Zoning Law does not contemplate that general plans will be amended to conform to zoning ordinances. **The tail does not wag the dog.** The general plan is the charter to which the ordinance must conform.

Lesher, 52 Cal. 3d 531 at 541 (emphasis added).

In fact, the City itself once relied on this rule to reverse a referendum that would have made its zoning inconsistent with the General Plan! *City of Irvine v. Irvine Citizens Against Overdevelopment* (1994) 25 Cal. App. 4th 868. Irvine is a charter city, which state law allows to be exempt from this requirement unless the city chooses to require consistency. (California Government Code §65803) However as the court noted, Irvine's Zoning Ordinance contains the following provision:

> **Sec. 1-1-4. Consistency of zoning ordinance with City of Irvine general plan.**
>
> All actions, approvals and procedures taken with respect to or in accordance with this zoning ordinance shall be consistent with the City of Irvine general plan. In the event this zoning ordinance becomes inconsistent with the City of Irvine general plan by reason of the adoption of a new general plan or by amendment of the existing general plan or any of its elements, the zoning

> ordinance shall be amended within a reasonable time so that it is consistent with the existing general plan as amended. The procedure for the amendment of the zoning ordinance is contained in chapter 2-38.
> (Code 1976, § V.E-101.4; Ord. No. 92-3, 4-14-92; Ord. No. 95-4, 5-9-95)

Thus the guiding principle of consistency with the general plan applies to Irvine even though it is a charter city.

The City claims that the IBC Zoning by itself does not allow residential construction, and states that future residential developers will need to submit applications for individual amendments to the General Plan to make it consistent with the proposed project (see Negative Declaration page 2, item #8 and page 26, item (a)). As Mr. Willis and others have pointed out, this is incorrect as the IBC Zoning would conditionally authorize residential use in areas where it now is prohibited by both the Zoning Ordinance and General Plan.

Irvine cannot adopt a major zoning revision that dramatically alters the pattern of development allowed in the City, and then blithely say that individual projects can piecemeal amend the General Plan to provide conformance. This violates the basic framework of California land use law and would not withstand legal challenge. It appears Irvine has followed this practice for some time, approving piecemeal General Plan amendments to allow individual residential projects in the IBC. The time has come for the City to step back, slow down and engage in some true land use planning for the entire IBC, with a comprehensive overhaul of the General Plan supported by a proper EIR.

We warn the City that if it proceeds as intended, future individual General Plan amendments and project applications will be vulnerable to challenge. Having approved the IBC Zoning – which assumes and authorizes new residential development – the City's project CEQA review may be dismissed as mere ex post facto justification, and public hearings to allegedly decide if the General Plan amendments are desired would be seen as a sham. This is especially likely given the overwhelming evidence that the IBC Zoning will cause substantial environmental impacts that may be unavoidable – but which are being ignored by the current negative declaration.

Conclusion

We appreciate that the City does not want to bear the cost of a proper comprehensive EIR and General Plan review process, and hopes to shift the burden to future developers as they propose individual projects. However, that concern cannot justify ignoring the requirements of CEQA and General Plan law.

We recommend that the City cancel its scheduled hearings on the IBC Zoning, formulate a General Plan amendment that covers the goals, policies and implementation measures

envisioned in the Vision Plan and suggested by the IBC Zoning, prepare a full EIR, and then process the EIR and land use regulations as required under California law. Only then will the City satisfy the primary purpose of CEQA: to ensure that decision makers and the public are fully informed about all the environmental consequences of their intended actions. Our clients, other business owners in the IBC, residents of Irvine, affected public agencies and other interested parties deserve having the City respect their rights and follow the law.

Sincerely,

ARCHER NORRIS

Edward L. Shaffer

ELS:ls

cc: Michael Haack, Irvine Manager of Development Services
Philip D. Kohn, Irvine City Attorney
Mary Ann Desmond, Deft Incorporated
David Marzullo, Parker Hannifin Corporation
Rich Salter, The Salter Group
Geoffrey Willis, Esq. (attorney for Allergan)
Michael Colantuono, Esq. (special counsel for Newport Beach)

ATTACHMENT C

Letter dated February 15, 2006, to Bill Jacobs, Principal Planner, City of Irvine, from Edward Geofrey K. Willis, Sedgwick, Detert, Moran & Arnold, LLP

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February 15, 2006

VIA HAND DELIVERY

Bill Jacobs, Principal Planner
Department of Community Development
City of Irvine
P.O. Box 19575
Irvine, CA 92623-9575

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]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.) 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'sn*, 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.4th 98, 106-107 (2002); *see also Arviv Enterprises, Inc. v. South Valley Area Planning Comms'n*, 103 Cal.App.4th 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 entirety 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]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.) 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).

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. 32nd 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.4th 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 likeliness 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. 4th 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. <u>CEQA, Public Policy and Good Government Require the City to Abandon the Draft Negative Declaration and Prepare a Legally Sufficient EIR</u>

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

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
Allergan
Vice President, Assistant General Counsel

ATTACHMENT D

Letter from Dalene Whitlock, W-Trans, to Bill Jacobs re Peer Review of Irvine's Traffic Analysis Methodologies

February 20, 2007

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Peer Review – Traffic Studies for the Irvine Business Complex

Dear Mr. Jacobs;

On behalf of and at the request of the Cities of Newport Beach and Tustin, I have performed peer reviews of reports prepared in the past by or for the City of Irvine to document the traffic impacts and related mitigation measures associated with development in the Irvine Business Complex (IBC). The focus of my review was the appropriateness of the applied methodologies in terms of adequately capturing proposed development's traffic impacts. Following are my comments relative to the methodologies and assumptions applied based on the review of the following documents.

- *2005 Traffic Monitoring Report for Irvine Business Complex Sliding Interim Year Analysis*
- *Draft Irvine Business Complex Subsequent Environmental Impact Report – Avalon Jamboree Village*, September 2005
- Ordinance 93-14, dated October 1993
- IBC Rezoning, Phase I – Mode Split Analysis, December 11, 1990

Standards of Significance

Irvine is using LOS E as their threshold for acceptable operation. This is not consistent with Caltrans standards and no indication is given whether Caltrans has accepted this standard for application to their intersections. It is understood that Newport Beach has set LOS E as the threshold for intersections along the border between the two Cities.

A project impact is significant if the v/c (volume-to-capacity ratio) exceeds the applied standard, which varies according to location, *and* the project's contribution is a change of 0.02 or greater. If both of these conditions are met, migitation is required to maintain operation at the threshold of acceptability. It is unclear how any mitigation would ever be achieved if all of the individual projects contribute only a small incremental increase; this does not appear to be consistent with provisions of CEQA relative to cumulative impacts.

Methodologies & Assumptions

Methodologies

The analysis of link segments is based on volume-to-capacity calculations using daily volumes. The capacities applied are based on very simplistic assumptions related only to the number of lanes. To achieve more results the analysis should be based on peak hour volumes, and capacities should be tailored to each street so that functions affecting capacity such as on-street parking, density of signalized

intersections, pedestrian and bicycle activity, and transit busses stopping in travel lanes are taken into account.

Auxiliary lanes were assumed with lower capacity, but still with only one capacity value for all conditions. All of the capacity assumptions should be looked at more carefully and crafted to fit each specific roadway rather than using an all-encompassing standard.

For arterial operation the total volume crossing a screenline was summed and compared to the sum of the capacity for all of the streets making up that screenline. This approach does not take into account directional flow. It also allows the flow on an individual road to exceed its capacity by 10 percent, yet remain at acceptable operation provided that the group as a whole is at LOS E or better. Further analysis is only required if the v/c is greater than 1.1. This approach is unreasonable and provides unrealistically optimistic results. The volumes are obtained through use of a model, so trips would already have been distributed to take advantage of the route with the least congestion and most available capacity. By averaging volumes over a screenline, further distribution is assumed, allowing maximum use of capacity along several routes. If trips could reasonably be diverted to an alternate route, the model should have assigned them in that manner. The model would presumably assign trips to a route that has less capacity for a reason, so to then reassign these trips to another route simply because it has more capacity appears to be unreasonable. Analysis should be for individual corridors during peak hours, and not for a collection of roadways based on daily volumes. Calculating operation as if the trips were spread evenly over four or five streets when the actual distribution is known is unreasonable.

Similarly, to get to the v/c for a group of intersections, the v/c for each individual intersection is used to determine the *average* for the group. The standards applied allow v/c values of up to 1.10 for individual intersections, and up to 1.00 for Groups. Again, there is no basis for assuming that trips will be diverted to another intersection merely because it has more theoretical capacity. Each intersection should be evaluated on its own, and not as part of a group.

Trip Generation Rates and Transfers

For the "Avalon Jamboree Village" project, a comparison with ITE rates for various office, industrial and residential land use categories indicates that the industrial trip results are equal to the *lowest* category, office trips are *lower* than the results for any of the categories, and the residential trips are lower than some standard rates and higher than others. It appears likely that these lower rates are likely the result of assumed transportation demand measures and other methods for achieving more efficient use of the street system. Unfortunately, many of the infrastructure improvements included in the IBC program and assumed to be in place by 2005 are still not constructed. The trip rates for this project may therefore be considerably lower than what is actually being experienced in the area. Care should be taken to ensure that future analyses use trip rates that accurately reflect each proposed project.

The Avalon Jamboree project is receiving a transfer of development rights (TDR) equivalent to 39.231 ksf of office space. While the project site is located north of I-405, the sending site is located *south* of I-405 (Figure 5.8-1). It is unclear how these two sites can be considered as generating equivalent trips when they affect different road segment and intersections, and generate different trips directionally as well as in terms of turning movements. The methodology should include limitations to ensure that transferred trips would have similar traffic impacts; to ensure this they would need to be geographically close and generate trips in a similar directional pattern.

Future Conditions

The Horizon year for the *Sliding Interim Year Analysis* as well as those preceding it was seven years. The methodology being applied to these analyses is now more than 15 years old, and many of the future year assumptions indicated in the original staff report detailing the study methodology, some of which were assumed to be complete more than ten years ago, are still not in place. Since the implementation of capacity enhancements is lagging far behind the development it is intended to serve, a horizon of at least 15 to 20 years would be more appropriate.

A growth rate is applied to segment and intersection counts to achieve future volumes. These are then used along with planned infrastructure improvements to determine future year v/c results. Again, this approach appears rather simplistic when there are tools available that will provide better model projections, and given the magnitude of this development area, more detailed modeling appears to be in order.

Study Area and Periods

The study area for the *Sliding Interim Year Analysis* includes two intersections that are primarily in the City of Newport Beach, but does not extend beyond the Irvine City Limit. It seems unreasonable to exclude intersections in an adjacent community that provide access to a regional facility, such as the connections from Jamboree Road and Campus Drive to SR 73.

It is recommended that consideration be given to including a midday analysis for locations which experience higher volumes during the middle of the day than during either peak.

Data

Some of the traffic counts used for the *Sliding Interim Year Analysis* were obtained in June and July of 2005 (§2.1). Since the study area includes UC Irvine, these counts may understate existing volumes, especially for intersections near the campus. Care should be taken to ensure that counts for intersections near the campus are taken when school is in session.

Study Results

One of two screenlines in the *Sliding Interim Year Analysis* with unacceptable operation based on its daily volume-to-capacity ratio is #11, which includes trips into and out of Newport Beach. Campus Drive west of University defines the border between Irvine and Newport Beach, and has five study intersections that are shared by the two jurisdictions. It is noted that this segment was deficient in 2002, and continues to deteriorate, and also that it is anticipated that this roadway will be widened from two lanes to four, though there is not a specific timeline for completing these improvements. Analysis is provided of the segment of Campus Drive that is completely in Irvine (University to Carlson) based on peak hour volumes, and this evaluation indicates that it is operating at LOS A or B during the morning and evening peak periods, so no mitigation is deemed necessary even though the segment from Carlson west is operating unacceptably.

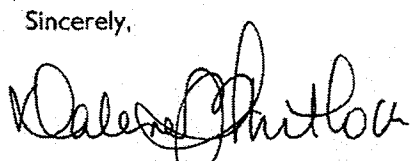
Again for 2010 conditions, analysis of Campus Drive was provided only for the portion in Irvine, which has operation at LOS C or better. The segment that divides Irvine and Newport Beach is not evaluated though the screenline indicates a v/c ratio of 1.65, or seriously deficient operation. It is concluded that

no mitigation is needed on Campus Drive because the peak hour analysis resulted in acceptable LOS. This conclusion is seriously flawed in that it did not look at the entire segment. In order to allow continued development that affects the deficient portion of this corridor west of University, the City of Irvine should establish a process with the City of Newport Beach to collect funding for and construct the necessary widening.

The "Avalon-Jamboree" study contains results for "non-cumulative" and cumulative conditions (Table 5.8-6), but it is unclear whether the Project is included in either of these scenarios or not, though it does say that cumulative includes projects "under review by the City". Clarification of what is included in various scenarios should be provided in future reports.

We hope these comments will assist the City of Irvine in preparing future analyses to better reflect potential traffic impacts associated with the development of the IBC.

Sincerely,





Dalene J. Whitlock, P.E., PTOE
Principal

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c: Sabrina V. Teller, Esq., Remy, Thomas, Moose and Manley, LLP, attorneys for the Cities of Newport Beach and Tustin

ATTACHMENT E

Letter dated July 21, 2006, to Sharon Wood, City of Newport Beach, from Carleton Waters, P.E. Principal, Urban Crossroads, Inc.

41 Corporate Park, Suite 300 Irvine, CA 92606 949.660.1994 main 949.660.1911 fax www.urbanxroads.com

July 21, 2006

Ms. Sharon Wood
CITY OF NEWPORT BEACH
3300 Newport Boulevard
Newport Beach, CA 92658

Subject: Newport Beach General Plan Update Irvine Supplemental Analysis

Dear Ms. Wood:

Urban Crossroads, Inc. is pleased to submit this letter report to the City of Newport Beach summarizing our supplemental analysis regarding the potential impacts of the Newport Beach General Plan update on the City of Irvine. This letter presents the results of our intersection operations analysis for existing conditions, no project conditions, and with project conditions consistent with the description of these scenarios previously presented in the traffic study report dated March 22, 2006. Traffic conditions at the following intersections have been evaluated:

Red Hill Avenue (NS) at:

- Main Street (EW)

MacArthur Boulevard (NS) at:

- Main Street (EW)
- I-405 Northbound Ramps (EW)
- I-405 Southbound Ramps (EW)
- Michelson Drive (EW)

Von Karman Avenue (NS) at:

- Main Street (EW)
- Michelson Drive (EW)

Jamboree Road (NS) at:

- Main Street (EW)
- I-405 Northbound Ramps (EW)
- I-405 Southbound Ramps (EW)
- Michelson Drive (EW)

Campus Drive (NS) at:

- University Drive (EW)

Harvard Avenue (NS) at:

- Main Street (EW)
- Michelson Drive (EW)
- University Drive (EW)

EXISTING CONDITIONS

Existing traffic count data has been compiled / collected and is included as Attachment A to this document. Existing field conditions were inventoried by Urban Crossroads, Inc. staff specifically for this project. The traffic volume and geometric data have been used to evaluate existing peak hour traffic operations at the various analysis intersections. The resulting peak hour operations are summarized on Table 1. As shown on Table 1 most of the intersections being analyzed experience LOS "E" or better (acceptable) traffic operations. The only intersections that do not experience acceptable operations are:

Von Karman Avenue (NS) at:

- Michelson Drive (EW)

Jamboree Road (NS) at:

- Main Street (EW).

The detailed intersection capacity utilization (ICU) worksheets are included as Attachment B to this letter report.

FUTURE WITHOUT PROJECT CONDITIONS

Future without Project traffic conditions have been evaluated based on the model results previously documented in the Newport Beach General Plan Update Traffic Study (Urban Crossroads, Inc., March, 2006). Additional data has been extracted from the model to evaluate conditions at the supplemental intersection analysis locations. The model data has been refined using the same procedures documented for intersections located within the City of Newport Beach. These procedures are consistent with the procedures applied by the City of Irvine in their own traffic model; however, differences in input data, including the level of detail of the traffic analysis zone structure and input data are expected, particularly north of the I-405 Freeway.

Table 2 summarizes the results of the peak hour intersection operations analysis for Future Without Project conditions. As shown on Table 2, the following intersections are expected to experience deficient peak hour intersection operations, if no improvements are constructed:

Red Hill Avenue (NS) at:

- Main Street (EW)

MacArthur Boulevard (NS) at:

- Main Street (EW)
- I-405 Southbound Ramps (EW)
- Michelson Drive (EW)

Von Karman Avenue (NS) at:

- Main Street (EW)
- Michelson Drive (EW)

Jamboree Road (NS) at:

- Main Street (EW)
- I-405 Northbound Ramps (EW)
- I-405 Southbound Ramps (EW)
- Michelson Drive (EW)

Campus Drive (NS) at:

- University Drive (EW)

Harvard Avenue (NS) at:

- Michelson Drive (EW)

All of the study area intersections are projected to experience acceptable traffic operations if the improvements identified on Table 2 are implemented. All of the improvements consist of turn lanes, with the exception of a third southbound through lane that will be required at the intersection of Red Hill Avenue (NS) at Main Street (EW). The peak hour traffic operations worksheets for Future Without Project conditions both without and with improvements are included as Attachment C to this letter report.

FUTURE WITH PROJECT CONDITIONS

Future with Project traffic conditions have been evaluated based on the model results previously documented in the Newport Beach General Plan Update Traffic Study (Urban Crossroads, Inc., March, 2006). Additional data has again been extracted from the model to evaluate conditions at the supplemental intersection analysis locations. Table 3

summarizes the results of the peak hour intersection operations analysis for Future With Project conditions. Attachment D includes the Future With Project peak hour traffic operations (ICU) worksheets both without and with improvements. The same intersections previously identified as experiencing deficient traffic operations for Future Without Project conditions would again experience deficient peak hour operations, assuming that no intersection improvements (additional lanes, etc.) are constructed beyond the existing condition. The same improvements previously identified for the Without Project scenario would also be required for the With Project scenario to achieve acceptable peak hour traffic operations.

SUMMARY AND CLOSING

Based on the supplemental analysis summarized in this letter report, no additional impacts have been identified for With Project conditions compared to Without Project conditions. This is consistent with the findings made in the draft environmental impact report (DEIR) and the response to comments provided in the final environmental impact report (FEIR). Urban Crossroads, Inc. is pleased to provide this analysis for your use. Please feel free to call me at (949) 660 1994 x210 if you have any questions regarding this analysis.

Respectfully submitted,

URBAN CROSSROADS, INC.

Carleton Waters, P. E.
Principal

CW:cg
JN:04109-02

Attachments

TABLE 1

INTERSECTION ANALYSIS SUMMARY FOR EXISTING CONDITIONS

INTERSECTION	TRAFFIC CONTROL[2]	INTERSECTION APPROACH LANES[1]												ICU		LEVEL OF SERVICE	
		NORTH-BOUND			SOUTH-BOUND			EAST-BOUND			WEST-BOUND						
		L	T	R	L	T	R	L	T	R	L	T	R	AM	PM	AM	PM
Red Hill Av. (NS) at:																	
• Main St. (EW)	TS	2	2	1	2	2	1	1	3	0	2	3	0	0.62	0.87	B	D
MacArthur Bl. (NS) at:																	
• Main St. (EW)	TS	2	4	1>>	2	4	1	1	3	1>	2	3	1>>	0.59	0.92	A	E
• I-405 NB Ramps (EW)	TS	0	4	2	2	4	0	0	0	0	2	0	2	0.73	0.58	C	A
• I-405 SB Ramps (EW)	TS	0	4	1>	2	4	1	0	0	0	2	1	1>>	0.62	0.74	B	C
• Michelson Dr. (EW)	TS	1	4	1	2	4	0	2	2	0	2	1	1>	0.70	0.80	B	C
Von Karman Av. (NS) at:																	
• Main St. (EW)	TS	2	2	1	1	2	1	2	3	1	2	3	0	0.65	0.74	B	C
• Michelson Dr. (EW)	TS	1	2	1	1	1	0	1	2	0	1	2	1>>	0.69	1.04	B	F
Jamboree Rd. (NS) at:																	
• Main St. (EW)	TS	2	4	1>>	2	4	1>	2	3	1>>	2	3	1>>	0.85	1.02	D	F
• I-405 NB Ramps (EW)	TS	0	3	1>>	0	4	2>>	0	0	0	3	0	1>>	0.84	0.86	D	D
• I-405 SB Ramps (EW)	TS	0	3	2>>	0	4	1>>	1.5	0	2.5	0	0	0	0.86	0.93	D	E
• Michelson Dr. (EW)	TS	1	4	1	2	4	1>>	2	2	0	2	2	1>>	0.61	0.84	B	D
Campus Dr. (NS) at:																	
• University Dr. (EW)	TS	1	2	1	1	2	1	1	2	1	1	3	1	0.64	0.84	B	D
Harvard Av. (NS) at:																	
• Main St. (EW)	TS	2	2	1	2	2	1	2	3	1	2	3	1	0.53	0.59	A	A
• Michelson Dr. (EW)	TS	1	2	0	1	2	1	2	2	1>>	1	1	1	0.88	0.80	D	C
• University Dr. (EW)	TS	1	2	1	1	2	1	1	3	1	1	3	1	0.66	0.57	B	A

[1] When a right turn is designated, the lane can either be striped or unstriped. To function as a right turn lane there must be sufficient width for right turning vehicles to travel outside the through lanes.

L = Left; T = Through; R = Right; > = Overlap; >> = Free Right

[2] TS = Traffic Signal

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TABLE 2

INTERSECTION ANALYSIS SUMMARY FOR GENERAL PLAN BUILDOUT WITHOUT PROJECT

INTERSECTION	TRAFFIC CONTROL[2]	INTERSECTION APPROACH LANES[1]												ICU		LEVEL OF SERVICE	
		NORTH-BOUND			SOUTH-BOUND			EAST-BOUND			WEST-BOUND						
		L	T	R	L	T	R	L	T	R	L	T	R	AM	PM	AM	PM
Red Hill Av. (NS) at:																	
• Main St. (EW)	TS	2	2	1	2	2	1	1	3	0	2	3	0	1.08	1.44	F	F
-with improvements	TS	2	2	**2**	2	**3**	**2**	**2**	3	0	2	3	**1**	0.91	0.96	E	E
MacArthur Bl. (NS) at:																	
• Main St. (EW)	TS	2	4	1>>	2	4	1	1	3	1>	2	3	1>>	0.85	1.38	D	F
-with improvements	TS	**3**	4	1>>	2	4	1	1	3	**2>**	2	3	1>>	0.70	0.94	B	E
• I-405 NB Ramps (EW)	TS	0	4	2	2	4	0	0	0	0	2	0	2	0.96	0.73	E	C
• I-405 SB Ramps (EW)	TS	0	4	1>	2	4	1	0	0	0	2	1	1>>	0.71	0.93	C	E
• Michelson Dr. (EW)	TS	1	4	1	2	4	0	2	2	0	2	1	1>	0.90	1.01	D	F
-with improvements	TS	1	4	1	2	4	0	2	2	0	2	1	**2>**	0.90	0.72	D	C
Von Karman Av. (NS) at:																	
• Main St. (EW)	TS	2	2	1	1	2	1	2	3	1	2	3	0	0.93	1.45	E	F
-with improvements	TS	2	2	1	**2**	2	1	**3**	3	1	2	3	**2>**	0.85	1.00	D	E
• Michelson Dr. (EW)	TS	1	2	1	1	1	0	1	2	0	1	2	1>>	1.09	1.67	F	F
-with improvements	TS	**2**	2	1	**2**	**2**	**1**	1	2	0	1	2	1>>	0.77	0.95	C	E
Jamboree Rd. (NS) at:																	
• Main St. (EW)	TS	2	4	1>>	2	4	1>	2	3	1>>	2	3	1>>	0.91	1.09	E	F
-with improvements	TS	2	4	1>>	2	4	1>	2	3	1>>	**3**	3	1>>	0.86	0.99	D	E
• I-405 NB Ramps (EW)	TS	0	3	1>>	0	4	2>>	0	0	0	3	0	1>>	0.96	0.96	E	E
• I-405 SB Ramps (EW)	TS	0	3	2>>	0	4	1>>	1.5	0	2.5	0	0	0	1.07	1.05	F	F
-with improvements	TS	0	3	2>>	0	4	1>>	**2.5**	0	2.5	0	0	0	0.97	0.91		
• Michelson Dr. (EW)	TS	1	4	1	2	4	1>>	2	2	0	2	2	1>>	0.93	1.17	E	F
-with improvements	TS	**2**	4	**2**	2	4	1>>	2	3	0	2	2	1>>	0.79	0.97	C	E
Campus Dr. (NS) at:																	
• University Dr. (EW)	TS	1	2	1	1	2	1	1	2	1	1	3	1	1.14	1.19	F	F
-with improvements	TS	1	2	1	**2**	2	1	**2**	2	1	1	3	**2>**	0.85	0.93	D	E
Harvard Av. (NS) at:																	
• Main St. (EW)	TS	2	2	1	2	2	1	2	3	1	2	3	1	0.63	0.79	B	C
• Michelson Dr. (EW)	TS	1	2	0	1	2	1	2	2	1>>	1	1	1	1.23	0.98	F	E
-with improvements	TS	1	2	0	1	2	**2**	2	2	1>>	1	1	1	0.94	0.98	E	E
• University Dr. (EW)	TS	1	2	1	1	2	1	1	3	1	1	3	1	0.80	0.69	C	B

[1] When a right turn is designated, the lane can either be striped or unstriped. To function as a right turn lane there must be sufficient width for right turning vehicles to travel outside the through lanes.

L = Left; T = Through; R = Right; > = Overlap; >> = Free Right; **1** = Improvement

[2] TS = Traffic Signal

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TABLE 3

INTERSECTION ANALYSIS SUMMARY FOR GENERAL PLAN BUILDOUT WITH PROJECT

INTERSECTION	TRAFFIC CONTROL[2]	INTERSECTION APPROACH LANES[1]												ICU		LEVEL OF SERVICE	
		NORTH-BOUND			SOUTH-BOUND			EAST-BOUND			WEST-BOUND						
		L	T	R	L	T	R	L	T	R	L	T	R	AM	PM	AM	PM
Red Hill Av. (NS) at:																	
• Main St. (EW)	TS	2	2	1	2	2	1	1	3	0	2	3	0	1.04	1.46	F	F
-with improvements	TS	2	2	**2**	2	**3**	**2**	**2**	3	0	2	3	**1**	0.92	0.99	E	E
MacArthur Bl. (NS) at:																	
• Main St. (EW)	TS	2	4	1>>	2	4	1	1	3	1>	2	3	1>>	0.86	1.37	D	F
-with improvements	TS	**3**	4	1>>	2	4	1	1	3	**2>**	2	3	1>>	0.71	0.93	C	E
• I-405 NB Ramps (EW)	TS	0	4	2	2	4	0	0	0	0	2	0	2	0.99	0.75	E	C
• I-405 SB Ramps (EW)	TS	0	4	1>	2	4	1	0	0	0	2	1	1>>	0.69	0.89	B	D
• Michelson Dr. (EW)	TS	1	4	1	2	4	0	2	2	0	2	1	1>	0.91	1.02	E	F
-with improvements	TS	1	4	1	2	4	0	2	2	0	2	1	**2>**	0.91	0.72	E	C
Von Karman Av. (NS) at:																	
• Main St. (EW)	TS	2	2	1	1	2	1	2	3	1	2	3	0	0.93	1.46	E	F
-with improvements	TS	2	2	1	**2**	2	1	**3**	3	1	2	3	**2>**	0.84	1.00	D	E
• Michelson Dr. (EW)	TS	1	2	1	1	1	0	1	2	0	1	2	1>>	1.08	1.72	F	F
-with improvements	TS	**2**	2	1	**2**	**2**	**1**	1	2	0	1	2	1>>	0.77	0.97	C	E
Jamboree Rd. (NS) at:																	
• Main St. (EW)	TS	2	4	1>>	2	4	1>	2	3	1>>	2	3	1>>	0.91	1.10	E	F
-with improvements	TS	2	4	1>>	2	4	1>	2	3	1>>	**3**	3	1>>	0.85	1.00	D	E
• I-405 NB Ramps (EW)	TS	0	3	1>>	0	4	2>>	0	0	0	3	0	1>>	0.97	0.95	E	E
• I-405 SB Ramps (EW)	TS	0	3	2>>	0	4	1>>	1.5	0	2.5	0	0	0	1.06	1.06	F	F
-with improvements	TS	0	3	2>>	0	4	1>>	**2.5**	0	2.5	0	0	0	0.95	0.92	E	E
• Michelson Dr. (EW)	TS	1	4	1	2	4	1>>	2	2	0	2	2	1>>	0.91	1.18	E	F
-with improvements	TS	**2**	4	**2**	2	4	1>>	2	3	0	2	2	1>>	0.79	0.98	C	E
Campus Dr. (NS) at:																	
• University Dr. (EW)	TS	1	2	1	1	2	1	1	2	1	1	3	1	1.17	1.22	F	F
-with improvements	TS	1	2	1	**2**	2	1	**2**	2	1	1	3	**2>**	0.86	0.94	D	E
Harvard Av. (NS) at:																	
• Main St. (EW)	TS	2	2	1	2	2	1	2	3	1	2	3	1	0.63	0.78	B	C
• Michelson Dr. (EW)	TS	1	2	0	1	2	1	2	2	1>>	1	1	1	1.20	0.98	F	E
-with improvements	TS	1	2	0	1	2	**2**	2	2	1>>	1	1	1	0.93	0.98	E	E
• University Dr. (EW)	TS	1	2	1	1	2	1	1	3	1	1	3	1	0.79	0.69	C	B

[1] When a right turn is designated, the lane can either be striped or unstriped. To function as a right turn lane there must be sufficient width for right turning vehicles to travel outside the through lanes.

L = Left; T = Through; R = Right; > = Overlap; >> = Free Right; **1** = Improvement

[2] TS = Traffic Signal

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LAW OFFICES OF ROBERT C. HAWKINS

February 21, 2007

Via e-mail (bjacobs@ci.irvine.ca.us) and Messenger

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") Notice of Preparation ("NOP") of Draft Project Level Environmental Impact Report ("DEIR") and Initial Study ("IS") for Irvine Business Complex ("IBC") Residential Mixed-Use Community Vision Plan, Ordinance, and Infrastructure Improvements (the "Project")**

Greetings:

Thank you for the opportunity to provide further comments on the Project, the Notice of Preparation ("NOP"), the Initial Study ("IS"), and the scope of the Draft Environmental Impact Report ("DEIR") for the Irvine Business Complex Residential Mixed-Use Community Vision Plan, Residential Zoning Ordinance, and Infrastructure Improvements (the "Project"). Please include these comments in the administrative record for the environmental documents including the DEIR for the Project as well as in the administrative record for any other Environmental Impact Reports for any other residential project within the IBC.

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. In its manufacturing of such coatings, Deft uses many hazardous materials including flammable liquids including nitrocellulose, hazards materials including cancer causing agents hexavalent chromium (Cr+6) and barium chromate.

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

This letter supplements our earlier comments on the Draft Negative Declaration for the Project, our June 27, 2006 and July 24, 2006 comment letters on the Project and the FSEIR/DSEIR for the 2323 Main St. Project. Further, we incorporate herein the comments from the Salter Group and others on the Project. Also, this letter supplements and incorporates our earlier oral comments including those by Mary Ann Desmond, Tony Desmond, Donn Kemble, Esq., Tom Boylan, Mahir Barkho and other Deft employees on the Project at all hearings on the Project including hearings on July 11, 2006 and July 25, 2006 as well as all other hearings. Finally, please find enclosed at Attachment A, a copy of the White Paper from Global Environmental Consulting Co. in connection with these issues.

I. Introduction.

A. A Call to Listen to Existing Industrial and Business Land Owners and Users.

At the outset, as discussed below, Deft welcomes the City's decision to prepare an EIR for the Project. As we have said before, it is long past time to analyze fully the impacts of the residential transformation of the Irvine Business Complex. The existing industrial users and landowners need protection and preservation from the City's "influx of new residential development" in the IBC.

More importantly, the existing industrial users and landowners need a seat at the policy making decision table: in the past, council members have indicated that all have participated or had an opportunity to participate in the development of planning regulations for the IBC. That has not happened: policy remains focused on the development community. The City must include the industrial users and landowners–the Key Businesses– in these discussions as an equal partner.

Indeed, we received your January 16, 2007 Notice which cancelled the originally scheduled stakeholder sessions on January 23rd and February 23rd. This is unfortunate: the policymakers need to hear from their core industrial users in the Irvine Business Complex. This notice also confusingly refers to the reason for this change is:

> "In the interest of allowing the decision making bodies to hear first-hand all public concerns and ideas regarding the project and associated EIR . . .."

This implies that the associated EIR has been released for public comment. If so, then the hearing schedule must be changed to comply with CEQA. See Public Resources Code section 21091; CEQA Guidelines sections 15200 et seq. However, we understand this to mean simply that the City seeks input on the scope of the Project and the associated EIR. If we are mistaken, please advise immediately.

More importantly, by eliminating the stakeholder meetings, the City and its staff lose the opportunity to learn the concerns and proposals of the industrial land users and owners in the Irvine Business Complex. On behalf of one of those land owners and users, Deft Incorporated, we invite the City policy makers and staff to sit down, discuss, and learn our concerns, objections and proposals.

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As to these public hearings before decisionmakers in connection with the scope of the EIR, we applaud the City's thoroughness in conducting public hearings in a process that is usually administrative or even ministerial. However, we must all understand the nature and extent of this scoping process. CEQA Guidelines section 15082(a) provides:

> "Immediately after deciding that an environmental impact report is required for a project, the lead agency shall send to the Office of Planning and Research and each responsible and trustee agency a notice of preparation stating that an environmental impact report will be prepared. This notice shall also be sent to every federal agency involved in approving or funding the project."

Section 15082(a)(4) continues:

> "The lead agency may begin work on the draft EIR immediately without awaiting responses to the notice of preparation. The draft EIR in preparation may need to be revised or expanded to conform to responses to the notice of preparation. A lead agency shall not circulate a draft EIR for public review before the time period for responses to the notice of preparation has expired."

Hence, usually the scoping process takes place in an administrative setting with staff reviewing public comments on the IS and the NOP. We understand that the City's decision to hold hearings is simply more outreach. We hope so.

However, the February 1, 2007 hearing before the Planning Commission provides little to support this hope of extended outreach. At that hearing, **only existing industrial and other users testified about the scope of the DEIR.** Apparently, the residential developers and entitlement representatives had already had their input to the decisionmakers and that the proposed Project has already taken their perspective into account. That is unfortunate and undercuts the scoping process. The Project and the Project description must be revised to include the needs of existing industrial users. At a minimum, it must include a one thousand (1,000') foot buffer between existing industrial users and any proposed residential as well as an expanded business and industrial district which will include all Key Businesses. See IS Figure 4.

In line with this, Deft and other existing industrial users have long urged the City to cease processing residential applications during the pendency of this DEIR process. This step is imperative to allow the City to develop and implement fully the Vision Plan for the Irvine Business Complex. In addition, it avoids the peacemealing problem about which Deft and others have complained before. The City has taken exactly such steps before and in connection with overdevelop of the Irvine Business Complex. In the late 1980's, the Irvine City Council ceased processing further applications in the Irvine Business Complex while it took time to prepare the 1992 Irvine Business Complex EIR. We encourage the City to adopt this course and wait to process individual projects until the Vision Plan EIR is certified.

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B. The Project Requires the Preparation of a Program EIR, Not a Project EIR.

The NOP indicates that the City "will prepare an environmental impact report for the project identified below." The Project is listed as "Draft Irvine Business Complex (IBC) Vision Plan and Mixed Overlay Zoning Code (Planning Area 36)." This plan and code amendment proposes to establish a new program for residential development within the Irvine Business Complex. As with the 1992 Program EIR for the Irvine Business Complex, the City should again prepare a program EIR for the planning of the residential conversion of the Irvine Business Complex.

CEQA Guidelines section 15168(a) provides:

"A program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:

(1) Geographically,

(2) A logical parts in the chain of contemplated actions,

(3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or

(4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways."

The advantages of such a program EIR are that it can:

"(1) Provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action,

(2) Ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis,

(3) Avoid duplicative reconsideration of basic policy considerations,

(4) Allow the Lead Agency to consider broad policy alternatives and programwide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts, and

(5) Allow reduction in paperwork"

CEQA Guidelines section 15168(b).

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As is clear, the advantages of a program level EIR for the Project are substantial: a program EIR for the Project could analyze the entire program/conversion of the Irvine Business Complex to a residential area together with all attendant impacts; it would analyze all cumulative impacts of this conversion including residential nodes and industrial nodes; it would allow the City to analyze all policy issues associated with this conversion and preservation of industrial nodes; and it would allow the City to analyze future projects based upon the program EIR.

For all of these reasons and for historical reasons including the City's 1992 decision to prepare a program EIR for the earlier planning of the Irvine Business Complex, the City should prepare a program EIR for the Project.

II. The Project Description Must Be Revised, and Fully Developed and Described in the DEIR.

The IS describes the Project as consisting of the following components:

"• Irvine Business Complex (IBC) Residential Vision Plan, which outlines the City's policies and design guidelines for addressing the influx of residential development within the IBC

- IBC Residential Mixed Use Overlay Zoning Code, which defines regulatory zoning districts for properties within the IBC, and outlines a process for analysis of compatibility of residential development with adjacent businesses. (Figure 4, Overlay Zone Regulating Plan)

- Infrastructure Improvements outlines to improve walkability and connectivity within the IBC. . ."

In addition, the IS states that:

"The EIR will also review alternatives relating to one or more proposed 'Town Center(s),' in which higher densities would be permitted in conjunction with mixed use development as part of a neighborhood corridor."

IS unnumbered. Further, one of the alternative may include the following:

"As a part of this project, the provisions of the IBC Vision Plan may be incorporated into the City's General Plan, rather than stand alone as a separate policy document, in which case the Vision Plan would be processed as a General Plan Amendment."

IS unnumbered.

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This is a project alternative and must be analyzed as such. The DEIR must fully describe this alternative including the nature and extent of the GPA and its applicability to and impacts on existing land owners and users which comply with the current General Plan and zoning requirements. Second, the alternative must include a zoning code amendment with similar applicability and requirements. Third, the DEIR should also analyze the impacts of this alternative including impacts and takings on existing land owners and businesses in the Irvine Business Complex.

Further, news reports indicate that part of the Project will include the fanciful re-designation of the Irvine Business Complex as the "Jamboree Village." The DEIR must analyze the nature and basis for this new designation, the rationale for this Village in the Business Complex, its impacts on existing land users, and any other designations including the Irvine Business Village.

In addition, the IS Project Description states that:

> "The proposed project in and of itself **does not permit additional development** within the IBC, rather it serves as planning guidance to address the influx of new residential development in the area. Residential projects in the IBC must be processed through the existing City processes, which include a General Plan Amendment and zone change. A total of 3,969 dwelling units currently exist within the IBC. In addition, 4,147 dwelling units have been approved, and 6,291 dwelling units are pending approvals."

IS 7. To the extent that the Project Description and alternatives include a project alternative which includes the Project as GPA and zone change, the Project will permit additional development: indeed, it may require development and regard existing land users as non-conforming. The DEIR must explain the full nature of the Project, its growth inducing impacts, how, if it includes a GPA and zone change, the Project will not only permit but **require additional development**, and other impacts of such alternatives.

Also and importantly, the IS states that:

> "For the areas of the proposed Vision Plan in which residential uses are supported (Urban Neighborhood, Multi-use, and potential Town Center districts, and excluding the Business Complex districts on Construction Circle and west of the Armstrong Channel), a total potential of 9,096,017 non-residential square feet and 458 hotel rooms remain to be built based on the existing trip caps for the area."

Id. The IS prematurely restricts industrial areas (the Business Complex districts on Construction Circle and west of the Armstrong Channel) to an area with no Key Businesses. The DEIR must

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consider and fully address the location and nature of the Key Business area and locate the business area within an area where the Key Businesses are.

This raises two alternative which should be analyzed in the DEIR. First, the Project description should include an alternative description of the Key Business area to Von Karman Ave. Under this alternative, at least some Key Businesses including Deft would be within the Business Complex District. Second, the Project description should include an alternative description which includes a substantial buffer around existing Key Businesses in addition to the Business Complex District. Deft has long argued that a sufficient buffer is needed to protect both existing industrial users and residents.

Correlatively and as indicated above, the Project cannot render existing uses non-conforming. Staff has repeatedly stated this at hearings; decisionmakers have expressed this promise. However, the proposed draft zoning code contains nothing about preserving existing uses. The Project should include a requirement in the proposed code and General Plan Amendment if any that explicitly recognizes the right of existing industrial users to continue as permitted uses and not simply as legal but non-conforming uses. Such a restriction will severely hamper existing industrial users and Key Businesses such as Deft.

Further, Figure 4 to the IS entitled Overlay Zone Regulation Plan contain a legend for, among other designations, "Key Businesses." Although Figure 4 refers to Key Businesses, the Project description does not currently refer to such businesses. More importantly, the Project now requires these already designated Key Businesses to apply for protected industrial business status which the City will ultimately decide. The Project should include Figure 4, provide adequate and sufficient protections for these Key Businesses including creating sufficient buffers around the Key Businesses or better yet creating Key Business Nodes where such Key Businesses may flourish together in some distant but walkable proximity, e.g. one thousand feet away, with various nodes or villages of residential users. See Attachment A: Global Environmental Consulting Co., White Paper.

III. The DEIR's Impacts Analysis Must Include a Full Discussion of Project Related Impacts.

A. Introduction: The DEIR Should Refer to and Incorporate Various Portions of the 1992 FEIR for the Irvine Business Complex

The IS lists several sources of information. Unfortunately, it omits the 1992 FEIR which established the current land uses and entitlements in the Irvine Business Complex as well as various transportation allocations including the transfer of development rights. The DEIR should refer to and discuss the Project's relation and reliance on the 1992 FEIR.

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B. The DEIR Should Fully Discuss and Explain the Project's Aesthetics Impacts.

The IS recognizes that the Project may create significant impacts on visual resources by potentially substantially degrading existing visual character of the Irvine Business Complex and by creating a new source of light and glare which may significantly and adversely affect the area. The DEIR must address these issues and specifically address sub issues including mass and size of the residential developments, restrictions on roadways and resulting visual impacts, shade impacts caused by dense and/or high rise residential development, and other impacts.

C. The DEIR Should Analyze and Discuss the Project's Impacts on Air Quality, Greenhouse Gas Emissions and Global Warming on Air Quality in the Irvine Business Complex.

The IS recognizes that the Project has the potential to create significant impacts on air quality for all areas in the CEQA study checklist. However, its discussion misses two important impact considerations and necessary mitigation which must be included in the DEIR.

First, the IS recognizes that the Project will increase residential intensities with the potential to affect significantly and adversely air quality within the Irvine Business Complex. However, the DEIR must address and consider the Project's increased intensity and traffic to generate greenhouse gases which may adversely affect global warming and climate change. The DEIR must address this potentially significant environmental impact of the Project both in its air quality analysis and independently as a separate and distinct analysis of environmental impacts.

In line with the above, the DEIR must analyze the cumulative impacts of the Project's contribution to generate greenhouse gases which may further adversely impact global warming and climate change.

In March 2006, the California Attorney General submitted comments on the Orange County Transportation Authority's Draft Program Environmental Impact Report for OCTA's 2006 Long Range Transportation Plan and argued that the Program EIR needed to address the Program's potential to affect global warming. Ultimately, the parties resolved their dispute and OCTA agreed to include discussion of their Program's potential to affect global warming. See Attachment B.

Second, the IS recognizes that the Project may create a significant environmental impact by creating objectionable odors in the Irvine Business Complex. In order for the DEIR to analyze the odor impact fully, the DEIR must address the impacts of existing odor and quality issues within the Irvine Business Complex which may be generated by industrial users. The DEIR must fully explain and discuss the Project's impacts on area residents.

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Correlatively to the above, the DEIR must include necessary and adequate mitigation measures to address any such impacts.

D. The DEIR Should Explain and Discuss the Project's Impacts on Geology and Soils.

The IS states that the Project has the potential to create significant geological impacts due to strong seismic ground shaking, ground failure, landslides, soil erosion, land failure and expansive soils.

The DEIR must recognize the geologic limitations of the Irvine Business Complex: seismic activity; high groundwater which is at times only four (4') feet below the ground surface; expansive soils; and other issues. The DEIR must fully discuss and analyze the impacts of the Project given such conditions and propose any and all adequate and feasible mitigation.

E. The DEIR Should Analyze and Discuss the Project's Impacts on Hazards and Hazardous Materials.

The IS acknowledges that the Project may create potentially significant impacts on hazards and hazardous materials for a whole host of reasons including:

- the Project may create a significant hazard to the public due to transport, use and/or storage of hazardous materials;
- the Project may create a significant hazard to the public due to accidents involving hazardous materials;
- the Project is located in an area which is included on state hazardous materials sites;
- the Project may interfere with an adopted emergency response plan.

Unfortunately, the IS concluded that the Project will have no impact by exposing people or structures to wildfires. The IS states that:

> "The IBC (Planning Area 36) project area currently consists of flat, graded land. The site is surrounded by urban development and is not adjacent to, or intermixed with, wildlands."

However, Figure 5 of the IS recognizes that the Project will include recreational amenities through and near the rural area of San Diego Creek. This area is a wildland and is subject to wildfires. The DEIR should discuss the Project's impacts in connection with its residential development near such an area with the potential of wildfires.

As Deft has stated throughout its comments on residential projects in the Irvine Business Complex, Deft and other existing industrial land owners and users need substantial protection including a buffer of at least one thousand (1,000') feet from any residential development. As we have pointed out many times before, if Deft or other industrial users proposed to site one of their manufacturing facilities near residential development, the City would require a substantial buffer likely in terms of miles, not feet.

This is particularly important for Deft. As indicated above, Deft produces and manufactures wood finishes for the consumer market and specialized industrial coatings for aerospace and military customers. In its manufacturing of such coatings, Deft uses many hazardous and dangerous materials including flammable liquids including nitrocellulose, hazards materials including cancer causing agents hexavalent chromium (Cr+6) and barium chromate. Because of this, any new residential development project must be set back substantially from Deft to avoid problems with sensitive receptors (residents), noise, light, truck traffic and other characteristics of a successful paint manufacturing plant.

Correlatively, without sufficient and adequate buffers greater than one thousand (1,000') feet from residential users, the Project likely will create significant impacts by exposing and bringing residents in the Project in close proximity with industrial users including Deft which uses many flammable materials such as nitrocellulose and hazardous materials such as hexavalent chromium and barium chromate, both cancer causing agents.

To mitigate such impacts or to ensure such impacts do not arise, the DEIR must consider and propose sufficient buffers and protections for such impacts: at a minimum, the DEIR must propose a one-thousand (1,000') foot buffer between industrial users such as Deft and any residential users. Such buffers can be either Project features or mitigation measures for such impacts. For a thorough discussion of this issues, see Global Environmental Consulting Co., White Paper.

As for emergency access, as Deft has stated before, due to a fire at Deft, the City blockaded and limited traffic along Von Karman for several hours. Such limitations will likely affect emergency access as well as resident evacuation plans. The DEIR must recognize such impacts, fully discuss them, and propose adequate mitigation measures.

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F. The DEIR Must Discuss the Project's Impacts on Hydrology and Water Quality and Propose Appropriate Mitigation Measures.

The IS recognizes that the Project may create significant impacts by potentially violating water quality standards, deplete or degrade groundwater supplies, potentially adversely affect drainage, create runoff which may exceed existing storm water drainage systems, and place housing within a one hundred (100) year flood hazard. However, the IS concludes that the Project would not expose people or structures to a significant risk of loss involving flooding or innundation by seiche, tsunami or mudflow.

As for the areas which the DEIR will address, we note several issues. As Deft commented in connection with other projects and environmental documents, the Irvine Business Complex is subject to areas of shallow groundwater and rising groundwater. Groundwater in the vicinity of Deft has been seen only four (4') feet below ground surface. In addition, groundwater quality is poor, and, in various areas, contaminated. The DEIR must address all of these issues and propose adequate Project features and/or mitigation to address such impacts.

As for the areas eliminated from consideration in the DEIR, the IS is incorrect: the Project may expose people to a significant risk of flooding and possibly innundation from various sources including seiche due to rises in the level of the upper Newport Bay. In order to eliminate these areas from consideration in the DEIR, the IS focuses improperly on restrictions: flooding is limited for areas of Dam Inundation; and flooding due to tsunami. However, the subject areas in the IS are broader than these areas: flooding can come from other sources and inundation can come from seiches or mudflows. The DEIR must discuss these issues as well as those discussed above.

G. The DEIR Must Address the Land Use Impacts of the Project and Propose Adequate Mitigation.

The IS recognizes that the Project may create significant impacts on land use by physically dividing the Irvine Business Complex and conflicting with applicable land use plans. As to the Project's potentially significant impact to divide the Irvine Business Complex, as indicated above, the DEIR must discuss and explain the "original industrial and commercial nature of the IBC area," discuss the Project's impacts on such areas, propose adequate Project features or mitigation including one thousand (1,000') foot buffers between the original uses and the proposed Project residential projects.

Further, this section also notes that the Project does not approve any specific residential project. As indicated above, if the Project includes the general plan and zone change proposal, it will approve various projects. The DEIR must fully discuss this alternative and analyze its impacts on land use including the division of the Irvine Business Complex.

As to the Project's potential to conflict with existing land use plans, as discussed above, the DEIR must consider and refer to the 1992 IBC EIR which established the current land use plan for

the Irvine Business Complex. More importantly, the DEIR must discuss the importance of such conflicts including incompatibility siting residential projects in an industrial area and propose adequate mitigation including providing a one thousand (1,000') foot buffer between any residential project and existing industrial users. See Global Environmental Consulting Co., White Paper and the sources cited therein including the Air Resources Board's "Air Quality and Land Use Handbook: A Community Health Perspective." See also Larry Agran The Cancer Connection 1977, Chapter 6.

H. The DEIR Must Analyze the Noise Impacts of the Project Resulting from Siting Residential Projects near Industrial Uses and Propose Adequate Mitigation.

The IS recognizes that, for all noise subjects, the Project has the potential to create significant impacts. However, the IS analysis focuses only on traffic and construction noise sources. It ignores noise generated from adjacent industrial users. The DEIR must analyze such impacts and propose adequate Project features and mitigation including one thousand (1,000') foot buffers between residential and industrial users.

I. The DEIR Must Analyze the Project's Impacts on Public Services including Fire Protection and Propose Necessary Mitigation.

The IS states that the Project may create significant impacts on all sorts of public services including fire protection. However, it fails to discuss the nature and extent of such potentially significant impact.

The Project will likely create such impacts on fire protection services by placing residential projects in proximity with industrial users such as Deft which may use hazardous and dangerous chemicals which are highly flammable. As indicated above, the fire department closed a portion of Von Karman due to a small fire at Deft. The danger of such fires increase with residential projects in proximity to Deft and other industrial and manufacturing users. DEIR should analyze all such impacts and propose necessary mitigation.

J. The DEIR Should Analyze and Discuss All of the Project's Impacts on Transportation and Traffic, and Propose Necessary Mitigation.

The IS acknowledges that the Project may create potentially significant traffic impacts including causing increased traffic, exceeding roadway levels of service, resulting in inadequate emergency access and parking, and conflict with adopted policies regarding alternative modes of transportation.

However, the IS states that the Project will have no impact due to a substantial increase in hazards due to a design feature or incompatible uses. This is incorrect: the Project will likely create potentially significant impacts from hazards due to design or incompatible uses. The Project includes small roadways and restricted access. Many existing industrial users require large truck

usage for transport of materials and manufactured goods. The Project design features may create hazards to such large trucks. Further, these trucks are consistent and essential for existing uses but will conflict with residential uses of the Project. The DEIR must discuss and analyze such impacts and propose necessary mitigation.

As to the traffics impacts to be addressed by the DEIR, it should include a new traffic study without reference to any traffic allotments or entitlements. The DEIR should include a full analysis of the Project's traffic without any transfers or allocations. The DEIR should propose adequate mitigation measures including protections for existing industrial users and its truck traffic.

As to parking, the DEIR must include a full parking analysis without reliance on any adjustments or other mechanisms which would reduce the amount of required parking. One such adjustment could be the benefit from the Project of the live work concept and a promised decrease in vehicular use and reduction in parking demands. Any such adjustment is based upon a failure to understand the realities of the Southern California lifestyle: residents will use cars for virtually all transportation needs. It is unlikely that significant numbers of new residents will walk for most trips. The DEIR must fully analyze the parking demands of such projects. Should the DEIR attempt to use any adjustments or other mechanism, it should provide clear and concise discussions of the basis and historical support for such adjustments.

K. The DEIR Should Analyze and Discuss All of the Project's Impacts on Services and Utilities.

The IS recognizes that the Project may create significant impacts on services and utilities including solid waste, wastewater and water supply. The DEIR must carefully consider all such impacts and propose feasible mitigation measures.

As to water supply, the California Supreme Court recently held that an EIR's water supply analysis must show that actual water will be available for a large residential project including available for projected growth. Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 2007 LEXIS 748. The Vineyard Court stated:

> " . . . CEQA did require that the FEIR show a likelihood water would be available, over the long term, for this project. **Without an explanation that shows at least an approximate long-term sufficiency in total supply, the public and decision makers could have no confidence that the identified sources were actually likely to fully serve this extraordinarily large development project.** An EIR that neglects to explain the likely sources of water and analyze their impacts, but leaves long-term water supply considerations to later stages of the project, does not serve the purpose of sounding an ' "environmental 'alarm bell.'"'

Id. at 56.

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Here, the DEIR must explain the available water supply for the Project together with other development within the City and the region. If necessary, the DEIR must propose feasible mitigation including reduction in residential development to mitigate any such impacts.

Correlatively, this analysis must follow for all services including solid waste and wastewater. The DEIR must show that area landfills and waste water systems have the capacity to handle waste from the Project and long term development within the region.

L. The DEIR Should Analyze and Discuss All of the Project's Cumulative Impacts.

The IS states that, under mandatory findings, the Project may create significant cumulative impacts on the Irvine Business Complex. The cumulative impacts analysis must include a discussion of all residential projects the City has already approved in the Irvine Business Complex. The DEIR must propose any necessary mitigation measures for such cumulative impacts.

M. The DEIR Should Propose Mitigation for All Project Related Impacts.

As you know, CEQA requires that the DEIR propose feasible mitigation measures for all Project related impacts. Should the DEIR fail to propose such mitigation measures or none are available, the City may certify the Final EIR with a Statement of Overriding Consideration which finds that project related benefits off set any project impacts. However, the City cannot simply certify the DEIR and adopt a statement of overriding considerations by exercising its discretion. Its decision must be supported by substantial evidence.

Second, and importantly, even assuming that the City can adopt a statement of overriding considerations for certain impacts, such a decision may give rise to civil liability for damages to private property owners as well as affected public agencies. If the DEIR concludes that Project impacts may be significant and unmitigated may injure private property in violation of Fifth Amendment of the United States Constitution and Article I, Section 19 of the California State Constitution. In addition, developers of the Project may also be subject to liability under various theories including nuisance, trespass and negligence.

Finding that the Project will have significant and unmitigated impacts is not immune from review or from liability. The City should carefully consider not certifying the DSEIR if it is not revised. As indicated throughout, the better course is to revise the DEIR, prepare a full and careful environmental analysis, propose any necessary mitigation, and re-circulate it for public review and comment.

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IV. Further Comments on the Project Including the July 25, 2006 Proposed Changes to the Project.

As indicated above, we incorporate all of our earlier comments on the Project herein. However, because we have had not had the opportunity to comment on the draft changes proposed at the July 25, 2006 City Council meeting, we comment on those now.

At the outset, as indicated throughout, no proposal yet provides specific and adequate protections for manufacturing users and industrial users such as Deft. The July 25, 2006 changes weaken the Project significantly and adversely to such existing industrial users and businesses.

As to the proposed changes, it proposes two sorts of material changes: (1) the Project should be revised to "reflect the history and evolving character of the IBC, specifically as it relates to the planning for residential development in that area;" and (2) the Project should be revised to "change the 'industrial adjacency analysis,' 'key business designations,' and 'industrial buffer . . .." Although we may agree on this general statements, the devil is in the details.

As for the history of the Irvine Business Complex, the introductory language must reflect the prohibitions on residential development and the preservation of industrial uses in the Irvine Business Complex. Indeed, it must also reflect the original name for the area, the "Industrial Business Complex."

Regarding changes to the industrial components, the Project should strengthen, not weaken, protections for existing industrial users. The City has spent many years developing this process and attempting to provide protections for existing industrial users. In the various stakeholder meetings and hearings on the Project, the City and industrial users agreed to the Key Businesses as reflected in Figure 4 of the IS. The Project must retain these designations and build protections around such Key Businesses.

These protections should include providing for substantial separation between industrial users and residential projects. The Project should consider adopting areas for industrial nodes around the identified Key Businesses and residential nodes. These nodes should be separated by at least one thousand (1,000') feet perhaps two thousand (2,000'). Between these nodes, the City could promote retail, commercial and office uses so that residents could easily get to work, shopping, dining and recreation.

The July 25th proposal placed a burden on Key Businesses to prove that they deserve protection. This ignores the substantial work by the City and its stakeholders. The Project should not be changed to place this burden on land owners and users which are currently in conformance with the General Plan and the Zoning Code. The environmental review process for any project must address and identify existing industrial users. The burden should be on the applicant, not on existing and permitted industrial users.

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As for the "industrial buffer," this stands the problem on its head. It is really a residential buffer: industrial users are currently permitted under the General Plan and the Zoning Code. The buffer is to protect both new residents as well as existing industrial users from the incompatibility of siting residential users in the vicinity of industrial users. The DEIR and its Project description must recognize this Project feature and provide appropriate protections for existing industrial users and businesses including a one thousand (1,000') foot buffer and an expanded business district which includes all Key Businesses set out in Figure 4 of the IS.

Of course, as we have said, in the hypothetical situation, where an industrial user such as Deft sought to permit a new manufacturing facility, an industrial buffer would be appropriate. As we have suggested, such a buffer would be in terms of miles away from residential users, not feet. So, the buffer is a residential buffer: it separates proposed residential project from existing industrial users.

Finally, another aspect of the July 25th proposal continues the linguistic changes: change the name of the Industrial Business Complex, now known as the Irvine Business Complex, to something which would "reflect the evolving character and growth of residential development . . .." We understand that a committee to review the Project is now known as the Jamboree Village Committee. Although it sounds nice, it does not reflect the area. The name–the "Irvine Business Complex"– should remain; it will heighten the importance of businesses and residential users living compatibly with sufficient room for each use.

V. Conclusion: The DEIR Must Recognize and Protect the Existing Industrial Users.

As discussed throughout, the DEIR must fully analyze all impacts and propose necessary and adequate mitigation. In particular, it must fully describe the Project, include a discussion of industrial nodes around existing Key Businesses shown on Figure 4, provide additional Project features to protect existing industrial users, and propose adequate mitigation measures including true residential buffers which will protect existing industrial users–a buffer of one thousand (1,000') between new residential projects and existing industrial users and a full and vibrant Business Complex District which would include all Key Businesses.

Finally and importantly, as we stated at the outset, the City should include the existing industrial users–the Key Businesses– in all policy discussions on the Ordinance and the Plan. The Key Businesses have a vital stake in the planning issues, and the City should include them as a partner and listen to their perspectives.

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.

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Please provide us with copies of all notices, staff reports and other information regarding projects within the IBC including all notices of the Task Force/Brown Act Committee for the IBC aka Jamboree Village Project. Of course, should you have any questions, please do not hesitate to contact us.

Sincerely,

LAW OFFICES OF ROBERT C. HAWKINS

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RCH/kw
Attachments as indicated above

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Attachment A
Global Environmental Consulting Co., White Paper

Land Use Compatibility White Paper:
Hazardous Materials Assessment
Proposed 2323 Main Street Development

Prepared for:

Deft, Inc.
17451 Von Karman Avenue
Irvine, CA 92614

by:

GECCo Inc.
Global Environmental Consulting Company

May 16, 2006

Deft Comments:
Attachment A

Land Use Compatibility White Paper: Hazardous Materials Assessment
Proposed 2323 Main Street Development

Executive Summary

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Executive Summary

This white paper reviews the land use compatibility of the proposed 2323 Main Street development project with the industrial operations located near the property to be developed. Based on the findings, it is concluded that the industrial manufacturing operations at the Deft Inc. facility are incompatible with nearby residential development due to the potential health and safety hazards that could be posed to residents in the proposed development from the following industrial activities at the Deft facility:

- The use of over 450 hazardous materials at the Deft facility
- The emissions of two toxic air contaminants; Cr^{+6} and diesel, both known to cause cancer
- Storage and use of nitrocellulose, a highly flammable and explosive compound, storage
- Storage, use and processing of Proposition 65-listed chemicals known to the State of California to cause cancer and birth defects
- 90-day storage of hazardous waste
- Other nuisances such as odors, noise and lighting

While the Deft facility has an excellent compliance history and has obtained regulatory permits and implemented plans and programs to prevent environmental, health and safety risks associated with its operations; these plans and programs are designed to protect Deft workers, not nearby residents.

A buffer, or set-back distance, of 1,000 feet could be used to separate residential land uses from the Deft manufacturing operations. This buffer would maximize the distance between sensitive receptors in a residence and hazardous chemicals thus minimizing the potential for exposure and long-term health effects.

1.0 Introduction

Deft, Inc. (hereinafter referred to as "Deft") manufactures paints and coatings for the consumer market and the government. The company is located at 17451 Von Karman Avenue, Irvine, CA 92614. The site, which is approximately 6 ½ acres, consists of one approximately 100,000 ft^2 building which houses administrative offices; production areas which include paint mixing; warehouse space; packaging, shipping and receiving areas; and quality laboratories. This building was reportedly built in 1975 for Deft Inc.

Physically, the site is located between McGraw Avenue and Main Street, just north of the railroad tracks. The City of Irvine is currently considering the construction of a 445 unit residential condominium complex within 1,000 feet of the Deft facility.

2.0 Hazardous Materials Impact Assessment

Deft uses over 450 chemical products in and manufactures wood finishes for the consumer market and specialized industrial coatings for aerospace and military customers. Many of these products are considered hazardous due to their potential health and environmental impacts. Because Deft handles, uses, stores, treats and emits hazardous materials, it is regulated by a variety of government agencies. These include, but are not limited to, the Orange County Fire Authority, the South Coast Air Quality Management District, Regional Water Quality Control Board, California Department of Toxic Substances Control, Occupational Safety and Health Administration, and the Environmental Protection Agency. Deft has developed and implemented multiple programs to protect its workers from exposures to these chemicals in compliance with rules and regulations enforced by these agencies. These programs include Hazard Communication Program, Injury and Illness Prevention Plan, Emergency Response/Action Plan, and Respiratory Protection Program.

The site's Business Emergency Plan stipulates procedures for employees to follow in the event of an incident involving any hazardous material. As part of this plan, employees are trained and provided with safety information to help control any spill or release. Other related plans maintained at the facility include an Emergency Contingency Plan and Emergency Evacuation Plan. There are no regulatory requirements however, for comparable procedures for any nearby residents.

Deft employees also receive health and safety training to minimize the potential risks associated with the use of hazardous materials. Training topics include:

- Fire extinguisher operation
- Use of personal protective equipment
- Hazard Communication
- Hazardous Waste and Environmental Responsibility
- Evacuation and Disaster Preparedness

Although Deft employs industry best management practices and operates at the highest safety levels, these programs are designed to protect worker health and not the health and safety of nearby residents. A "regulatory gap" (ARB, 2004) exists in the case of assessing and addressing environmental, health and safety (EHS) impacts of non-regulated land uses such as new residential developments that are in close proximity to pollution sources. The siting of a new residential development for instance, does not require an air permit. The ARB sees this particular situation as an opportunity for land use agencies to address this gap and assess whether there could be any air pollution or other EHS impacts

The California State Office of Planning and Research (OPR) has stated in its General Plan Guidelines (2003) that residential uses "are harmed by incompatible land uses that have environmental effects, such as noise, air emissions (including dust) and exposure to hazardous materials" (AB 1533 (Keeley, Chapter 762, Statutes of 2001) specified that the General Plan Guidelines, prepared by the California Office of Planning and Research propose methods for local governments to address "providing for the location of new schools and residential dwellings in a manner that avoids proximity to industrial facilities..." As such, the Guidelines further state "residential and school uses are harmed by incompatible land uses that have environmental effects, such as noise, air emissions (including dust), and exposure to hazardous materials."

Siting residential dwellings nearby to the Deft facility would present such an incompatible land use due to the hazardous materials used at and air emissions emitted from the facility. The General Planning Guidelines state specifically that "cities and counties should provide for the location of new schools and residential dwellings in a manner that seeks to avoid locating these uses in proximity to industrial facilities and uses that will contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety." The Deft facility uses hazardous materials in its paint manufacturing operations that are classified as Toxic Air Contaminants, explosive, regulated under Proposition 65, hazardous wastes, and as potentially nuisance causing for nearby residents. These issues are more specifically discussed in the sections below.

Given the nature of the hazardous materials used at the Deft facility, there is the potential for health impacts upon residents of an nearby residential development. The proposed residential land development project is incompatible with the existing Deft manufacturing operations.

2.1 Air Toxics

Several of the products used at the facility are classified as air toxics. The California Air Resources Board (ARB), a California Environmental Protection Agency (Cal-EPA) Board, regulates air toxics and manages the Toxic Air Contaminant List ("List"). This List identifies 244 substances that have either been identified by the ARB as Toxic Air Contaminants (TACs) in California or are known or suspected to be emitted in California and have potential adverse health effects. Two products used and emitted at Deft

respectively, contained on this List, are of particular concern given the proposal to construct residential units near to the site: hexavalent chrome and diesel.

2.1.1 Hexavalent Chrome

Chromium in the form of various alloys and compounds has been in widespread commercial use for over 100 years. Early applications included chrome pigments and tanning liquors. In recent decades, chromium has also been widely used in chromium alloys and chrome plating. The pigments used at Deft contain chromium in its hexavalent form. One of the occupational situations in which high exposure to hexavalent chromium has been documented to occur is in the chrome pigment manufacture (IARC, 1990).

Hexavalent chromium (Cr^{+6}) is a known carcinogen that can enter the body by inhalation or ingestion. Inhalation of Cr^{+6} over an extended period of time causes lung cancer. Epidemiological studies carried out in the Federal Republic of Germany, France, the Netherlands, Norway, the UK and the USA of workers in the production of chromate pigments have consistently shown excess risks for lung cancer (IARC, 1990). Cr^{+6} compounds may also cause adverse effects to the skin, the respiratory tract and, to a lesser degree, the kidneys in humans

Cr^{+6} is on most national and international lists of high toxicity materials. In the United States alone, Cr^{+6} is regulated as a Hazardous Substance, Hazardous Air Pollutant, Hazardous Waste, Toxic Chemical, and a Priority Pollutant under the Clean Water Act. In California, it is also listed as a Toxic Air Contaminant, as defined in the CA H&SC 39567 and 39660 et seq., "which may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health" (CA H&SC 39655). The ARB has concluded that Cr^{+6} is a human and animal carcinogen and it should be treated as a substance without a carcinogenic threshold (ARB Staff Report, 1985).

Worker protection standards and industry best management practices are required and implemented at the Deft facility in accordance with OSHA regulations. These standards however, are designed to address short-term exposures. Cancer risk is typically scientifically regarded as proportional to lifetime dose. Therefore, a prudent public health measure would be to limit preventable exposures to Cr^{+6}. Specifically, it would be prudent to avoid residential development near the Deft facility, where Cr^{+6} pigments are manufactured, in order to minimize any potential non-occupational exposure and reduce long-term cancer risk.

2.1.2 Diesel

The Deft facility houses shipping and receiving activities that enable the distribution of its products to its customers throughout the U.S. As a result, diesel-fueled trucks travel in and out of the facility all day long to unload materials and pick-up product for distribution.

Diesel exhaust includes over 40 substances that are listed by the U.S. EPA as hazardous air pollutants and by the ARB as TACs (OEHHA, 1998). Diesel particulate matter has been identified by the ARB as a TAC and represents 70 percent of the known potential cancer risk from air toxics in California (OEHHA, 2001). Diesel particulate matter contributes to particulate matter air pollution which has been shown to be associated with premature mortality and health effects such as asthma exacerbation and hospitalization due to aggravating heart and lung disease (ARB, 2005). Reducing diesel particulate emissions is in fact one of the ARBs highest public health priorities (ARB, 2005).

In order to quantify the risk associated with diesel particulate matter regulations, the ARB performed air quality modeling to estimate exposure and the associated potential cancer risk of onsite diesel-powered transport refrigeration units (TRU) for a typical distribution center (ARB, 2005). The assessment assumed a total onsite operating time for all TRUs of 300 hours per week. The estimated potential cancer risk was found to be over 100 in a million at 800 feet from the center for the TRU activity. This risk decreased to a 10 to 100 million range between 800 to 3,300 feet and fell off to less than 10 per million at approximately 3,600 feet. While TRU trucks do not typically frequent the Deft facility, the data are useful as emissions from other diesel-fueled trucks could be similar.

The SCAQMD also performed diesel air monitoring from distribution center operations in Mira Loma. This study found about an 80 percent drop off in concentration of diesel particulate matter at approximately 1,000 feet (ARB, 2005).

In short, exposure decreases as distance increases. It is reasonable to conclude, therefore, that an adequate buffer of not less than 1,000 feet between residences and the Deft manufacturing operations would decrease non-occupational exposure to diesel to acceptable levels.

2.2 Nitrocellulose

The Deft utilizes nitrocellulose, a highly flammable compound, in its manufacturing operations in accordance with its permit from the Orange County Fire Authority. The nitrocellulose is brought onsite in 55-gallon drums and dispensed to one of two tanks; 500 gallon and 900 gallon for processing. It is mixed with resins and solvents to make the company's clear wood finish product.

Nitrocellulose is a hazardous substance that is both flammable and reactive. Its primary physical danger is from fire or explosion and has been known to ignite or explode without warning when dry. Nitrocellulose burns fiercely when ignited, so attempts to control or extinguish a fire must be made from a safe distance. The lids of drums or tanks are liable to be blown off during a fire which could present a hazard to residents near the Deft facility. In addition, burning nitrocellulose gives off highly poisonous nitrous fumes which are considered a lung irritant with delayed action.

2.3 Proposition 65-regulated Chemicals

Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986, (Prop. 65) was enacted as a ballot initiative in November 1986. The Proposition was intended by its authors to protect California citizens and the State's drinking water sources from chemicals known to cause cancer, birth defects or other reproductive harm, and to inform citizens about exposures to such chemicals. Prop. 65 requires the Governor to publish, at least annually, a list of chemicals known to the State to cause cancer or reproductive toxicity. This list, which must be updated at least once a year, has grown to include approximately 750 chemicals since it was first published in 1987.

Prop. 65-listed chemicals found in products used at Deft such as toluene, lead, and cadmium are known as teratogens[1] by the state of California. Listed chemicals such as ethylbenzene, benzene, and ethyl acrylate are known carcinogens[2].

Under Prop. 65, Deft is required to provide "clear and reasonable" warning before knowingly and intentionally exposing anyone to a listed chemical. This warning can be given by a variety of means, such as by labeling a consumer product, posting signs at the workplace, or publishing notices in a newspaper. It is important to understand however, that Prop. 65 does not prohibit a business from exposing people to listed chemicals (OEHHA Fact Sheet). Within a workplace environment, there are other regulatory requirements requiring the use of personal protective equipment and ventilation that would protect workers from potential exposures. These requirements, however, do not address sensitive receptors, such as residents, dwelling in a nearby home or apartment complex.

While it could be argued the exposure to Prop. 65-listed chemicals in nearby residential dwellings would be lower than those at the Deft facility, there are studies that indicate that low level exposure to chemicals could be a precursor to severe health effects. For example, an ongoing population-based Swedish study, Women's Health in the Lund Area, was expanded to include low-level cadmium exposure (Åkesson, Lundh et al., 2005). Analysis of the data collected revealed a small but significant kidney response to low-level cadmium exposure. This suggests that low-level cadmium exposure may pose a significant public health risk. The researchers speculate that effect levels might be even lower for people with diabetes. These data raise concern when potentially sensitive receptors may be living adjacent to a manufacturing facility that uses products containing cadmium.

2.4 Hazardous Waste

Deft is a large quantity generator of hazardous waste as defined in 22 CCR 66262.10. As such, the facility generates approximately 5,000 gallons of liquid hazardous waste and approximately 50 55-gallon drums of solid hazardous waste every 3 months. The types of wastes generated include approximately 500 lbs/yr of wastes with chromium

[1] Teratogens are substances that may cause birth defects.
[2] Carcinogens are substances that may cause cancer.

compounds; 400 lbs/yr of xylene; 2,000 lbs/yr of methyl isobutyl ketone; and 4,000 lbs/yr of sec-butyl alcohol. These wastes are managed in accordance with EPA hazardous waste generator requirements. The site is also permitted for the temporary storage of hazardous waste through the Orange County Fire Authority.

2.3.1 Waste Treatment and Security

Certain liquid hazardous waste streams are also treated onsite in a fixed treatment unit (FTU) that operates under the Conditionally Authorized tier of the California Tiered Permitting requirements. Tiered Permitting (Chapter 6.5, Article 9 CA H&SC) refers to a graduated series of requirements applicable to hazardous waste generators conducting onsite treatment their own hazardous waste. California legislation (AB 1772) passed in 1992 established a five-tiered program for authorizing hazardous waste treatment and/or storage at many businesses that are required to have a state permit or authorization to do so. The new tiers were added to make permitting easier for businesses that treat hazardous waste onsite within their normal operations. Under the tiered permit system, the level of regulation is scaled to the relative risk and complexity involved under each treatment tier. In ascending order, the tiers are: conditional exemption (CE); conditional authorization (CA); and permit by rule (PBR) (California Code of Regulations, Title 22, Division 2, Chapter 4.5).

The Deft facility treats hazardous waste as a CA facility under the Tiered Permitting requirements. Under the CA tier, the facility is required to take certain measures to prevent unknown entry to the site and to minimize the possibility of the unauthorized entry of persons onto the facility. Deft has indeed implemented measures to address these security issues. However, these security requirements as stipulated in 22 CCR 66265.14 and CA H&SC 25200.3 do not address the situation where a CA FTU is located near residential dwellings where there may be children or adolescents that may want to satisfy their curiosities about a neighboring manufacturing facility and attempt to gain entry to the facility by scaling a fence or locked gate which constitute acceptable security measures for CA FTUs in the regulations.

2.5 Other Nuisance

Odors are a natural occurrence at any paint or coating manufacturing facility because of the nature of the hazardous materials that are being mixed to prepare the coatings. Organic solvents, many recognizable because of their strong or peculiar smell, are employed in the paint manufacturing operation. Odors are the most common source of air pollution complaints from residents (ARB, 2004). In addition to being an annoyance, odors can exacerbate underlying medical conditions and cause stress-induced illness. One way to minimize odor complaints is to utilize adequate buffers between odor sources and the public.

Because of the entrance and exit of the many diesel-fueled trucks into and out of the facility, there will be more noise to which a resident would be typically accustomed between the hours of 6 am and 6 pm. Exterior lights are maintained throughout the

evening as a security measure. As a result, daily operating lighting and evening lights could potentially impact nearby residents.

3.0 Buffer Zones

Recent monitoring and health-based studies indicate that air quality impacts from incompatible land uses can contribute to increases risk of illness, missed work and school, a lower quality of life, and higher costs for public health and pollution control. As a result, several California public agencies have addressed the issue of providing adequate distances between industrial land uses and land uses that involve sensitive individuals such as homes and schools.

The California Office of Planning and Research's General Plan Guidelines identifies buffer zones as a broad approach to land use compatibility. Buffer zones can be managed in two ways; a specific distance may be set on a case-by-case basis, or transitional land uses (such as open space, office uses, or commercial uses) may be used.

A review of the literature demonstrates that Cr^{+6} emissions can exist in the atmosphere at measurable levels at great distances from their sources. Grohse (1988) estimated that Cr^{+6} species exist at measurable levels at distances of up to 0.5 miles or greater from chromium emission sources. This is of particular concern given the proposed construction of residential units within 1,000 feet of a facility that uses Cr^{+6} in its manufacturing operations.

State law requires that school districts identify potential sources of toxic air pollutant releases within a quarter mile radius of the proposed school site. The ARB suggests that "planning agencies could use a similar approach to identify air toxics sources in the vicinity of proposed new housing or other types of projects frequented by sensitive individuals" (ARB, 2004). In this case, the siting of a residential development that will house sensitive individuals such as children or the elderly could have potential public health impacts given the Deft facility is a permitted emission source of Cr+6.

The ARB has stated that because living or going to school too close to diesel emission sources may increase both cancer and non-cancer health risks, it recommends that proximity be considered in the siting of new sensitive land uses (ARB, 2005). Analyses performed by both the ARB (2005) and the South Coast Air Quality Management District (date) indicate that providing a separation of 1,000 feet would substantially reduce diesel particulate matter concentrations and public exposure downwind of a distribution center. As a result, the ARB has recommended a separation of 1,000 feet based on the combination of risk analyses done for TRUs and the decrease in exposure predicted by the SCAQMD modeling (ARB, 2005).

Other municipalities are also in the early stages of setting policy with respect to management of incompatible land uses with the use of buffers. For instance, the City of San Diego has currently proposed a 1,000 foot buffer to separate industrial facilities that

are a source of toxic air contaminants or toxic substances and residential land uses (Economic Prosperity Element, The City of San Diego General Plan, July 2005).

3.1 Master Plating Case Study

In 2000, EPA and San Diego's nonprofit Environmental Health Coalition started a Federal Interagency Environmental Justice Demonstration Project to assist the Barrio Logan neighborhood[3] of San Diego, Calif. The goal was to mobilize all levels of government, as well as the community and local industry, to improve Barrio Logan's air quality and public health. EPA and community leaders established a partnership involving residents, government agencies, community groups, businesses, and nonprofits.

One focus of the partnership was incompatible land uses, which expose neighboring residents to excessive pollution levels. Master Plating, for example, a chrome-, nickel-, and cadmium-plating facility next door to homes, was a contentious issue in the community for years. Barrio Logan residents urged state and local agencies to look for "hot spots" where pollutants were concentrated. Master Plating turned out to be such a "hot spot" with high levels of airborne Cr^{+6} just outside the facility. While the business had been cited several times for violating laws regarding storage and disposal of hazardous materials, of additional concern was the fact that high levels Cr^{+6} had been detected in air samples taken from within the neighborhood

In March 2002, the County of San Diego sought a Temporary Restraining Order to close Master Plating. A settlement was negotiated between the County of San Diego and Master Plating which required that the business shut down on or before October 15, 2002; remove equipment; clean and decontaminate the facility; and completely remove all hazardous waste and materials under the supervision of the San Diego County Department of Environmental Health by November 15, 2002.

Chrome plating establishments had been a permitted land use within the Barrio Logan community for many years. A tailored zoning ordinance, the Barrio Logan Planned District Ordinance (PDO), was created in 1983. This PDO accommodated residential, commercial and industrial development but contained minimal development regulations to buffer incompatible land uses. As a result, the Barrio Logan PDO permitted residential development alongside heavy industrial uses, such as chrome plating. This lack of buffers between residential and industrial activities contributed to the unfortunate relationship between Master Plating and its neighborhood residents. The co-location resulted in potential exposure of neighboring residents to Cr+6 and the permanent closure of a local business.

[3] Barrio Logan is an inner city San Diego neighborhood of roughly 6,000 residents, 85% of them Latino. The community is a mix of homes, commercial buildings, and industry, including a waterfront industrial and naval complex.

4.0 Conclusions

Based on the findings, it is concluded that the industrial manufacturing operations at the Deft Inc. facility are incompatible with nearby residential development due to the potential health and safety hazards that could be posed to residents in the proposed development from the industrial activities at the Deft facility. While the facility has an excellent compliance history and has implemented plans and programs to prevent environmental, health and safety risks associated with its operations; these plans and programs are designed to protect Deft workers and not nearby residents.

The incompatibility of this siting is further evident in the ARB's Draft Air Quaity and Land Use Handbook (2004). This document cites an example of a potential incompatible land use scenario that could result from the placement of new residential areas in close proximity to polluting sources. The example is "a proposed site for new housing is downwind of a permitted small business or light-industrial facility that will emit a small amount of highly potent air toxic, such as hexavalent chrome." The second example listed is "a newly proposed residential area or school that would be near an existing warehousing complex that induces a great deal of diesel truck traffic." Both of these examples are similar to the situation faced by Deft given the proposal to develop residential units near its manufacturing operations.

Given the nature of the operations associated with the paint manufacturing activities at the Deft manufacturing facility, and the recent experience in Barrio Logan, California; it would be prudent to adequately separate any new residential development projects from the Deft facility. Based on ARB studies and data, the most appropriate public health approach to this separation would be to establish a buffer of 1,000 feet between the manufacturing and any residential dwellings.

5.0 Limitations

This document is intended for the sole usage of Deft and the parties designated by GECCo. Use of this white paper is subject to the agreement between GECCo and Deft. Any unauthorized misuse of or reliance upon the document shall be without risk or liability to GECCo. This document is to be considered a white paper. It is an educational document that expounds on a particular industry issue – in this case, the potential incompatible land use that would result from the construction of residential units nearby the Deft facility. This document serves as a position paper. It is a document that presents Deft's position or philosophy about a social, political, or other subject, or a not-too-detailed technical explanation of an architecture, framework, or product technology. It is not meant to serve as a scientific study or scientific research paper. Factual information regarding operations, conditions and test data were obtained from Deft and have been assumed by GECCo to be correct and complete. Since the facts stated in this document are subject to professional interpretation, they could result in differing conclusions.

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Attachment B
September 28, 2006 Settlement of State Comments

SACOG

Air Quality Committee

Item #06-10-5
Information

September 28, 2006

Settlement of State Climate Change Comments on Orange County Transportation Plan

Issue: How did Orange County Transportation Authority (OCTA) account for the impacts of global warming associated with their 2006 Long-Range Transportation Plan?

Recommendation: None. This is an informational item.

Discussion: On March 30, 2006, the Attorney General of the State of California submitted comments on OCTA's 2006 Long-Range Transportation Plan (Plan) Draft Program Environmental Impact Report (DPEIR). The Attorney General's comments (attached) focused on the inadequate analysis of air quality impacts associated with the Plan and the failure of the DPEIR to analyze the impacts of the Plan on climate change, in violation of the California Environmental Quality Act (CEQA).

In particular, the Attorney General pointed out the heavy reliance of the Plan on vehicular travel and improvements to freeways, roads and streets, and the acknowledged increase in vehicle miles traveled over the life of the Plan, but the DPEIR never analyzed "one of the most important impacts of vehicle emissions-greenhouse gasses and resulting climate change."

On July 20, 2006, the Attorney General's office and OCTA met to discuss the issues raised in the attached letter and have agreed to resolve them, quoted below:

1. *OCTA has included in its Final Environmental Impact Report a discussion of global warming impacts and the relation of the Plan to greenhouse gas emissions;*
2. *OCTA will explore with ICLEI's* [International Council for Local Environmental Initiatives] *Local Government Climate change group whether it can do an inventory of transportation-related greenhouse gas emissions within OCTA's control for the OCTA area. If such inventory is feasible, OCTA will complete the inventory.*
3. *OCTA will work the state's climate action team on issues related to local government transportation-related issues. Subject to the appropriate statutory authorization and jurisdiction being granted to the California Air Resources Board, the California Environmental Protection Agency or other entity, OCTA will provide local input into any requirements to inventory and evaluate transportation-related greenhouse gas emissions.*

The Attorney General's office, in recognition of the above accords, agreed not to pursue any legal action related to OCTA's environmental documentation for its long-range plan.

Approved by:

Mike McKeever
Executive Director

MM:DHY:gg
Attachment

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Deft Comments:
Attachment B

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Orange County Transportation Authority: Lou Correa, County of Orange

Riverside County Transportation Commission: Robin Lowe, Hemet

Ventura County Transportation Commission: Keith Millhouse, Moorpark

11.14.06

21 February 2007

Mr. Bill Jacobs, AICP
Principal Planner
City of Irvine
P.O. Box 19575
Irvine, CA 92623-9575

RE: SCAG Comments on the Notice of Preparation of a Draft Environmental Impact Report for the Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code Project - SCAG No. I 20070011

Dear Mr. Jacobs,

Thank you for submitting the Notice of Preparation (NOP) of the Draft Environmental Impact Report (DEIR) for the Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code project to the Southern California Association of Governments (SCAG) for review and comment. As the clearinghouse for regionally significant projects per Executive Order 12372, SCAG reviews the consistency of local plans, projects, and programs with regional plans. This activity is based on SCAG's responsibilities as a regional planning organization pursuant to state and federal laws and regulations. Guidance provided by these reviews is intended to assist local agencies and project sponsors to take actions that contribute to the attainment of regional goals and policies.

SCAG staff reviewed the aforementioned NOP, and has determined that the proposed project is regionally significant per the California Environmental Quality Act (CEQA) Guidelines (Section 15206). The proposed project considers a project that has the potential for causing significant effects on the environment extending beyond the city in which the project would be located. CEQA requires that EIRs discuss any inconsistencies between the proposed project and applicable general plans and regional plans (Section 15125 [d]). If there are inconsistencies, an explanation and rationalization for such inconsistencies should be provided.

Policies of SCAG's Regional Comprehensive Plan and Guide, Regional Transportation Plan, and Compass Growth Vision that may be applicable to your project are outlined in the attachment. We expect the EIR to specifically cite the appropriate SCAG policies and address the manner in which the project is consistent with applicable core policies or supportive of applicable ancillary policies. Please use our policy numbers to refer to them in your EIR. Also, we would encourage you to use a side-by-side comparison of SCAG policies with a discussion of the consistency or support of the policy with the proposed project.

SCAG's Compass Growth Vision, adopted in 2004, encourages better relationships between housing, transportation, and employment. For a clearer understanding of the intent of and possibilities with Compass, please consult our website, www.socalcompass.org in addition to the guidance offered in this letter.

Please provide a minimum of 45 days for SCAG to review the EIR when this document is available. If you have any questions regarding the attached comments, please contact me at (213) 236-1919. Thank you.

Sincerely,

Jill Egerman

Jill Egerman
Associate Environmental Planner, Intergovernmental Review

DOCS# 132441

COMMENTS ON THE NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE DRAFT IRVINE BUSINESS COMPLEX (IBC) VISION PLAN AND MIXED USE OVERLAY ZONING CODE - SCAG NO. I 20070011

PROJECT DESCRIPTION

The project consists of a 2,800-acre complex located within the western portion of the City of Irvine. The project proposes an Irvine Business Complex (IBC) Residential Vision Plan; the IBC Residential Mixed Use Overlay Zoning Code; and the Infrastructure Improvements outlines to improve walkability and connectivity within the IBC. The EIR will also review alternatives relating to one or more proposed "Town Center(s)," in which higher densities would be permitted in conjunction with mixed use development as part of a neighborhood corridor.

CONSISTENCY WITH REGIONAL COMPREHENSIVE PLAN AND GUIDE POLICIES

The **Growth Management Chapter (GMC)** of the Regional Comprehensive Plan and Guide (RCPG) contains the following policies that are particularly applicable and should be addressed in the Draft EIR for the for the Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code.

3.01 *The population, housing, and jobs forecasts, which are adopted by SCAG's Regional Council and that reflect local plans and policies, shall be used by SCAG in all phases of implementation and review.*

Regional Growth Forecasts

The EIR should reflect the most current SCAG forecasts, which are the 2004 RTP (April 2004) Population, Household and Employment forecasts. The forecasts for your region, subregion and city are as follows:

Adopted SCAG Regionwide Forecasts

	2010	2015	2020	2025	2030
Population	19,208,661	20,191,117	21,137,519	22,035,416	22,890,797
Households	6,072,578	6,463,402	6,865,355	7,263,519	7,660,107
Employment	8,729,192	9,198,618	9,659,847	10,100,776	10,527,202

Adopted Orange County Council of Governments (OCCOG) Forecasts

	2010	2015	2020	2025	2030
Population	3,291,628	3,369,745	3,433,609	3,494,394	3,552,742
Households	1,034,027	1,046,473	1,063,976	1,081,421	1,098,474
Employment	1,749,985	1,801,602	1,848,135	1,887,542	1,921,806

City of Irvine Forecasts

	2010	2015	2020	2025	2030
Population	192,186	195,740	198,689	201,491	203,965
Households	65,633	66,191	67,146	68,054	69,022
Employment	246,189	254,770	262,115	267,848	271,469

The 2004 RTP growth forecast at the regional, county and subregional level was adopted by RC in April, 2004. City totals are the sum of small area data and should be used for advisory purposes only.

3.03 The timing, financing, and location of public facilities, utility systems, and transportation systems shall be used by SCAG to implement the region's growth policies.

GMC POLICIES RELATED TO THE RCPG GOAL TO IMPROVE THE REGIONAL STANDARD OF LIVING

The Growth Management goals to develop urban forms that enable individuals to spend less income on housing cost, that minimize public and private development costs, and that enable firms to be more competitive, strengthen the regional strategic goal to stimulate the regional economy. The evaluation of the proposed project in relation to the following policies would be intended to guide efforts toward achievement of such goals and does not infer regional interference with local land use powers.

3.04 Encourage local jurisdictions' efforts to achieve a balance between the types of jobs they seek to attract and housing prices.

3.05 Encourage patterns of urban development and land use which reduce costs on infrastructure construction and make better use of existing facilities.

3.06 Support public education efforts regarding the costs of various alternative types of growth and development.

3.07 Support subregional policies that recognize agriculture as an industry, support the economic viability of agricultural activities, preserve agricultural land, and provide compensation for property owners holding lands in greenbelt areas.

3.08 Encourage subregions to define an economic strategy to maintain the economic vitality of the subregion, including the development and use of marketing programs, and other economic incentives, which support attainment of subregional goals and policies.

3.09 Support local jurisdictions' efforts to minimize the cost of infrastructure and public service delivery, and efforts to seek new sources of funding for development and the provision of services.

3.10 Support local jurisdictions' actions to minimize red tape and expedite the permitting process to maintain economic vitality and competitiveness.

GMC POLICIES RELATED TO THE RCPG GOAL TO IMPROVE THE REGIONAL QUALITY OF LIFE

The Growth Management goals to attain mobility and clean air goals and to develop urban forms that enhance quality of life, that accommodate a diversity of life styles, that preserve open space and natural resources, and that are aesthetically pleasing and preserve the character of communities, enhance the regional strategic goal of maintaining the regional quality of life. The evaluation of the proposed project in relation to the following policies would be intended to provide direction for plan implementation, and does not allude to regional mandates.

3.11 Support provisions and incentives created by local jurisdictions to attract housing growth in job-rich subregions and job growth in housing-rich subregions.

3.12 Encourage existing or proposed local jurisdictions' programs aimed at designing land uses which encourage the use of transit and thus reduce the need for roadway expansion, reduce the number of auto trips and vehicle miles traveled, and create opportunities for residents to walk and bike.

3.13 Encourage local jurisdictions' plans that maximize the use of existing urbanized areas accessible to transit through infill and redevelopment.

3.14 Support local plans to increase density of future development located at strategic points along the regional commuter rail, transit systems, and activity centers.

3.15 Support local jurisdictions' strategies to establish mixed-use clusters and other transit-oriented developments around transit stations and along transit corridors.

3.16 Encourage developments in and around activity centers, transportation corridors, underutilized infrastructure systems, and areas needing recycling and redevelopment.

3.17 Support and encourage settlement patterns which contain a range of urban densities.

3.18 Encourage planned development in locations least likely to cause adverse environmental impact.

3.19 National Forests shall remain permanently preserved and used as open space. SCAG shall support policies and actions that preserve open space areas identified in local, state, and federal plans.

3.20 Vital resources as wetlands, groundwater recharge areas, woodlands, production lands, and land containing unique and endangered plants and animals should be protected.

3.21 Encourage the implementation of measures aimed at the preservation and protection of recorded and unrecorded cultural resources and archaeological sites.

3.22 Discourage development, or encourage the use of special design requirements, in areas with steep slopes, high fire, flood, and seismic hazards.

3.23 Encourage mitigation measures that reduce noise in certain locations, measures aimed at preservation of biological and ecological resources, measures that would reduce exposure to seismic hazards, minimize earthquake damage, and to develop emergency response and recovery plans.

GMC POLICIES RELATED TO THE RCPG GOAL TO PROVIDE SOCIAL, POLITICAL, AND CULTURAL EQUITY

The Growth Management Goal to develop urban forms that avoid economic and social polarization promotes the regional strategic goal of minimizing social and geographic disparities and of reaching equity among all segments of society. The evaluation of the proposed project in relation to the policy stated below is intended guide direction for the accomplishment of this goal, and does not infer regional mandates and interference with local land use powers.

3.24 Encourage efforts of local jurisdictions in the implementation of programs that increase the supply and quality of housing and provide affordable housing as evaluated in the Regional Housing Needs Assessment.

3.25 Encourage the efforts of local jurisdictions, employers and service agencies to provide adequate training and retraining of workers, and prepare the labor force to meet the future challenges of the regional economy.

3.26 Encourage employment development in job-poor localities through support of labor force retraining programs and other economic development measures.

3.27 Support local jurisdictions and other service providers in their efforts to develop sustainable communities and provide, equally to all members of society, accessible and effective services such as: public education, housing, health care, social services, recreational facilities, law enforcement, and fire protection.

AIR QUALITY CHAPTER

The **Air Quality Chapter** core actions related to the proposed project include:

5.07 Determine specific programs and associated actions needed (e.g., indirect source rules, enhanced use of telecommunications, provision of community-based shuttle services, provision of demand management based programs, or vehicle-miles-traveled/emission fees) so that options to command and control regulation can be assessed.

5.11 Through the environmental document review process, ensure that plans at all levels of government (regional, air basin, county, subregional, and local) consider air quality, land use, transportation, and economic relationships to ensure consistency and minimize conflicts.

OPEN SPACE AND CONSERVATION CHAPTER

The **Open Space and Conservation Chapter** goals related to the proposed project include:

9.01 Provide adequate land resources to meet the outdoor recreation needs of the present and future residents in the region and to promote tourism in the region.

9.02 Increase the accessibility to open space lands for outdoor recreation.

9.03 Promote self-sustaining regional recreation resources and facilities.

9.04 Maintain open space for adequate protection to lives and properties against natural and manmade hazards.

9.05 Minimize potentially hazardous developments in hillsides, canyons, areas susceptible to flooding, earthquakes, wildfire and other known hazards, and areas with limited access for emergency equipments.

9.06 Minimize public expenditure for infrastructure and facilities to support urban type uses in areas where public health and safety could not be guaranteed.

9.07 Maintain adequate viable resource production lands, particularly lands devoted to commercial agriculture and mining operations.

9.08 Develop well-managed viable ecosystems or known habitats of rare, threatened and endangered species, including wetlands.

WATER QUALITY CHAPTER RECOMMENDATIONS AND POLICY OPTIONS

The **Water Quality Chapter** goals related to the proposed project include:

11.01 Streamline water quality regulatory implementation. Identify and eliminate overlaps with other regulatory programs to reduce economic impacts on local businesses.

11.02 Encourage "watershed management" programs and strategies, recognizing the primary role of local governments in such efforts.

11.05 Support regional efforts to identify and cooperatively plan for wetlands to facilitate both sustaining the amount and quality of wetlands in the region and expediting the process for obtaining wetlands permits.

11.07 Encourage water reclamation throughout the region where it is cost-effective, feasible, and appropriate to reduce reliance on imported water and wastewater discharges. Current administrative impediments to increased use of wastewater should be addressed.

REGIONAL TRANSPORTATION PLAN

The **2004 Regional Transportation Plan (RTP)** also has goals and policies that are pertinent to this proposed project. This RTP links the goal of sustaining mobility with the goals of fostering economic development, enhancing the environment, reducing energy consumption, promoting transportation-friendly development patterns, and encouraging fair and equitable access to residents affected by socio-economic, geographic and commercial limitations. The RTP continues to support all applicable federal and state laws in implementing the proposed project. Among the relevant goals and policies of the RTP are the following:

Regional Transportation Plan Goals
- Maximize mobility and accessibility for all people and goods in the region.
- Ensure travel safety and reliability for all people and goods in the region.
- Preserve and ensure a sustainable regional transportation system.
- Maximize the productivity of our transportation system.
- Protect the environment, improve air quality and promote energy efficiency.
- Encourage land use and growth patterns that complement our transportation investments.

Regional Transportation Plan Policies
- Transportation investments shall be based on SCAG's adopted Regional Performance Indicators.

Performance Indicator	Performance Measures	Definition	Performance Outcome
Mobility	• Average Daily Speed	Speed-experienced by travelers regardless of mode.	10% Improvement
	• Average Daily Delay	Delay-excess travel time resulting from the difference between a reference speed and actual speed. Total daily delay and daily delay per capita are indicators used.	40% Improvement
Accessibility	• Percent PM peak work trips within 45 minutes of home		Auto 90% Transit 37%
	• Distribution of work trip travel times		Auto 8% Improvement Transit 8% Improvement
Reliability	• Percent variation in travel time	Day-to-day change in travel times experienced by travelers. Variability results from accidents, weather, road closures, system problems and other non-recurrent conditions.	10% Improvement
Safety	• Accident Rates	Measured in accidents per million vehicle miles by mode.	0.3% Improvement
Performance Indicator	**Performance Measures**	**Definition**	**Performance Outcome**
Cost Effectiveness	• Benefit-to-Cost (B/C) Ratio	Ratio of benefits of RTP investments to the associated investments costs.	$3.08
Productivity	• Percent capability utilized during peak conditions	Transportation infrastructure capacity and services provided. • Roadway Capacity - vehicles per hour per lane by type of facility. • Transit Capacity – seating capacity utilized by mode.	20% Improvement at known bottlenecks N/A
Sustainability	• Total cost per capita to sustain current system performance	Focus in on overall performance, including infrastructure condition Preservation measure is a sub-set of sustainability.	$20 per capita, primarily in preservation costs
Preservation	• Maintenance cost per capita to preserve system at base year conditions	Focus is on infrastructure condition. Sub-set of sustainability.	Maintain current conditions
Environmental	• Emissions generated by travel	Measured/forecast emissions include CO, NOX, PM10, SOX and VOC. CO2 as secondary measure to reflect greenhouse emissions.	Meets conformity requirements
Environmental Justice	• Expenditures by quintile and ethnicity	Proportionate share of expenditures in the 2004 RTP by each quintile.	No disproportionate impact to any group or quintile

• Benefit vs. burden by quintiles	Proportionate share of benefits to each quintile ethnicity. Proportionate share of additional airport noise by ethnic group.

- Ensuring safety, adequate maintenance, and efficiency of operations on the existing multi-modal transportation system will be RTP priorities and will be balanced against the need for system expansion investments.

- RTP land use and growth strategies that differ from currently expected trends will require a collaborative implementation program that identifies required actions and policies by all affected agencies and sub-regions.

GROWTH VISIONING

The fundamental goal of the Compass Growth Visioning effort is to make the SCAG region a better place to live, work and play for all residents regardless of race, ethnicity or income class. Thus, decisions regarding growth, transportation, land use, and economic development should be made to promote and **sustain** for future generations the region's **mobility**, **livability** and **prosperity**. The following "Regional Growth Principles" are proposed to provide a framework for local and regional decision making that improves the quality of life for all SCAG residents. Each principle is followed by a specific set of strategies intended to achieve this goal.

Principle 1: Improve **mobility** for all residents
- Encourage transportation investments and land use decisions that are mutually supportive.
- Locate new housing near existing jobs and new jobs near existing housing.
- Encourage transit-oriented development.
- Promote a variety of travel choices

Principle 2: Foster **livability** in all communities
- Promote infill development and redevelopment to revitalize existing communities.
- Promote developments, which provide a mix of uses.
- Promote "people scaled," walkable communities.
- Support the preservation of stable, single-family neighborhoods.

Principle 3: Enable **prosperity** for all people
- Provide, in each community, a variety of housing types to meet the housing needs of all income levels.
- Support educational opportunities that promote balanced growth.
- Ensure environmental justice regardless of race, ethnicity or income class.
- Support local and state fiscal policies that encourage balanced growth
- Encourage civic engagement.

Principle 4: Promote **sustainability** for future generations
- Preserve rural, agricultural, recreational and environmentally sensitive areas.
- Focus development in urban centers and existing cities.
- Develop strategies to accommodate growth that uses resources efficiently, eliminate pollution and significantly reduce waste.

- Utilize "green" development techniques.

CONCLUSION

All feasible measures needed to mitigate any potentially negative regional impacts associated with the proposed project should be implemented and monitored, as required by CEQA.

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

Roles and Authorities

THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG) is a ***Joint Powers Agency*** established under California Government Code Section 6502 et seq. Under federal and state law, SCAG is designated as a Council of Governments (COG), a Regional Transportation Planning Agency (RTPA), and a Metropolitan Planning Organization (MPO). SCAG's mandated roles and responsibilities include the following:

SCAG is designated by the federal government as the Region's ***Metropolitan Planning Organization*** and mandated to maintain a continuing, cooperative, and comprehensive transportation planning process resulting in a Regional Transportation Plan and a Regional Transportation Improvement Program pursuant to 23 U.S.C. '134, 49 U.S.C. '5301 et seq., 23 C.F.R. '450, and 49 C.F.R. '613. SCAG is also the designated ***Regional Transportation Planning Agency***, and as such is responsible for both preparation of the Regional Transportation Plan (RTP) and Regional Transportation Improvement Program (RTIP) under California Government Code Section 65080 and 65082 respectively.

SCAG is responsible for developing the demographic projections and the integrated land use, housing, employment, and transportation programs, measures, and strategies portions of the ***South Coast Air Quality Management Plan***, pursuant to California Health and Safety Code Section 40460(b)-(c). SCAG is also designated under 42 U.S.C. '7504(a) as a ***Co-Lead Agency*** for air quality planning for the Central Coast and Southeast Desert Air Basin District.

SCAG is responsible under the Federal Clean Air Act for determining ***Conformity*** of Projects, Plans and Programs to the State Implementation Plan, pursuant to 42 U.S.C. '7506.

Pursuant to California Government Code Section 65089.2, SCAG is responsible for ***reviewing all Congestion Management Plans (CMPs) for consistency with regional transportation plans*** required by Section 65080 of the Government Code. SCAG must also evaluate the consistency and compatibility of such programs within the region.

SCAG is the authorized regional agency for ***Inter-Governmental Review*** of Programs proposed for federal financial assistance and direct development activities, pursuant to Presidential Executive Order 12,372 (replacing A-95 Review).

SCAG reviews, pursuant to Public Resources Code Sections 21083 and 21087, Environmental Impacts Reports of projects of regional significance for consistency with regional plans [California Environmental Quality Act Guidelines Sections 15206 and 15125(b)].

Pursuant to 33 U.S.C. '1288(a)(2) (Section 208 of the Federal Water Pollution Control Act), SCAG is the authorized ***Areawide Waste Treatment Management Planning Agency***.

SCAG is responsible for preparation of the ***Regional Housing Needs Assessment***, pursuant to California Government Code Section 65584(a).

SCAG is responsible (with the Association of Bay Area Governments, the Sacramento Area Council of Governments, and the Association of Monterey Bay Area Governments) for preparing the ***Southern California Hazardous Waste Management Plan*** pursuant to California Health and Safety Code Section 25135.3.

Revised July 2001

IRVINE RANCH WATER DISTRICT 15600 Sand Canyon Ave., P.O. Box 57000, Irvine, CA 92619-7000 (949) 453-5300

February 22, 2007

Bill Jacobs
Principal Planner
City of Irvine
P.O. Box 19575
Irvine, CA 92623-9575

Subject: Notice of Preparation of a Draft Environmental Impact Report –Irvine Business Complex Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36)

Dear Mr. Jacobs:

Irvine Ranch Water District (IRWD) has received and reviewed the subject Notice of Preparation (NOP) for the Draft Environmental Impact Report (DEIR) - Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code Project. The NOP correctly identifies IRWD as the potable water, nonpotable water, and wastewater service provider.

The Environmental Checklist and Checklist Discussion correctly states additional analysis, communication, and coordination will be required to determine the extent of impacts to existing facilities. The analysis should be based on IRWD's Water Resources Master Plan (WRMP) and wastewater/sewer collection plans, with specific facility evaluations coordinated with IRWD staff. The DEIR should present the results from this analysis and indicate that the project proponent will be responsible for "fair share costs" associated with impacts to IRWD systems and facilities.

If the proposed IBC Vision Plan is processed as a General Plan Amendment to the City's General Plan, then an increase of residential density within the IBC would occur. IRWD is required by law (SB610) to provide a Water Supply Assessment (WSA) to ensure that adequate supplies will be available for future projects. IRWD has received a WSA request for the Vision Plan from the City, and is evaluating this request. Previous WSA's have included demands for the "approved units" within the IBC in IRWD's existing and committed demand "without the project" (baseline). Baseline demands consist of demand from existing development, plus demand from development that has both approved zoning and, (if required by the Assessment Law) an adopted WSA. Therefore, some of the land uses identified by the City as "existing" in the IBC Vision Plan will be considered in the WSA "projected" IBC land uses/water demand (i.e., "with-project"). For further information regarding WSA preparation, please contact Kellie Welch at (949) 453-5604.

In addition, IRWD prepares Sub Area Master Plans (SAMP) to fully analyze demands for new and revised land uses. SAMP preparation for the IBC is currently in process, and is expected to

be complete by August 2007 for the land use changes currently envisioned for the IBC. Because the NOP is in advance of the SAMP, analysis of water and sewer demand projections and capacity of IRWD facilities required to serve the proposed project will need to be completed as a part of the DEIR. Please contact Michael Hoolihan at (949) 453-5553 regarding SAMP preparation.

Finally, the NOP depicts a "conceptual location" for a Community Park at the southeast corner of Michelson Drive and Carlson Avenue (Planning Area 23) on land owned by IRWD. Please note that this location is outside of the limits of the IBC and that this area is designated as High Density Residential and Preservation on the City's General Plan Land Use Map. In addition, this area is identified as a "development area" in the 1988 Open Space Initiative. Please note the accurate General Plan land use designations and discuss all impacts associated with placing a community park in this location in the DEIR. For further information, please contact Terry Loomis at (949) 453-5340.

IRWD appreciates the opportunity to review and comment on the NOP. If you have any questions or require additional information, please call Natalie Likens, Engineering Technician, at (949) 453-5633.

Sincerely,



Richard A. Diamond
Director of Water Resources and Environmental Quality

RAD/NRL

cc: Malcolm Cortez, IRWD
Mike Hoolihan, IRWD
Kellie Welch, IRWD
Terry Loomis, IRWD

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File No. 41456

February 22, 2007

VIA E-MAIL AND U.S. MAIL

Mr. Bill Jacobs, AICP
Principal Planner
City of Irvine
One Civic Center Plaza
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Irvine, CA 92623-9575

Re: Jamboree Village/IBC EIR NOP/Scoping Comments

Dear Mr. Jacobs:

On behalf of RHC Communities, an industrial developer with interests in the Irvine Business Complex ("IBC"), we are submitting the following comments for consideration as the City moves forward with preparation of an EIR for the Vision Plan and Mixed Use Overlay Zone.

1. The Vision Plan Overlay Zone ("VPOZ") should clearly delineate mixed-use areas from industrial/research and development/office areas ("business use") to ensure that no further erosion occurs in the business use base. These areas should be protected with an enforceable buffer that is not subject to "interpretation" so as to prevent residential and mixed-use incursion. Applications for residential uses should not be accepted in these areas. Consideration should be given to protecting these areas through multiple development agreements

2. Mixed-use cores should be the focal point of residential areas providing for active recreation parks, shopping for daily needs, entertainment, libraries; and school sites to minimize the need for students to be bussed out of the community. If this cannot be achieved, further residential development should not occur. The VPOZ should specifically designate sites for these and other community facilities. A phasing plan should be provided to ensure that no further residential development occurs until these facilities are in place to meet the needs of existing and future residents.

3. The Overlay Zone should not be used solely to provide after-the-fact justification for approval and proposed residential units or as a pretext to remove business uses from the area. The VPOZ must be drafted to also allow continued business use development and expansion in areas which are set aside for continuing business activity. Incentives should be

provided to maximize the potential for keeping businesses in the IBC and to avoid creating a jobs to housing imbalance. Additionally, the City should facilitate creation of an IBC business association in conjunction with the Irvine Chamber of Commerce to effectively address IBC-wide issues as they arise.

4. If serious consideration is to be given to accommodating increased pedestrian activity, alternative transportation modes, and future residential construction, traffic calming devices must be proposed and analyzed, including substantial reduction of speed limits along the major thoroughfares and installation of landscape medians. The effect of these changes would be to reduce through traffic and its associated noise and air pollution. The change would also provide an opportunity to create a sense of community identity through the creative use of hardscape features.

5. A "creek walk" along the west bank of San Diego Creek is proposed between Barranca Parkway and Main Street. This proposal should be reconsidered and deleted because a master planned trail with connecting links to a regional trial system is already located on the east bank of San Diego Creek. Further, a creek walk along the west bank between Main Street and Barranca Parkway has no meaningful connection to existing trails or staging area, does not connect locations which pedestrians could use; and lacks any scenic amenities, with views limited to a concrete/rip-rap lined channel and tilt-up industrial buildings. The City would be better off enhancing the east bank trail which is already part of a regional trail system.

6. The February 1, 2007 staff report to the Planning Commission notes "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." There is nothing in the staff report to back up this conclusion. Before any work begins on the EIR, a market study should be prepared to test this conclusion, addressing such issues as job loss in the IBC with conversion of property to residential uses, the likelihood of the IBC attracting local workers as residents, the existing and foreseeable job base in the area, and expected residential demographics. The market study should also include a housing component to ensure that diverse housing types are provided to accommodate diverse income levels identified in the newly released RHNA for the City.

7. The Overlay Zone and EIR should provide a strict phasing plan for the construction of additional residences and construction or expansion of business uses. All new development should be directly linked to expanded roadway and intersection capacity which meets adopted level of service standards for the IBC during peak travel periods. Because this area is already extremely congested, development should not be permitted to proceed without needed improvements merely because fees have been paid pursuant to a development agreement or otherwise. Roadway improvements in the IBC should be in the City's near-term capital budget and should commence independent of fee payment, if necessary. This concept should also apply to ensuring that adequate water supply, sewer capacity, law enforcement and fire

protection services can be provided. The water supply analysis should meet the test established by the California Supreme Court in the *Vineyard* decision.

8. Traffic can be expected to increase significantly during peak hours with the extensive residential construction that will occur through implementation of the Overlay Zone. In analyzing the impact of additional traffic, no credit should be given to shuttle transit which only exists within the IBC and does not provide high-speed connections out of the area. Before commencing work on the EIR, a study should be prepared to evaluate the potential for restricting private car usage in favor of transit alternatives. An alternative transit system, with out of area connections should be part of the Overlay Zone and should be implemented concurrent with near-term residential construction.

9. With reference to the growing market demand for residential uses, the above-referenced market study should confirm the level of demand and the type of housing for which demand exists before finalizing the parameters of the Overlay Zone and beginning the EIR process. Similarly, the market study should also evaluate the potential for growth in the area's business use sector, as potential competition to adding more residences.

10. In evaluating the total number of dwelling units which may be allowed in the IBC, consideration should be given to maintaining enough capacity for growth and development in the business sector. To serve future business demands, residential and non-residential "caps" should be adopted to maintain peak period level-of-service standards. Additionally, a more equitable system should be devised through the Overlay Zone to eliminate the trip budget allocation by parcel and the ability to purchase trips from underutilized parcels. The current trip budget system makes it very difficult to plan roadway improvements in a comprehensive fashion when new impacts are created with many of the transfers which have taken place to date.

11. Traffic along the I-405 and SR-55 freeways adjacent to the IBC is extremely congested for many hours during the day, especially during the morning and afternoon peak commute periods. New development in the IBC should provide funding to CALTRANS through a fee or other requirement to ensure that all feasible improvements are provided to the freeway main line and ramps to address impacts associated with additional residential development in the IBC. Additionally, with the expected residential growth in the IBC, coordination should occur with the abutting cities of Newport Beach, Costa Mesa, Santa Ana, and Tustin through a comprehensive area-wide traffic and improvement needs analysis to ensure that the City also addresses IBC impacts in these jurisdictions, if any. Such an analysis is an essential part of the EIR and should result in appropriate mitigation measures to address the City's responsibilities for impacts on both sides of the city boundary.

12. While the historical name, Irvine Business Complex, may no longer be accurate in light of increasing mixed-use and residential development occurring in the area, it also would be inaccurate to designate the area as Jamboree Village, which gives it a

residential/commercial connotation. If the City is truly committed to maintaining the business use in the area, the proposed Jamboree Village designation is not appropriate.

We look forward to working with you throughout this process by participating in the public hearings and commenting on the draft EIR. Please keep this office and RHC Communities on the project mailing and correspondence lists.

Very truly yours,

Deborah M. Rosenthal

Deborah M. Rosenthal, AICP

DMR/mlp

41456\303186v1
cc: Karen Blankenzee

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File No. 1580103-0003

February 22, 2007

VIA FACSIMILE AND E-MAIL

Mr. Bill Jacobs
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Irvine, California 92623-9575
Email: bjacobs@ci.irvine.ca.us
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Re: Comments re Notice of Preparation of Draft Environmental Impact Report ("EIR") in connection with Draft Irvine Business Complex ("IBC") Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36) ("Project")

Dear Mr. Jacobs:

We are in receipt of the Notice of Preparation ("NOP") of the Draft Environmental Impact Report for the above-referenced Project and thank you for the opportunity to make these comments. As you know, this firm represents Verizon Wireless in connection with its data facility located within the IBC. We believe that the results of the EIR will expose the Project's incompatibility with the current surrounding business and manufacturing operations in the IBC. In addition, we expect the EIR to fully evaluate feasible non-residential development alternatives for the IBC that would not have the same adverse impact on the current occupants of the IBC, any new occupants of the IBC, or the community at large. In order to empower the applicable decision makers with the ability to make the right decision for all interested parties, they must have sufficient information about the Project's impacts, and therefore, the scope of the EIR must explore *all* of the potential impacts that the Project may have on the broader community.

As you are aware, the IBC is an office and industrial area and many of its occupants have located there in order to isolate their operations from residential neighborhoods. Verizon Wireless, which is a single tenant occupant of an approximately 42,000 square foot data center (the "Data Center"), intentionally located

its operations in the IBC for such reasons. Verizon Wireless (and its predecessors) have occupied the Data Center and have been operating in the IBC since approximately 1990 and Verizon Wireless needs to be able to rely on its ability to continue to use the Data Center for years to come. We note that Verizon Wireless has made substantial investments in this property over the years based upon its business needs, its intention to stay in the facility for the long term, and *its expectation that the nature of the IBC as a business complex would remain intact.* Verizon Wireless desires to continue operating in the IBC and intends to continue to invest substantial capital in the Data Center. The EIR and any resulting vision plan and ordinance must provide Verizon Wireless and the other businesses operating in the IBC with the certainty that their current operational rights will not be disturbed or curtailed and protect those businesses from the ramification of changes in use.

The proposed Project, which will have significant impacts on the environment with regard to aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, land use and planning, the economy, noise, population and housing, public services, recreation, transportation and traffic, utilities, service systems, and other matters is clearly incompatible with Verizon Wireless' current use of its property and its future plans. The Data Center is used as a mission critical data center; it provides necessary support for Verizon Wireless' network for all states west of the Mississippi, and is essential to all parts of Verizon Wireless' business. The computer equipment in the Data Center operates 24 hours per day and is supported by generators, uninterruptible power supply equipment, powerful HVAC equipment, and other heavy duty equipment required for this type of use. It is simply not good planning to mix incompatible residential uses with many of the industrial uses in the IBC. These industrial uses (which can operate 24 hours per day, 365 days per year) produce constant noise, truck traffic, and odors and would expose residents to risk of injury from the potential release of hazardous materials. In addition, the residents of the Project may well identify the normal activities of the businesses within the IBC as problematic and the occupants of the IBC should not be forced to deal with complaints regarding their operations from new residents or the added security risks that would accompany the Project.

The scope of environmental review proposed by the NOP does not fully discuss relevant environmental issues. The scope must be expanded as set forth below. At a minimum, the issues identified below must be addressed and carefully evaluated in the preparation of the EIR. For ease of review, our comments to some of the impacts raised in the NOP are addressed below with the corresponding headings that are used in the NOP.

Air Quality

The NOP identifies the Project's violation of air quality standards or contributing substantially to an existing or projected air quality violation as having a "potentially

significant impact." The EIR analysis must include the impacts that the existing concentrations of air pollutants in the IBC generated from the existing commercial and industrial uses and the emissions from cars using the 405 Freeway will have on new residents of the IBC.

Among other air quality issues, the EIR must study air quality impacts from construction activities, traffic from residential uses, and the exposure to residents of odors and pollutants produced from the existing manufacturing and other industrial uses.

Geology and Soils

There is substantial evidence that mixing residential and manufacturing/industrial uses in an area subject to seismic activity will create a significant environmental impact. The EIR must study the effects on children and other residents of a significant seismic event causing damage or destruction of an industrial manufacturing facility which could contain hazardous materials and other dangerous substances.

Hazards and Hazardous Materials

There is substantial evidence that potential significant impacts can result from hazards and hazardous materials being in close proximity to residential development. The vision plan contemplates placing residential development adjacent to existing manufacturing and other industrial operations that store and/or use hazardous materials. The EIR must analyze the risk posed to residents from being in close proximity to businesses which use hazardous materials.

Noise

The NOP identifies various matters relating to noise as having a "potentially significant impact." Residents of the IBC may be exposed to noise emissions from the surrounding industrial facilities, traffic (including noise generated from trucks making routine deliveries in the IBC and traffic on the 405 Freeway) and aircraft activity in excess of the levels permitted under the City's noise ordinance for residential uses. The EIR must study the actual noise impacts on residents due to the combined exposure of all applicable noise sources.

Population and Housing

The NOP incorrectly identifies no impact with respect to the displacement of substantial numbers of people, necessitating the construction of replacement housing. This finding completely ignores the economic analysis which would be required to determine how displacement of industrial uses by residential uses could affect the overall economy of the area.

The EIR should consider the consequences that the Project could have on the existing and potential future industrial and commercial occupants of the IBC. The addition of housing may drive out the existing commercial and industrial occupants. In addition, if the Project is approved, the IBC may no longer be a viable option for new industrial and commercial occupants that would otherwise have chosen to move into the IBC.

In connection with the foregoing, the EIR should evaluate the economic impacts relating to the current jobs (which are generally high salary jobs that require skilled labor) that will be lost in connection with the displacement of existing commercial and industrial uses in the IBC. In addition, the EIR must evaluate the economic effects due to the elimination of potential jobs resulting from the addition of residential uses in the IBC instead of new commercial or industrial uses.

Transportation/Traffic

In finding that there will be no environmental impact arising from the substantial increase in traffic-related hazards due to design features or incompatible uses, the NOP does not adequately evaluate the potential harm and environmental impact from putting industrial and residential uses in close proximity. Due to the fact that large commercial vehicles (some of which will transport hazardous materials) will use many of the roads in the IBC 24 hours per day, 365 days per year, the EIR should address the significant impact and potential dangers to new residents in connection with such incompatible uses. There is significant evidence that substantial safety concerns arise when the transportation needs and patterns of residents and industrial users conflict.

Industrial Adjacency Analysis

Certainly, an industrial adjacency analysis is necessary before any residential development could be placed in proximity to an industrial business use. However, in order to be of real practical use, this analysis must be performed in the earliest stages of the application process, and certain prior to any application being deemed complete. As part of the process, the applicant for the residential development should bear the burden of demonstrating that such applicant will be responsible for all mitigation matters and that it will meet defined standards so as to buffer the residents from existing industrial uses. In no event shall the industrial users be required to change their operations in any way, nor should they be precluded from modifying or expanding their businesses as may be required. The developer must be able to demonstrate that the residential project is both far enough away from any nearby industrial uses, and contain appropriate mitigation measures so that the residents will not be impacted from the existing industrial uses.

Miscellaneous

In addition to the matters referred to above, the EIR should contain a thorough analysis of the following items: (i) the relationship between the revenue generated from the property taxes from residential units and the cost of necessary public safety services; (ii) whether students residing in the IBC would need to be bussed to public schools located outside of the IBC; and (iii) the relationship between the EIR and the environmental impact report that was prepared in 1992 for the IBC.

We emphasize the importance of providing the public and the City with thorough and complete information regarding the impacts of residential development projects in the IBC. We reserve the right to provide further comments on this matter.

Respectfully submitted,



Joan A. Wolff

JAW:pp

cc: Thomas Mahr, Esq.

Irvine Unified School District
CONSTRUCTION AND FACILITIES
14600 Sand Canyon Ave., Irvine, CA 92618, 949/936-5306, FAX 949/936-5329, www.iusd.org

February 22, 2007

Mr. Bill Jacobs, AICP
Principal Planner
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PO Box 19575
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RE: NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR IRVINE BUSINESS COMPLEX (IBC) VISION PLAN AND MIXED USE OVERLAY ZONING CODE (PLANNING AREA 36)

Dear Bill,

Thank you for the opportunity to respond to review the captioned project and analyze its effects on the Irvine Unified School District (District). Below is our response on the impacts this project development will have on our district:

1. This project lies within the attendance boundary for the following schools:

SCHOOL	DISTANCE FROM PROJECT	CURRENT CAPACITY	CURRENT ENROLL-MENT	AVAILABLE SEATS
Culverdale Elementary	1.6 Miles	652	598	54
Westpark Elementary	1.2 Miles	640	584	56
South Lake Middle	2.5 Miles	690	560	30
University High	2.9 Miles	2360	2250	110

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VERNON MEDEIROS, Ed.D., *Deputy Superintendent, Business Services*
TERRY WALKER, *Assistant Superintendent, Human Resources* / LEAH LAULE, *Assistant Superintendent, Education Services*

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2. The District is currently short of middle and high school classrooms to serve the cumulative proposed development in the Irvine Business Complex.

3. As we understand the number of residential units proposed in the Irvine Business Complex are as follows per the IBC NOP:

Existing Units	3,969
Approved Units	4,147
Pending Approval Units	6,291
Subtotal	14,407
Additional/Future Units	24,535
Total Units	38,942

4. The following units are currently existing in the District or are proposed to be constructed in our District per the City of Irvine IBC Residential Project List dated September 6, 2006:

Existing	595
Approved Units	1,846
Pending Approval Units	1,896
Total Units in IUSD	4,337
Percentage of Approved/Pending Units in IUSD	30%
Estimated Number of Future Units in IUSD (24,535 x 30%)	7,360
New Approved/Pending Units	3,742
Proposed Future Units in IUSD	11,102

5. The student generation rate used for this project is our district-wide rate for multi-family units. This is a conservative rate to use since it is unknown what this project and similar projects will generate in our district.

GRADE LEVEL	GEN RATE	UNITS	STUDENTS GENERATED
K-6	0.152	11,102	1,687
7-8	0.042	11,102	466
9-12	0.077	11,102	855
TOTAL	0.271	11,102	3,008

6. The District currently charges Level 1 Developer Fees as required by law and as a result of the Board adopted Developer Fee Justification Study approved on March 21, 2006. The amount required is $2.63 per residential square foot and $0.42 per commercial / industrial square foot.

7. The District will need to place relocatable classrooms at each of the schools within this projects' assigned attendance area. Our current middle and high schools are severely impacted. Additional development may require the district to study boundary changes and the need for new facilities to accommodate this development.

8. The District is concerned that this project and others proposed in the Irvine Business Complex will have severe impacts on our schools and support facilities. The cumulative impact of this development may warrant the need for new school facilities to serve these students. Per our developer fee justification study, the true cost of mitigation to house students is $11.38 per Multi-Family unit square foot, therefore the developer fee required by law does not provide adequate facilities for District's needs.

Again, thank you for allowing the District to provide comment related to potential impacts of this project. We are available to meet and/or discuss any of the information contained herein at your convenience. If you need additional information or have any questions, please call me at (949) 936-5308.

Sincerely,

Lloyd Linton
Director, Facilities & Construction

cc: Gwen Gross, Superintendent, IUSD
Vernon Medeiros, Deputy Superintendent, IUSD

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February 22, 2007

Via Facsimile (949) 724-6440
and U.S. Mail

Mr. Bill Jacobs, Principal Planner
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re: Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36)
Comments to Notice of Preparation of Draft EIR

Dear Mr. Jacobs:

The Tustin Unified School District ("District") appreciates the opportunity to comment on the preparation of an environmental impact report ("EIR") for the above-referenced project ("Project"). As you are aware, the District previously expressed a number of concerns regarding the Project. It would appear that all of those concerns are to be addressed in the EIR to be prepared for the Project, based on the Initial Study circulated by the City on or about January 8, 2007, and we look forward to the opportunity comment, as may be necessary, on future environmental documents.

The District concurs that the Project, as proposed, will have potentially significant adverse impacts on the District's schools and recreational resources, and, as such, those impacts must be analyzed in the environmental review of the Project. In conducting such review, we understand that the City anticipates the need to consult with the District in order to determine the type and significance of impacts arising from the Project to existing and planned levels of service. The District looks forward to working with the City in providing the required information, and urge you or your consultants to contact the District with any questions you may have.

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Currently, those portions of the Project within the District's boundaries will be served by the following K-12 schools, listed along with current enrollment and permanent capacity statistics:

Veeh Elementary School (Grades K-5)
1701 San Juan Street
Tustin, CA 92780
Current Enrollment: 521 students
Permanent Capacity: 525 students

Currie Middle School (Grades 6-8)
1402 Sycamore Avenue
Tustin, CA 92780
Current Enrollment: 836 students
Permanent Capacity: 918 students

Tustin High School (Grades 9-12)
1171 El Camino Real
Tustin, CA 92780
Current Enrollment: 1,909 students
Permanent Capacity: 1,755 students

Based on such enrollment and capacity data, additional enrollment associated with the Project is anticipated to have a significant adverse impact on public school services within the District. The District does not currently have sufficient capacity to serve students generated from the Project. The District recently calculated an overall student generate rate of 0.284 for single-family attached condominium development, based upon an elementary rate of 0.1649 students per unit, a middle school rate of 0.0547 students per unit, and a high school rate of 0.0644 students per unit. Based on such generation rates, the 1,559 residential we understand to be proposed by the Project within the District's boundaries would generate approximately 443 students (257 grades K-5, 85 grades 6-8; and 101 grades 9-12). That number would, of course, increase proportionally for any units approved within the Project over and above the 1,559 units. In response to such facility needs, the District has adopted a school fee of $7.17 per square foot for new residential development within the District.

As we have consistently referenced in prior communications with the City in connection with projects within the Project area, the District has been the fastest growing school district in Orange County for several years, and does not anticipate a change in its enrollment patterns as development continues within the District, both in newly developed areas and those areas currently under consideration for redevelopment, such as the Project area and similar projects within the City of Santa Ana. The District already houses existing students in interim portable buildings, as sufficient permanent school facilities are not available. The District currently has approximately 20,178 students enrolled, compared to a District-wide student capacity for approximately 17,866 students.

Furthermore, use and placement of interim portable buildings has drastically reduced available recreational facilities on the District's campuses, and the addition of

more facilities will further erode available recreational opportunities. Student overcrowding will have a proportional impact on available athletic facilities and equipment, library space, and classroom space. Additionally, the District will be required to hire additional teachers to accommodate added student enrollment. These potentially significant impacts on already crowded public school facilities should be considered and addressed as part of the EIR for the Project.

The City may also wish to consider, in conjunction with its traffic analysis, the significant distance between the Project area and the schools that will serve students generated from within the Project. The above listed schools are from between 3 and 5 miles from the Project area. Accordingly, transportation of students to and from the schools will cause added burdens, whether in the form of additional traffic on local surface roads or increased bussing demands from within the District.

Thank you again for the opportunity to comment on the Initial Study. We request that you forward any subsequent environmental documents regarding the Project to my attention. If any further questions arise during the preparation of the Draft EIR, or you have any questions regarding the contents of this letter, please feel free to contact me.

Sincerely,

Brock Wagner
Deputy Superintendent, Business Services

cc: Jeff Hoskinson; Bowie, Arneson, Wiles & Giannone

RUS, MILIBAND & SMITH

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February 23, 2007

REFERENCE NUMBER
2753-0001

VIA OVERNIGHT MAIL

Bill Jacobs, AICP
Principal Planner
City of Irvine
P.O. Box 19575
Irvine, CA 92623-9575

Re: *Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36) ("IBC Vision Plan")*

Dear Mr. Jacobs:

This Firm represents Bosa Development California II ("Bosa II") in connection with its property at Park Place in Irvine, a 566-unit residential condominium project that the City has approved for development ("Project"). Bosa Development California, an affiliate of Bosa II, has already successfully constructed and sold a 232-unit condominium project known as the Marquee at Park Place. Bosa II looks forward to its development of the Project and its continuing involvement in the future of the City of Irvine.

The Project was approved by the City on March 24, 2005, in connection with a minor modification ("Minor Modification") sought by Maguire Properties ("Maguire") to fulfil its obligations under a Purchase and Sale Agreement with Bosa II. A copy of the Minor Modification is enclosed. The Minor Modification allowed Maguire to "reallocate existing development intensity within the Park Place development . . . [allowing] for the development of 438 additional residential dwelling units, above and beyond the 360 dwelling units already assigned to the project site, for a total of 798 residential units." Minor Modification, p. 1. The 438 residential units approved by the Minor Modification were acquired by Bosa II upon the closing of the purchase transaction with Maguire in November 2005. These 438 residential units, together with the balance of the 360 units previously assigned to Park Place (128 units), which were also acquired by Bosa II in November 2005, constitute Bosa II's approved 566-unit Project.

Bosa II understands that projects underway, including Bosa II's Project, will be "processed through the existing City process," and thus would not be impacted by the IBC Vision Plan and the related proposed Environmental Impact Report ("EIR").

Moreover, as an owner of property at Park Place, Bosa II is a successor party under the terms of that certain Park Place Development Agreement, dated as of October 24, 2002 ("Development Agreement"), and recorded in the Official Records of the County of Orange on October 24, 2002, as Instrument No. 20020927361. A copy of the Development Agreement is enclosed.

Bosa II asserts that its entitlements and other rights under the Development Agreement as to its Project will not be impacted or affected in any manner by the IBC Vision Plan and the EIR.

If you should have any questions, please contact me.

Very truly yours,

RUS, MILIBAND & SMITH
A Professional Corporation

JOEL S. MILIBAND

JSM:mh
Enclosures
cc: Mr. Richard Weir

Community Development Department www.ci.irvine.ca.us

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575 (949) 724-6000

March 24, 2005

Mr. Robert Goodwin
Maguire Properties
333 South Grand Avenue, Suite 400
Los Angeles, California 90071

Subject: **Approval of a Minor Modification to the Park Place Development Point Summary to Convert Office Intensity to Residential Intensity and Correct Certain Miscellaneous Figures (Case No. 00352630-PCPM)**

Dear Mr. Goodwin:

Staff has reviewed the proposed minor modification to correct certain erroneous figures in the development point summary for Park Place and to convert and reallocate existing development intensity within the Park Place development. The project is located at the northeast corner of Jamboree Road and Michelson Drive within Planning Area 36. The City's case file for this modification request is Master Plan 00352630-PCPM. The proposed corrections and conversion of development points will allow for the development of 438 additional residential dwelling units, above and beyond the 360 dwelling units already assigned to the project site, for a total of 798 residential units. 232+128=360 438+128=566

The development point system was first approved for the Park Place development in 1989 in association with the master site plan for Conditional Use Permit CUP 87-CP-0829. The point system adopted was in accordance with the applicable development standards in the Irvine Business Complex (IBC) at that time. While development standards in the IBC have since changed and the point system is no longer in use, the development point system was vested in the Park Place development by the approval of a development agreement in 2002. The Park Place Development Agreement expressly preserved the property owner's right under the City's 1989 Zoning Code to redistribute the development points assigned to the various land uses authorized for development at the Park Place site, as long as the overall points allocated under CUP 87-CP-0829 were not exceeded. As can be seen by referring to Sections 1.10 and 4.2.11 of the Park Place Development Agreement, the parties to the agreement specifically contemplated that the property owner would be allowed to "adjust" or reallocate development points at the Park Place

site in connection with changing the "size, shape, design, use, and location of various land uses and other improvements to be developed at the Property." The mechanism for making such adjustments was to be the "Point System" set forth in the City's 1989 Zoning Code, rather than the "trip budget" system currently used in the IBC and established in the City's current Zoning Code.

The ability to transfer and convert points within the development point system from one use to another was adopted as part of the initial approval. The primary component of this modification request is the conversion of 317,988 development points from office use to residential use. Office use development points are valued at 3 points per square foot of office space. Each residential dwelling unit is equivalent to 726 development points. So for 438 residential dwelling units, a total of 317,988 development points are required. At the office rate of 3 points per square foot of office space, 105,996 square feet of office space will be deducted from the total office square footage.

The proposed modification includes this conversion in Table No. 1 of the Development Point Summary by adding 438 dwelling units and 317,988 development points to newly designated "Residential Site 1". In addition, the table is being modified to deduct 105,996 square feet from the current office square foot total of 2,982,896 square feet resulting in a revised office total of 2,876,900 square feet. The point column and the total points allocated column have been adjusted to reduce the current 8,948,688 points down to 8,630,700 points, a reduction of 317,988 points. In addition, the modification request moves Office Tower 4A (at 3121 Michelson) from Table 4 (Proposed Development) to Table 5 (Existing Development) to reflect the recent completion of that structure. The conversion of office intensity and the change in status of Office Tower 4A dictate certain other revisions in the remainder of the Development Point Summary tables.

Included in these other revisions are the elimination of Office Tower 3 and the redistribution of its remaining square footage to the four other proposed office towers (Office Tower 2, Office Tower 4B, Office Tower 5 and Office Tower 6). The 105,996 square feet of office intensity converted to residential intensity came from Office Tower 3. The original approved size of Office Tower 3 was 403,074 square feet. Deducting the 105,996 square feet, Office Tower 3 was reduced to 297,078 square feet. The proposed minor modification redistributes this remaining square footage from Office Tower 3 to the other four proposed office towers as follows:

	Approved Size (Gross Square Feet)	Reassigned Square Footage from Office Tower 3	Modified Size (Gross Square Feet)
Office Tower 2	350,961	27,041	378,002
Office Tower 4B	337,500	81,351	418,851
Office Tower 5	243,695	96,505	340,200
Office Tower 6	248,119	92,181	340,300
		297,078	

All of the conversions from office intensity to residential intensity and the reallocation of office intensity described above, and the associated adjustments in exempt non-leaseable space, gross leaseable space, parking required, and floor maximums, are detailed in Attachment 1 (Minor Modification Figures) to this letter as indicated by the highlighted figures.

Under the provisions of Section V.E-736.5 of the 1989 Zoning Code (which is attached as Exhibit "E" to the Park Place Development Agreement), changes to a master site plan which involve a reallocation of the development points assigned to the Park Place site are clearly permitted as long as those changes do not result in "an overall increase in the number of development points" assigned to the site. This fundamental policy was underscored by Ms. Sheri Vander Dussen, Director of Community Development, in a memorandum to the City Manager dated November 1, 2000. In that memo, a copy of which is attached as Attachment 3, Ms. Vander Dussen noted that: "Inherent in [the Point System] is the flexibility to modify land uses overtime as needed, so long as the original entitlement (points) for the site is not exceeded."

In the November 1, 2000 memorandum, Ms. Vander Dussen went on to explain that: "The alteration of land uses, such as the conversion of office to retail, or warehouse to church, in existing buildings or in proposed development is a common practice in the IBC. This practice allows the property owner flexibility to develop sites based on market demand, which changes over time. This flexibility was purposely included in the IBC zoning." These policy statements were expressly incorporated into the Park Place Development Agreement on Page 56 thereof.

This critically important "flexibility" to reallocate development points among the various land uses at the Park Place site, as long as the total points for the project are not exceeded, was guaranteed under the express terms of the Park Place Development Agreement. In addition, the Park Place Development Agreement provided that the determination as to whether a proposed redistribution of development points would be processed as a "major" or a "minor" modification would be made in accordance with the procedures set forth in Chapter 2-19 of the City's 2002 Zoning Code.

As noted by Ms. Vander Dussen in the November 1, 2000 memorandum, Trammell Crow Company, the previous property owner of the subject site, had previously sought approval from

the City for proposed reallocations of development points at the Park Place site involving adjustments in the square footages for approved land uses. These reallocations were all routinely approved as minor modifications because they involved project changes that did not increase the development points assigned to the site or generate more traffic at the site. Accordingly, this request to modify the master site plan for CUP 87-CP-0829 is being processed in a similar manner, consistent with the required findings contained in Section 2-19-2 of the Zoning Code. An assessment of the consistency of this modification request with those required findings is provided beginning on Page 4 of this letter.

In addition to the point conversion described above, there are a number of miscellaneous corrections being proposed throughout the Development Point Summary tables. These tables are found in Exhibit "C" of the Park Place Development Agreement. The changes are necessary due to errant calculations in the addition of square footage or total parking required, missing digits, and slight adjustments to the required parking figures with none amounting to a change of more than two stalls).

After making the revisions discussed above, the tables were further adjusted to reflect the status of Office Tower 4a as an existing building instead of proposed (moving the building from Table 4, Proposed Development to Table 5, Existing Development) and to reflect the actual, as-built square footage of that building. These revisions are listed below (Note: Where three figures are listed, the number was adjusted twice to reflect more than one adjustment and the last figure listed is the new number):

Table 1: Development Point Summary

Total Credit points changes from 2,446,961 to 2447,942 (square feet)

Table 3: Total Building Area

Office Buildings changes from 3,699,19 to 3,699,190 to 3,694,416 (square feet)

TOTAL changes from 4,394,93 to 4,394,933 to 4,390,159 (square feet)

Table 4: Current Land Use Tabulation – Proposed Development

Parking Required for the Total Proposed Office changes from 3,486 to 3,485 to 3,166

Parking Required for the Restaurant Sub-Total changes from 701 to 700

Parking Required for the Total Proposed Retail/Commercial changes from 1,545 to 1,544

Parking Required for the Total Proposed Development changes from 5,031 to 5,029 to 4,710

Table 5: Current Land Use Tabulation – Existing Development

Parking Required for Total Existing Office changes from 4,412 to 4,413 to 4,723

Parking Required for Sub-Total Retail Center changes from to 909 to 910

Gross Leaseable for Total Existing Buildings changes from 1,815,819 to 1,643,587 to 1,768,725 (square feet)

Parking Required for Total Existing Buildings changes from 5,321 to 5,353 to 5,633

Gross Leaseable for Total Existing (in the Summary) from 1,815,819 to 1,643,587 to 1,768,725 (square feet)

Parking Required for Total Existing (in the Summary) from 5,321 to 5,353 to 5,633

Parking Required for Total Proposed Office (in the Summary) from 3,486 to 3,485 to 3,166

Parking Required for Total Proposed Retail/Commercial (in the Summary) from 1,545 to 1,544

Gross Leaseable for Grand Total (in the Summary) from 3,854,729 to 3,682,497 to 3,678,639 (square feet)

The details of the corrections/adjustments described above are contained in Attachment 2, (Revised Math Figures) to this letter.

Section 2-19-2 of the Zoning Code outlines five specific criteria that must be met in order to determine that a modification to a previously approved application is a major modification. If the proposed modification meets one of these five criteria, it is determined to be a major modification, and must be reviewed by the original approving authority at a public hearing. If none of the five criteria for a major modification is met, the application is considered a minor modification that will be considered by the Director of Community Development. Based on your submittal, staff has determined that the proposed modification does not meet any of the five criteria, as specified in Section 2-19-2, to be classified as a major modification. Therefore, the request to correct erroneous figures within the Development Point Summary and to convert office intensity to residential intensity within the Development Point Summary to allow an additional 438 residential dwelling units has been processed as a minor modification for the following reasons:

1. The proposed modification will not cause significant or potentially significant environmental impacts over and above those anticipated under the previously approved conditional use permit.

   Pursuant to Section 6 of the City of Irvine CEQA procedures and Section 15164 of the State CEQA guidelines, an addendum to the IBC Environmental Impact Report No. 88-ER-0087 was prepared in connection with the City's adoption of the Park Place Development Agreement. The addendum concluded that the Park Place Development Agreement entailed no changes in development intensity (points), land uses, special development requirements or mitigation measures beyond what was already included in the IBC zoning and had already been analyzed in EIR No. 88-ER-0087. The exact same finding can be made for the proposed minor modification of CUP 87-CP-0829 because it would not result in any increase in development points, i.e. building intensity, at the Park Place site. Rather, the modification would simply reallocate development points from Office to Market Rate Residential Units without increasing the overall development points for the project. While land use is in fact changing as a result of this modification request, it is not an unanticipated change and the original EIR addressed such potential changes in that it considered the latent flexibility allowed in the project approval. There are no changes proposed in the project that would cause significant or potentially significant environmental effects beyond what has been previously analyzed in prior environmental documentation for Park Place, including the addendum to EIR No. 88-ER-0087.

2. The proposed modification will not cause significant or potentially significant on-site and off-site traffic impacts over and above that anticipated under the original conditional use permit approval.

   Under the Points System, the "typical traffic volume" for Park Place is based on the number of development points assigned to the Park Place project. In fact, as set forth on page 4768 of Exhibit "E" to the Park Place Development Agreement, the "typical" traffic generation rate for Park Place is one trip for each 805 gross development points assigned to the project. Therefore, by definition, if there is no increase in the overall development points for the Park Place project as a result of a proposed reallocation of points from one use to another, then there would be no increase in the total number of trips that would be generated by the project and the traffic impacts would be the same as those previously addressed in the environmental documentation relating to Park Place, including the addendum to EIR No. 88-ER-0087.

3. The proposed changes to the approved project will not affect the intent of the findings and conditions of approval for the previously approved conditional use permit.

   No new uses are proposed for the project site since residential development has always been anticipated on this project site and a residential project is presently under construction. No

additional entitlement is requested as the overall development points assigned to the site are not being increased. The requested modification is consistent with the specific type of flexibility inherent in the IBC zoning ordinance, which was expressly preserved by the Park Place Development Agreement. Therefore, the requested modification is consistent with, and will have no affect on, the intent of the findings or on the conditions of approval for the previously approved conditional use permit.

4. The proposed changes to the previously approved project will not result in an impact to, or introduction of, sensitive uses not previously considered with the original project.

   No new land uses have been proposed and the proposed addition of residential development and reduction of office development is not anticipated to cause any impact, detrimental or otherwise, to any sensitive uses in the vicinity of the project site. The project is bound by all the mitigation measures contained in Environmental Impact Report (EIR) No. 88-ER-0087 and the improvement requirements of the Phasing Plan Report for Park Place, Condition 24 Resolution No. 89-1380. Therefore, all necessary and required traffic improvements and all other mitigations relating to sensitive uses, including on-site paleontological and archeological resources, will be applicable to the project and implemented by the development(s) proposed by this modification.

5. The proposed changes to the approved conditional use permit will not result in a significant reduction in landscaping or a significant change in parking.

   While much of the site is presently paved over in asphalt parking lots there is a significant amount of landscaping on the project site. As more buildings are placed on the project site consistent with the master site plan (as amended), the amount and configuration of landscaping on the project site will be altered. However, none of the changes in landscaping anticipated at this time would be inconsistent with the overall landscape requirements originally approved and the amount of landscaping required will be monitored for compliance with the applicable minimum landscape requirements as set forth in the development agreement.

   Similarly, while the amount and location and configuration of parking will be altered as more parking structures are introduced on site, the overall amount of parking provided on site will be consistent with the amount required in the original approval and will more than likely exceed the applicable minimum standards. Therefore, no significant reduction in landscaping or significant change in parking will occur as a result of this modification.

Based on the analysis of the information submitted with the application, staff has determined that the findings can be made pursuant to Section 2-19 of the Zoning Code (Minor/Major Modification Procedure). Therefore, the request for Conditional Use Permit 00352630-PCPM,

to modify Conditional Use Permit 87-CP-0829 by correcting certain miscellaneous errors in the Development Point Summary and by converting 317,988 office points to residential points to allow a total of 438 new residential dwelling units and an overall reduction of 105,996 square feet of office space.

Prior to the Issuance of Grading Permits

Standard Condition A.13

Prior to the issuance of precise grading permits, the applicant shall submit, and the Director of Community Development shall have approved, a Water Quality Management Plan (WQMP). The WQMP shall identify the Best Management Practices (BMP's) that will be used on the site to control predictable pollutant runoff.

Condition A.16

Prior to the issuance of grading permits for any residential development, the applicant shall have received approval for the required Park Plan.

Prior to the Issuance of Building Permits

Condition B.12

Prior to the issuance of building permits for any residential development, the applicant shall have received approval for the required Park Design(s).

Condition B.13

Prior to the issuance of building permits for any residential development, the applicant shall have paid all applicable park fees as identified through the approved Park Plan.

Prior to the Exoneration of Security

Standard Condition D.1

Prior to the exoneration of any security, the applicant shall submit one (1) duplicate mylar of all public or private improvement plans, two (2) copies (one original and one duplicate) of 35mm microfilm of the public or private improvement plans, final structure calculations, computer analysis, if any, for all buildings, and the record drawings of grading, landscape, and improvement plans to, and in a manner acceptable to, the Director of Community Development. The microfilm shall be in 4"x 6" jackets with 6 frames per jacket. The computer analysis may be submitted on standard IBM compatible floppy disks.

Standard Condition D.2

Prior to the exoneration of any security, the applicant shall submit one (1) set of computerized data, which is compatible with the City ARC/INFO system or DXF (Autocad) system, of the record drawings of grading, landscape, and improvements plans to, and in a manner acceptable to, the Director of Community Development. Refer to "Specifications for Digital Submission" as maintained by the Surveyor's Office of the County of Orange for specific requirements of individual submittal.

Miscellaneous

Standard Condition E.1

The applicant is responsible for paying all charges related to the processing of this discretionary case application within 30 days of the issuance of the final invoice or prior to the issuance of building permits for this project, whichever occurs first. Failure to pay all charges shall result in delays in the issuance of required permits or the revocation of the approval of this application.

Standard Condition E.2

The applicant shall defend, indemnify, and hold harmless the City of Irvine or its agents, officers, and employees from any claim, action, or proceeding against the City agency or its agents, officers, or employees to attack, set aside, void, or annul an approval of the local agency, advisory agency, appeal board, or legislative body concerning this discretionary case. The City will promptly notify the applicant of any claim, action, or proceeding and will cooperate fully in the defense.

Unless an appeal is filed prior to the expiration of the five-day appeal period ending at 5:00 p.m. on March 31, 2005, approval of Conditional Use Permit 00352630-PCPM shall become effective on April 1, 2005.

Should you have any questions regarding this approval, please contact Michael Philbrick, Senior Planner at (949) 724-6345 or by email at mphilbrick@ci.irvine.ca.us.

Sincerely,

TINA CHRISTANSEN, AIA
Director of Community Development

Attachments:

Attachment 1 - Minor Modification Figures
Attachment 2 - Miscellaneous Tabulation Corrections
Attachment 3 - November 1, 2000 memo from Sherri Vander Dussen

c: Michael Philbrick, Senior Planner
File: 00352630-PCPM

Park Place Development Agreement

PLEASE COMPLETE THIS INFORMATION

RECORDING REQUESTED BY:

City of Irvine
Post Office Box 19575
Irvine, Ca 92623-9575

AND WHEN RECORDED MAIL TO:

City of Irvine
Attn: City Clerk
Post Office Box 19575
Irvine, Ca 92623-9575

Recorded in Official Records, County of Orange
Darlene Bloom, Interim Clerk-Recorder

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20020927361 12:55pm 10/24/02
115 49 R28 88
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THIS SPACE FOR RECORDER'S USE ONLY

TITLE OF DOCUMENT:

No Recording Fee Per Government Code Section 6103

CITY COUNCIL ORDINANCE NO. 02-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE APPROVING DEVELOPMENT AGREEMENT 00310468-PDA TO VEST ALL PREVIOUSLY APPROVED ENTITLEMENTS FOR PARK PLACE; LOCATED AT THE NORTHEAST CORNER OF MICHELSON DRIVE AND JAMBOREE ROAD IN PLANNING AREA 36 (IRVINE BUSINESS COMPLEX)

Adopted on September 24, 2002.

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Additional recording fee applies)

CITY COUNCIL ORDINANCE NO. 02-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE APPROVING DEVELOPMENT AGREEMENT 00310468-PDA TO VEST ALL PREVIOUSLY APPROVED ENTITLEMENTS FOR PARK PLACE; LOCATED AT THE NORTHEAST CORNER OF MICHELSON DRIVE AND JAMBOREE ROAD IN PLANNING AREA 36 (IRVINE BUSINESS COMPLEX)

WHEREAS, an application was filed by Crow Winthrop Development Limited Partnership requesting approval of Development Agreement 00310468-PDA for property located at the northeast corner of Michelson Drive and Jamboree Road (Park Place); and

WHEREAS, the development agreement does not append, rescind, or revise any approvals or conditions for development of the subject parcels but rather, vests the existing approvals for a period of 20 years, and requires Crow Winthrop Development Limited Partnership to pay IBC fees up to $1,344,240 in accordance with the terms of the agreement; and

WHEREAS, City Council Resolution No. 82-68 established procedures and requirements for the consideration of development agreements in accordance with Govt. Code Article 2.5, Development Agreements, Section 65865; and

WHEREAS, City Council Resolution No. 82-68 requires a hearing by the Planning Commission, after which, it shall make a recommendation to the City Council; and

WHEREAS, a Program Environmental Impact Report (SCH No. 91011023) was prepared for the development of Planning Area 36, and certified by the City of Irvine City Council as adequate; and

WHEREAS, an Initial Study and Addendum to the Program EIR for Planning Area 36 have been prepared for this project; and

WHEREAS, the Planning Commission of the City of Irvine reviewed the application at public hearings held on June 20, 2002, July 18, 2002 and August 15, 2002; and

WHEREAS, the City Council of the City of Irvine has considered information presented by the Community Development Department, the applicant, and other interested parties at public hearings held on June 25, 2002, July 23, 2002, and September 10, 2002.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to Section 6 of the City of Irvine CEQA Procedures and Section 15164 of the State CEQA Guidelines, an addendum to the IBC EIR (88-ER-0087) has been prepared. No changes in development intensity, land uses, project phasing and conditions, special

development requirements or mitigation measures are proposed beyond what is included in the IBC zoning and as analyzed in EIR No. 88-ER-0087. The addendum serves to expand and update the EIR project description to include the proposed development agreement and conditional use permit utilizing the specified amenity credits and enabling an office tower of up to 271,727 square feet consistent with existing entitlements. The City Council finds that the addendum shows that

(1) there are no substantial changes proposed in the project that require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects

(2) there no substantial changes have occurred with respect to the circumstances under which the project is undertaken that would require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects

(3) there is no new information of substantial importance, which was not known and could not have been known with exercise of reasonable diligence at the time the previous EIR was certified, that shows that

(a) the project will have one or more significant effects not discussed in the previous EIR
(b) significant effects previously examined will be substantially more severe than identified in the previous EIR
(c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponent declines to adopt the mitigation measures or alternatives or
(d) mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measures or alternatives.

SECTION 2. Mitigation measures identified in the Program EIR have been incorporated into the project or have been previously applied. These measures mitigate any potential significant environmental effects thereof.

SECTION 3. Pursuant to Fish and Game Code Section 7.11.4 (C), all required Fish and Game filing fees have been paid subsequent to certification of the Program EIR for Planning Area 36 (SCH No. 91011023).

SECTION 4. That pursuant to Section 15025 of the State CEQA Guidelines, the Planning Commission reviewed and considered the Initial Study/EIR Addendum in making its recommendation on the Project.

SECTION 5. That the findings required by City Council Resolution No. 82-68 regarding the City Council's determination have been made as follows:

(a) Is consistent with the objectives, policies, general land uses and programs specified in the uses and programs specified in the General Plan and any applicable specific plan.

Development Agreement 00310468-PDA is consistent with the Irvine General Plan in that the uses and development intensities described in the development plan vested by the agreement correspond to the land uses and maximum square footage as regulated in the General Plan for Planning Area 36 (Irvine Business Complex).

(b) Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located.

The development agreement does not add to, subtract from or revise any approvals for development at the subject site. Its purpose is to vest all previous approvals for the subject property as specified within the development agreement.

(c) Is in conformity with public convenience, general welfare, and good land use practices.

The development vested includes office, retail and residential uses, to be developed in conformance with plans approved by the City as outlined in the development agreement. The circulation systems to serve the project on-site and off-site have been in place for more than five years and facilitate movement within the site, as well as to and from the project.

(d) Will not be detrimental to the health, safety and general welfare.

The subject project has been in development for approximately the last 13 years. Future development is subject to all local, regional, state and federal regulations regarding health and safety matters. No circumstances observed with development of the property suggest that the development plan vested by the development agreement is detrimental to general welfare. The development agreement does not exonerate the applicant from compliance with regulations to protect health, safety and welfare.

(e) Will not adversely affect the orderly development of property or the preservation of property values.

The development agreement does not provide for new regulations or permissions associated with development of the property. Instead, it vests the existing, approved development plan for the subject property for a period of 20 years. Over the past 13 years, the property has been developed in an orderly manner in conformance with the development plan for the subject property approved by the City in 1989. While property values have fluctuated over time, there are no indications that such fluctuations were due to any specific circumstance associated with development of the subject site. Rather, such change is attributed to local, regional and national economic factors.

SECTION 6. That based on the above findings the City Council of the City of Irvine DOES HEREBY APPROVE Development Agreement 00310468-PDA, included as Exhibit 1 to this ordinance, for Crow Winthrop Development Limited Partnership at the Park Place site pursuant to the following conditions:

Standard Condition E.1

The applicant is responsible for paying all charges related to the processing of this discretionary case application within 30 days of the issuance of the final invoice or prior to execution of the Development Agreement by the City, whichever occurs first. Failure to pay all charges shall result in delays in the City execution of the Development Agreement or the revocation of the approval of this application.

Standard Condition E.2

The applicant shall defend, indemnify, and hold harmless the City of Irvine or its agents, officers, and employees from any claim, action, or proceeding against the City agency or its agents, officers, or employees to attack, set aside, void, or annul an approval of the local agency, advisory agency, appeal board, or legislative body concerning this discretionary case. The City will promptly notify the applicant of any claim, action, or proceeding and will cooperate fully in the defense.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 24th day of September, 2002.

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, JERI L. STATELY, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was introduced for first reading on September 10, 2002, and duly adopted at a regular meeting of the City Council of the City of Irvine held on the 24th day of September, 2002, by the following vote:

AYES:	5	COUNCILMEMBERS:	Krom, Mears, Smith, Ward and Agran
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None

CITY CLERK OF THE CITY OF IRVINE

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF IRVINE)

I, JERI L. STATELY, City Clerk of the City of Irvine, HEREBY DO CERTIFY that on the 3rd day of October, 2002, I caused to have posted the foregoing true and correct copy of Ordinance No. 02-12 of the City of Irvine in the following public places in the City:

1) Bulletin Board in Walnut Village Shopping Center, Culver and Walnut, Irvine.

2) Bulletin Board in University Park Shopping Center, Culver at Michelson, Irvine.

3) Bulletin Board in Northwood Shopping Center, Irvine Boulevard at Yale, Irvine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City Council of the City of Irvine, California, the 3rd day of October, 2002.

CITY CLERK OF THE CITY OF IRVINE

Recording Requested By
And When Recorded Return To:

City of Irvine
One Civic Center Plaza
Irvine, CA 92606-5208
Attn: City Clerk

(Exempt from Recording Fees per Gov't. Code § 6103)

PARK PLACE

DEVELOPMENT AGREEMENT

Dated: October 24, 2002

EXHIBIT 1

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PARK PLACE
DEVELOPMENT AGREEMENT

This PARK PLACE DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into as of October 24, 2002, by and between (1) the CITY OF IRVINE, a municipal corporation ("City" or "Irvine") and (2) CROW WINTHROP DEVELOPMENT LIMITED PARTNERSHIP, a Maryland limited partnership ("Crow Development"), SHOPS AT PARK PLACE LLC, a Delaware limited liability company, 3121 MICHELSON DRIVE LLC, a Delaware limited liability company, 3161 MICHELSON DRIVE LLC, a Delaware limited liability company, PARK PLACE PARKING COMPANY LLC, a Delaware limited liability company, PARK PLACE HOTEL COMPANY LLC, a Delaware limited liability company, PARK PLACE RESIDENTIAL HIGHRISE I LLC, a California limited liability company, and PARK PLACE DEVELOPMENT LLC, a Delaware limited liability company (the foregoing limited partnership and all of the foregoing limited liability companies shall be referred to herein collectively as "Developers") [hereinafter, City and Developers are sometimes collectively referred to as the "Party" or "Parties"].

I. RECITALS

This Agreement is entered into on the basis of the following facts, understandings, and intentions of the Parties:

A. Developers represent that (1) they comprise the owners of the Project (as defined in section 1.12 below) and consist of those entities which are the legal owners of, or hold equitable interests in, the Property (as defined in section 1.13 below), and (2) Crow Development is one of the owners of the Project and the managing member of all of the other owners of the Project.

B. Since 1985, Developers have been in the process of developing a large commercial, retail, and residential project on a 90-acre site, commonly known as "Park Place." Located in the Irvine Business Complex (the "IBC"), the Park Place project (the "Project" as defined in section 1.12 below) is generally bounded by the 405 Freeway on the

North, Jamboree Road to the West, Michelson Drive to the South, and the San Diego Creek to the East.

C. The Project basically consists of a master planned business park and residential development that includes existing and proposed restaurants, commercial/retail buildings, office towers, a hotel, a health club, a night club, and a day-care center and several hundred residential units to be located in high-rise towers.

D. Over the past 15 years, the City has granted certain land use approvals relating to the Project. Among these approvals was Resolution No. 87-14, dated January 27, 1987, approving Conditional Use Permit No. 86-CP-0727 (the "Original CUP") allowing conversion of the corporate headquarters entitlement for the Property to any use in the mixed-use district.

E. Under the City's Zoning Code which was in effect when the Original CUP was approved in 1987, applicants were required to pay all fees for IBC area-wide circulation improvements ("IBC Fees") within ten (10) days of the effective date of the conditional use permit for the converted entitlement. In addition, under section V.E-736.5.C.2.e of that Zoning Code, all applicants who complied with this pre-payment obligation automatically obtained a permanent exemption from the normal time limit of three (3) years for CUPs to remain in effect before expiring under section V.E-804.6.B and C of the Zoning Code.

F. On February 5, 1987, in order to comply with the requirements of section V.E-736.5.C.2.e of the Zoning Code, Crow Development paid the City the sum of approximately $10 million in IBC Fees. That same year, Crow Development sought to modify the Original CUP by applying for CUP 87-CP-0829 (the "Master CUP").

G. On August 17, 1989, the City's Planning Commission approved the Master CUP. The Planning Commission specifically provided in its Resolution No. 89-1380 that the Master CUP qualified for the time limit exemption under the prior Zoning Code, and thus would have no expiration date.

H. On December 13, 1989, the Subdivision Committee of the City adopted Resolution Nos. 89-414 and 89-415, approving Vesting Tentative Parcel Map 88-TP-0110 (the "Vesting Map").

I. Pursuant to sections 66474.2 and 66498.1 of the Government Code, and subject to the terms and conditions of the Vesting Map, Crow Development obtained a vested right to proceed with development in accordance with the Vesting Map and the Master CUP in substantial compliance with the ordinances, policies, standards, and other land use rules and regulations in effect when the City determined that the Vesting Map application was complete, which in no event was later than December 13, 1989.

J. On August 1, 1991, the City's Planning Commission adopted Resolution No. 91-1584, approving Conditional Use Permit 2873-CPS (the "Density Bonus CUP") to authorize the development of 360 residential "density bonus" units to be located on parcels 2, 4, and 15 of the Vesting Map (currently Parcel 1 of Parcel Map 2000-202 and a portion of Parcel 1 of Lot Line Adjustment 45280-LL), subject to certain conditions.

K. In addition to approving the Original CUP, the Master CUP, the Vesting Map, and the Density Bonus CUP, the City has issued or approved maps, plans, and permits described in Exhibit "C" attached hereto.

L. Without the necessity of listing all of the City's arguments and assertions in this regard, the Parties acknowledge that the City contends that Condition No. 37 of the Density Bonus CUP requires Developers to pay IBC Fees for each of the 360 residential units authorized under the Density Bonus CUP.

M. Without the necessity of listing all of the Developers' arguments and assertions in this regard, the Parties acknowledge that Developers dispute and deny that they are required to pay any IBC Fees for any of the 360 residential units authorized under the Density Bonus CUP in light of the $10 million in area-wide IBC Fees which Crow Development paid to the City in 1987.

N. In the interest of resolving the dispute regarding the application of IBC Fees for the 360 residential units authorized by the Density Bonus CUP, and to set forth the nature and extent of Developers' vested rights to proceed with the development of the Project, the City and Developers mutually desire to enter into this Development Agreement.

O. Sections 65864 through 65869.5 of the Government Code (the "Development Agreement Legislation") authorize the City to enter into binding development agreements with persons having legal or equitable interests in real property in order to, among other things, (1) provide for the orderly development of that property in accordance with the City's rules, regulations, and policies, (2) ensure maximum efficient utilization of resources within the City, (3) strengthen the public planning process, (4) encourage private participation in comprehensive planning, and (5) reduce the economic costs and uncertainty of development.

P. The City recognizes that completion of the Project as a master planned, mixed-use development provides substantial social and economic benefits to the City. These benefits include housing units in the IBC to aid in the City's jobs-to-housing balance with the associated reduction in traffic balance, and reduction in air quality impacts, an increase in sales tax revenue, and an increase in Transient Occupancy Tax revenue.

Q. The City has determined that entering into this Agreement will further the goals and objectives of the City's land use planning policies by, among other things, (1) eliminating uncertainty in the planning for, and securing the orderly development of, the Project so that adequate long-term plans regarding the provision of necessary infrastructure can be developed and implemented; and (2) promoting the health, safety and welfare of the residents of the City.

R. Pursuant to the authorization set forth in the Development Agreement Legislation, the City adopted Resolution No. 82-68 on July 13, 1982, establishing procedures and requirements for consideration of Development Agreements. In accordance with such rules and regulations, the City has undertaken the necessary proceedings, has found and

determined that this Agreement is consistent with the City's General Plan and with the provisions of the Zoning Code which are applicable to the Project.

S. Specifically, on August 15, 2002, following a duly noticed public hearing and review of the environmental documents, the City's Planning Commission considered this Agreement and adopted Resolution No. 02-2359 recommending to the City Council of the City ("City Council") the approval and execution of this Agreement. On Sept. 10 & 24, 2002, following a duly noticed public hearing and consideration of the environmental documents in accordance with the requirements of the California Environmental Quality Act ("CEQA"), the CEQA Guidelines and applicable regulations, the City Council adopted Ordinance No. 02-12 approving this Agreement, finding that the Agreement is consistent with the City's General Plan and authorizing the execution of this Agreement. The effective date of Ordinance No. 02-12 is October 24, 2002.

II. TERMS AND CONDITIONS

NOW, THEREFORE, in light of the foregoing Recitals, and in consideration of the representations, assurances, covenants, and promises contained herein, the Parties agree to the following terms and conditions:

1. Definitions. The terms used in this Agreement shall have the following meanings:

1.1 "Additional Development Rules" shall refer to those certain conditions, terms, restrictions, requirements, rules, regulations, policies, or standards described in section 4.2 below which shall govern the development of the Project in addition to the Applicable Land Use Regulations and the Existing Approvals.

1.2 "Applicable Land Use Regulations" shall mean the City's General Plan, Zoning Code, and all other ordinances, resolutions, codes, rules, regulations, standards, policies, programs, conditions, terms, restrictions, or requirements of the City governing the development and use of the Property and the Project which were in effect as of

January 1, 2002, all as more particularly described in Exhibit "D" attached hereto, except that section V.E-736.5 of the Zoning Code in effect at the City as of 1989, a copy of which section is attached as Exhibit "E" hereto (the "1989 Zoning Code Section"), shall also be considered part of the Applicable Land Use Regulations for the purpose of establishing the limits on intensity of the Project. To the extent that the provisions of the 1989 Zoning Code Section that establish the limits on intensity of development permitted for the Property conflict with the provisions of the City's Zoning Ordinance in effect as of January 1, 2002 (the "Existing Zoning Code"), the 1989 Zoning Code Section shall supersede and be controlling. Notwithstanding the foregoing, the City and Developers agree that, in connection with the issuance of building permits for the Project, the most current versions of the Uniform Construction Codes (as defined in section 1.16 below), which are in effect at the time such permits are applied for, shall be applied to the Project and shall be deemed (a) to be part of the Applicable Land Use Regulations and (b) to supersede any earlier versions of such Uniform Codes.

1.3 "Development" or "development" shall mean the improvement of the Property for the purposes of completing and effecting the structures, improvements, and facilities comprising the Project, including, without limitation, grading, the construction of infrastructure and public facilities related to the Project whether located within or outside the Property, the construction of structures and buildings, 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.

1.4 "Effective Date" shall mean the effective date of the Ordinance adopted by the City Council of Irvine in approving this Agreement.

1.5 "Exactions" shall mean any requirements or conditions imposed by the City by means of any ordinance, resolution, rule, regulation, policy, or condition of approval for the (a) dedication of land or property, (b) the payment of any money by way of

fees, taxes, assessments, or other charges, or (c) the improvement, construction, or acquisition of any on-site or off-site public infrastructure, facilities, or property in order to lessen, offset, mitigate, or compensate for the impacts of the Project on environmental or other public concerns or interests.

1.6 "Existing Approvals" shall mean all maps, permits, plans, modifications, agreements, amendments, adjustments, or other land use approvals or entitlements of any kind adopted or approved on or before the Effective Date relating to the development of all or any portion of the Property or the Project which, when taken together with the Applicable Land Use Regulations and the Additional Development Rules, shall set forth (a) the permitted uses of the Property, (b) the maximum height and size of buildings to be constructed on the Property, (c) the density and intensity of use of the Property, (d) the requirements for reservation or dedication of portions of the Property for public purposes, and (e) the timing of the development of the Project. The Existing Approvals shall include (a) all of the maps, permits, plans, modifications, adjustments, and other approvals listed in Exhibit "C" attached hereto and (b) all amendments and additions thereto which are approved prior to the Effective Date of this Agreement. For purposes of this Agreement, the Vesting Map, and all other Existing Approvals, shall be deemed to be extended and shall remain in effect for the term of this Agreement, unless otherwise amended or modified in accordance with the terms of this Agreement; however, the ordinances, policies, and standards which shall be applicable to the Vesting Map within the meaning of section 66498.1 of the Government Code shall be deemed to be the Applicable Land Use Regulations and the Additional Development Rules.

1.7 "IBC Fees" shall mean any and all Irvine Business Complex development fees for circulation improvements as more particularly described in City Council Resolution No. 93-35, adopted by the City on March 9, 1993.

1.8 "Master Site Plan" shall mean the master conceptual site plan for the Property attached as Exhibit "B" to this Agreement.

1.9 "Mortgagee" shall mean the holder of any mortgage or the beneficiary of any deed of trust covering all or a portion of the Property which is still subject to the provisions of this Agreement and as to which this Agreement has not been terminated under section 12.3 or otherwise.

1.10 "Point System" shall mean the procedures and mechanisms for assigning and adjusting development (entitlement) points to establish limits on intensity of development within the IBC based on types of uses and amount of square footage proposed for such uses, all as more particularly specified in section V.E-736.5 of the 1989 Zoning Code, a copy of which section is attached as Exhibit "E" to this Agreement. The Point System, rather than the "trip budget" system provided for under the City's Existing Zoning Code, shall remain the applicable mechanism for determining the maximum limits on intensity of development permitted for the Project and the Property.

1.11 "Processing Fees" shall mean the usual and customary planning, engineering, and inspection fees and charges imposed by the City on a city-wide basis to cover the direct, indirect and administrative costs required to review, check, and inspect development applications submitted to the City for approval. As of the Effective Date, the Processing Fees are established in City Council Resolution No. 02-29, adopted on February 26, 2002. The Parties acknowledge that the City periodically adopts resolutions amending provisions relating to the Processing Fees, and it is further acknowledged that the Processing Fees as established or amended by the most recent City Council action on the subject shall apply herein.

1.12 "Project" shall mean the high-density, mixed-use office, commercial, and residential development and associated amenities, and on-site and off-site improvements to be constructed on the Property, which are contemplated by or embodied within the Existing Approvals, as the same may hereafter be further refined, enhanced or modified pursuant to the provisions of the Additional Development Rules and this Agreement. The conceptual design of the Project is depicted on the Master Site Plan attached as Exhibit

"B" hereto and the master plan components and design parameters of the Project are described in Exhibit "C" hereto. At present, the Project generally consists of (a) existing commercial/retail buildings, restaurants, and parking structures, and an office building under construction, and (b) additional proposed improvements, including five office towers, retail, restaurants, a hotel, a health club, a night club, a child-care facility, 360 density bonus residential units in high-rise towers, and related facilities and amenities.

1.13 "Property" shall mean that certain real property, on which the Project is to be developed, known originally as Parcel 2 of Final Parcel Map 85-142, consisting of approximately 90 acres of land, and that certain airspace parcel over and above a portion of Parcel 1 of Final Parcel Map 85-142, as more currently described in Exhibit "A" and depicted on Exhibit "B" hereto.

1.14 "Required Fees" shall mean any requirement of the City for the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of the Project on the environment or other public interests, as set forth in section 4.2.5 below. The Required Fees do not include any Processing Fees as defined in section 1.11 above, nor do they include any Taxes and Assessments as defined in section 1.15 below. For a period of fifteen (15) years from the Effective Date of this Agreement, the City shall not impose any new or additional Required Fees that the City had not approved prior to January 1, 2002, with respect to the Project or the Property, nor shall it increase any of the Required Fees above their current levels to the extent that such increases would otherwise apply to the Project or the Property, provided, however, that the preceding limitation on the City's imposition of or increase to Required Fees to the Project or the Property shall not apply to additional or increased Required Fees that are imposed by the City on a City-wide basis. Any such Required Fees imposed by the City on a City-wide basis shall be adopted pursuant to resolutions or ordinances of the City. Developers shall be deemed to have paid all IBC Fees applicable to the Project or the Property, except for those IBC Fees to be paid pursuant to

section 5 Public Benefits below, which IBC Fees shall not be increased or decreased during the term of this Agreement.

1.15 "Taxes and Assessments" shall mean and include any general taxes imposed for general governmental purposes, any special taxes imposed for specific purposes, any levy or charge upon real property for a special benefit conferred upon the real property (including any special assessment, benefit assessment, maintenance assessment, or special assessment tax), and any assessments on businesses to fund property-related improvements or activities. For a period of fifteen (15) years from the Effective Date of this Agreement, the City shall not levy or impose any new or additional Taxes and Assessments that the City had not approved prior to January 1, 2002, with respect to any portion or business component of the Project or the Property, nor shall it increase any of the Taxes or Assessments above their current levels to the extent that such increases would otherwise apply to the Project or the Property, provided, however, that the preceding limitation on the City's imposition of Taxes and Assessments to the Project or the Property shall not apply to additional or increased Taxes and Assessments that are levied or imposed by the City on a City-wide basis. Any such Taxes and Assessments levied or imposed by the City on a City-wide basis shall be adopted pursuant to resolutions or ordinances of the City.

1.16 "Uniform Construction Codes" shall mean the 1998 California Building Codes (Vols. 1, 2, and 3), the 1998 California Electric Code, the 1998 California Plumbing Code, the 1998 California Mechanical Code, the 1997 Uniform Solar Energy Code, the 1997 Uniform Swimming Pool, Spa and Hot Tub Code, the 1997 Uniform Housing Code, the Uniform Administrative Code, 1997 Edition, and the 1998 California Fire Code (including amendments thereto by the Orange County Fire Authority), as modified and amended by official action of the City, and any modifications or amendments to any such Code adopted in the future by the City, for general application throughout the City.

1.17 Additional Defined Terms. To the extent that any capitalized terms contained in this Agreement are not defined above, such terms shall have the meaning otherwise ascribed to them in this Agreement.

2. Term. This Agreement shall commence on the Effective Date and shall terminate on the twenty (20) year anniversary date of the Effective Date, unless sooner terminated or extended as hereinafter provided.

3. Vested Right to Develop the Property and to Complete the Project. Subject to the terms and conditions of this Agreement, Developers shall have a vested right to proceed with the development of the Property, and to carry out and complete the entire Project, in substantial compliance with the Applicable Land Use Regulations, the Existing Approvals, and the Additional Development Rules which, when taken together as a whole, shall govern the overall design, development, and construction of the Project and all on-site and off-site improvements and appurtenances in connection therewith.

4. Specific Criteria Applicable to Development of the Project.

4.1 Applicable Rules, Regulations, and Approvals. The Applicable Land Use Regulations, the Existing Approvals, and the Additional Development Rules shall govern the development of the Project and the granting or withholding of all subsequent permits or approvals required hereunder to complete the Project; provided, however, that (a) Developers shall be subject to all changes in any Processing Fees applicable to the Project or the Property, provided that such Processing Fees are of general application throughout the City, are not imposed solely with respect to the Project or the Property, and do not constitute an unauthorized Exaction, (b) Developers shall abide by the Uniform Construction Codes current at the time of application for such subsequent permits or approvals, and (c) the City may, in subsequent actions applicable to the Project or the Property and consistent with the provisions of section 65866 of the Government Code, apply new rules, regulations, and policies which are not inconsistent or in conflict with the Applicable Land Use Regulations, the Existing Approvals, the Additional Development Rules, or the intent or purpose or any of

the terms, standards, or conditions of this Agreement, and which do not materially interfere with the development of the Property and the Project for the uses and to the height, density, intensity and timing as provided for in this Agreement.

4.2 Specification of Additional Development Rules. Pursuant to section 65865.2 of the Government Code, and in order to supplement and clarify the rules, regulations, policies, and standards embodied in the Applicable Land Use Regulations and the Existing Approvals, the Parties wish to specify a number of additional conditions, terms, restrictions, and requirements to govern subsequent ministerial and discretionary actions relating to the development of the Project (collectively referred to herein as the "Additional Development Rules"). For purposes of this Agreement, the Additional Development Rules shall consist of the following:

4.2.1 Permitted Uses, Densities, Heights, Etc. Except as otherwise provided under the terms and conditions of this Agreement, the rules, regulations and requirements with respect to permitted uses of the Property, the density and intensity of use, 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 Project shall be those contained in the Applicable Land Use Regulations, the Existing Approvals, and the Additional Development Rules.

4.2.2 Timing of Development. The Parties acknowledge that Developers cannot at this time predict the time, the rate, or the order in which the various phases or components of the Project will be developed. Such decisions depend upon numerous factors which are not within the control of Developers, such as market orientation and demand, interest rates, absorption, competition, and similar factors. Subject to the terms and conditions of this Agreement, Developers shall have the right to develop the Property, and to complete the Project, at such rate, at such times, and in such order as Developers deem appropriate based on their subjective business judgment. Nothing in this section 4.2.2 is

intended to, nor shall, alter or affect any durational limits of any permits heretofore or hereafter issued to Developers.

4.2.3 Building Permits and Other Approvals and Permits. Subject to (a) Developers' compliance with this Agreement, the Applicable Land Use Regulations, the Existing Approvals, and the Additional Development Rules, and (b) payment of applicable Processing Fees, subject to any rights Developers may have to protest any such Fees, City shall, during the term hereof, issue to Developers, upon application therefor, all necessary building permits, certificates of occupancy, or other required permits for the construction, use, and occupancy of all or any portion of the Project or the Property.

4.2.4 Procedures; Limitations on Exactions. The standards for granting or withholding permits or approvals required in connection with the development of the Project shall be governed by the Applicable Land Use Ordinances, the Existing Approvals, and the Additional Development Rules, but the procedures for reviewing, checking, or inspecting applications for such permits or approvals (including Processing Fees) shall be governed by such ordinances and regulations as may then be applicable; provided, however, that the City shall not, except as otherwise provided in sections 1.14, 1.15, 4.2.5, 4.2.6, or 5 of this Agreement, impose any further Exactions on the Property or the Project other than those expressly authorized by the Existing Approvals.

4.2.5 Required Fees; Exemption Period. For a period of fifteen (15) years from the Effective Date of this Agreement (the "Exemption Period"), the City shall impose no new or increased Required Fees on the Project or the Property other than new or increased Required Fees that the City imposes on a City-wide basis as provided in section 1.14, and the only Required Fees that Developers (or their Mortgages or Assignees) shall be obligated to pay during the Exemption Period in connection with the Project or the Property shall be the following fees and charges:

(a) IBC Fees for the 360 density bonus residential units covered by the Density Bonus CUP, as more particularly described in section 5 Public Benefits below;

(b) Systems development charges as required by City Ordinance No. 81-10, except that no such charges shall be imposed on any parking structures constructed on the Property;

(c) Transportation corridor fees;

(d) Orange County Sanitation District connection fees;

(e) School facilities fees (Santa Ana Unified School District and Irvine Unified School District); and

(f) Park fees as required by City Subdivision Code section V.F-1004, except that the method for calculating such fees shall be as set forth in section 4.2.14 below.

By agreeing to pay the Required Fees to the City, Developers shall not be deemed to waive or relinquish any rights or defenses they may have to challenge or dispute the amount, propriety, or legality of any such Required Fees, except for the IBC Fees to be paid pursuant to section 5 Public Benefits below.

4.2.6 Taxes and Assessments. During the 15-year Exemption Period, the City shall impose no new or increased Taxes and Assessments on any portion or business component of the Project or the Property other than new or increased Taxes and Assessments that the City imposes on a City-wide basis as provided in section 1.15, and, subject to the foregoing, the only Taxes and Assessments that Developers (or their Mortgagees or Assignees) shall be obligated to pay during the Exemption Period in connection with the Project or the Property shall be those Taxes and Assessments which were in effect and were applicable to the Project or Property as of January 1, 2002. By agreeing to pay Taxes and Assessments to the City, Developers shall not be deemed to waive or

relinquish any rights or defenses they may have to challenge or dispute the amount, propriety, or legality of any such Taxes and Assessments.

4.2.7 Transfer of Development Rights to Other IBC Sites. Developers shall continue to be allowed to transfer their development rights (points) to other sites within the IBC as previously provided under section V.E-736.9 of the 1989 Zoning Code; however, the TDR procedures set forth in section 9-36-17 of the Existing Zoning Code shall govern any such future transfers. As a precondition to any future transfers to other sites within the IBC, Developers shall be required to convert into "p.m. office trips" whatever "points" they propose to transfer off-site, using the conversion rate of 2,173 points for every p.m. office trip transferred. In connection with any such transfers, the receiving site shall add a.m. office trips and office average daily trips ("ADT") based on the trip rates which are set forth in Exhibit "F" hereto and are incorporated herein.

4.2.8 Amendment of Condition 4 of Density Bonus CUP. Subject to the terms and conditions of this Agreement, Developers shall have a vested right to develop 360 density bonus residential units in high-rise towers to be situated in the general locations shown on the Master Site Plan (i.e., on Parcel 1 of Parcel Map 2000-202 and on a portion of Parcel 1 of Lot Line Adjustment 45280-LL). Concurrently with the processing and approval of this Agreement, Developers shall process an amendment to the Density Bonus CUP before the City's Planning Commission to amend Condition No. 4 on page 7 of Planning Commission Resolution No. 91-1584 (the "Condition No. 4 Amendment") to delete the existing text and to provide, as substitute language, that, prior to submitting applications for the issuance of any precise grading permits or building permits, Developers shall submit a pre-application including the following:

(a) Site plans showing building locations on Parcel 1 of Parcel Map 2000-202 and on a portion of Parcel 1 of Lot Line Adjustment 45280-LL, parking area, refuse collection areas, loading and service areas, bicycle and pedestrian circulation within the residential site;

(b) Landscape plans showing landscape theme and location of all landscaped areas within the residential site;

(c) Building elevations for each high-rise tower showing building height, exterior materials, and architectural themes of high-rise residential building; and

(d) Park design.

Developers acknowledge that the City has not made any representation, promise or warranty, and cannot make any representation, promise or warranty, regarding what action the City's Planning Commission may take with respect to the Condition No. 4 Amendment. Developers further acknowledge that with respect to the Condition No. 4 Amendment, the City's Planning Commission must hold a noticed public hearing and comply with applicable laws and ordinances, including the California Environmental Quality Act ("CEQA"). Developers further acknowledge that any action of the City's Planning Commission with respect to the Condition No. 4 Amendment may be appealed to the City Council; and Developers acknowledge that the City has not made any representation, promise or warranty, and cannot make any representation, promise or warranty, regarding what action the City Council may take with respect to such appeal.

4.2.9 Amendment of Condition 43 of Density Bonus CUP.

Concurrently with the amendment referred to in paragraph 4.2.8 above, Developers shall process an amendment to the Density Bonus CUP before the City's Planning Commission to amend Condition 43 on page 18 of Planning Commission Resolution No. 91-1584 (the "Condition No. 43 Amendment") to delete the existing text and to provide, as substitute language, that, prior to the issuance of new building permits for the construction of any residential units on the Property, Developers shall provide the City with a shelter-in place plan consisting of the following elements: (a) a building-wide tenant emergency notification system; (b) a building-wide air handler shut-off; and (c) on-site security. Developers acknowledge that the City has not made any representation, promise or warranty, and cannot

make any representation, promise or warranty, regarding what action the City's Planning Commission may take with respect to the Condition No. 43 Amendment. Developers further acknowledge that with respect to the Condition No. 43 Amendment, the City's Planning Commission must hold a noticed public hearing and comply with applicable laws and ordinances, including CEQA. Developers further acknowledge that any action of the City's Planning Commission with respect to the Condition No. 43 Amendment may be appealed to the City Council; and Developers acknowledge that the City has not made any representation, promise or warranty, and cannot make any representation, promise or warranty, regarding what action the City Council may take with respect to such appeal.

4.2.10 Continuing Permitted Uses for Property. The Parties agree that, since the following uses were permitted uses under section V.E-736.2 of the 1989 Zoning Code applicable to the Vesting Map, they shall continue to be permitted uses governing the development of the Project and Property: (1) Bar, Tavern, Cocktail Lounge; (2) Car Wash; (3) Conference/Convention Facility; (4) Department Store; (5) Financial Institution; (6) Home Occupation; (7) Hotel/Motel; (8) Parking Structure; and (9) Restaurant. In addition, Residential Attached shall be a conditionally permitted use for the Project and the Property which may be processed as a modification to the Master CUP in accordance with the procedures set forth in Chapter 2-19 of the Existing Zoning Code.

4.2.11 Clarification of Minor Modification Procedures. Developers and the City desire to retain a certain degree of flexibility with respect to the development of the Project. City acknowledges the conceptual nature of the Density Bonus CUP and the Master CUP which identify general locations for buildings, but do not provide elevations or dimensional building plans. As a result, Developers shall have the discretion, in response to market conditions, to apply for modifications to the size, shape, design, use, and location of various land uses and other improvements to be developed on the Property, and the determination as to whether such modifications shall be deemed to be "major" or "minor" modifications shall be made by the City in accordance with the procedures set forth in

Chapter 2-19 of the Existing Zoning Code. Notwithstanding the provisions of Chapter 2-19 or any other provisions of the Existing Zoning Code, the "Point" System, as opposed to the "trip budget" system, shall remain the applicable standard for determining the maximum limits on intensity of development permitted for the Project and the Property.

4.2.12 Clarification of "Site" Definition. For the purpose of applying the definition of "site" to the Project, setback requirements from property lines shall not apply to the property line surrounding the individual building sites to be developed at the Property.

4.2.13 Clarification of Building Setback - Street. For the purpose of applying the definition of "Building Setback - Street" to the Project, the Street Setback shall be 30 feet measured from the ultimate face of curb for Jamboree Road, Michelson Drive, and I-405 Freeway.

4.2.14 Method for Calculating Park Fees. All park fees and park fee credits assessed on the Project for any residential units for park land dedication or in lieu fees shall be based on a land cost of $415,000 per acre and a population per dwelling unit of 1.5 person/unit and park credit amounts as determined for the Project under the Master CUP.

4.2.15 Future Applications for Land Use Approvals. In connection with any approvals which the City has granted or has the right to make under this Agreement relating to the Project, the City shall exercise its discretion consistent with the terms and conditions of this Agreement. Subject to review for completeness, the City shall accept for processing and shall timely review and act on all applications for further land use entitlement approvals with respect to the Project which are called for, required under, or submitted subsequent to this Agreement.

4.2.16 Future Discretionary Reviews. The City shall retain reasonable discretionary powers in reviewing and approving non-ministerial applications to develop the Property which have not been submitted or granted as of the Effective Date of

this Agreement, provided that such reviews and approvals are conducted and applied by the City in a manner that is consistent with this Agreement, the Applicable Land Use Regulations, the Existing Approvals, and the Additional Development Rules, and provided further that any such future discretionary reviews or approvals do not conflict with the development of the Project or the land uses, densities or intensities of use, or other matters permitted by this Agreement unless Developers, in their sole discretion and without any obligation to do so, consent to such conflicting reviews or approvals, in which case no amendment of this Agreement would be required. The City shall not impose any conditions or Exactions in connection with any future discretionary reviews or approvals which are inconsistent with or conflict with this Agreement, the Applicable Land Use Regulations, the Existing Approvals, or the Additional Development Rules, or which materially interfere with the development of the Project.

4.2.17 Subsequent Actions and Approvals. In accordance with the provisions of section 65866 of the Government Code, nothing in this Agreement shall prevent the City, in subsequent actions applicable to the development of the Project, from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies set forth in the Applicable Land Use Regulations, the Existing Approvals, the Additional Development Rules, or this Agreement. However, the City shall not, without the consent of Developers, which consent may be given or withheld in Developers' sole discretion, take any of the following actions: (a) reduce the net IBC development points presently allocated to the Project, (b) modify the permitted uses for the Project or reduce the density or intensity of all or part of the Project, (c) require any reduction in the square footage or total number of proposed improvements allowed for the Project under the Applicable Land Use Regulations and the Existing Approvals, or (d) attempt to regulate the timing, rate, or phasing of development to be undertaken in connection with the Project. This list of prohibited actions is not intended to be exhaustive, but merely illustrative, of the

type of actions that would conflict with this Agreement, the Applicable Land Use Regulations, the Existing Approvals, or the Additional Development Rules.

4.2.18 Subsequent Environmental Review. Consistent with the provisions of section 21166 of the Public Resources Code, no subsequent or supplemental environmental impact report shall be required by the City for subsequent discretionary approvals implementing the Project unless (a) substantial changes are proposed in the Project which will require major revisions of the environmental impact reports relied upon for the approval of this Agreement; (b) substantial changes occur with respect to the circumstances under which the Project will be undertaken which would require major revisions in those environmental impact reports; or (c) new information, which was not known and could not have been known at the time that the environmental impact reports were certified as complete, becomes available. The Parties acknowledge and agree that "new information" does not mean the discovery that probabilities described in environmental documents prepared in connection with the approval of this Agreement or in connection with the issuance of the Existing Approvals are becoming or have become realities, but, instead, that the Project will have significant environmental impacts not previously discussed and the significant quantitative and qualitative extent of those impacts was not considered as part of that analysis in the environmental analysis associated with the approval of this Agreement or the issuance of the Existing Approvals.

4.2.19 State and Federal Laws. In the event that state or federal laws or regulations, enacted or applied 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 to comply with any City ordinance, resolution or regulation mandated or required by changes in state or federal laws, regulations or decisions; provided, however, that 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 provisions impractical or impossible to enforce. The procedures to be used in the event of any modification of this Agreement pursuant to this section 4.2.19 shall be the following:

(a) Notice and Copies. In the event that: (i) existing state or federal laws, regulations or decisions, or (ii) such laws, regulations or decisions which are enacted or adjudicated after the Effective Date, or (iii) the action or inaction of any other affected governmental jurisdiction, prevents or precludes compliance with any provision of this Agreement or requires changes in the Applicable Land Use Regulations, the Existing Approvals, the Additional Development Rules, or other programs or actions of the City, each Party with knowledge of the same shall provide the other Party with: (1) written notice of such state or federal restriction; (2) a copy of such law, regulation or decision; and (3) a statement of the perceived conflict with the provisions of this Agreement, the Applicable Land Use Regulations, the Existing Approvals, the Additional Development Rules, or other programs or actions and of the proposed course of action of the Party giving the notice to modify or suspend this Agreement, the Applicable Land Use Regulations, the Existing Approvals, the Additional Development Rules, or other programs or actions as may be necessary to comply with such state or federal laws, regulations, and decisions.

(b) Modification Conference. The Parties shall, within thirty (30) days of notice pursuant to paragraph (a) of this section 4.2.19, meet and confer in good faith in a reasonable attempt to modify this Agreement, the Applicable Land Use Regulations, the Existing Approvals, the Additional Development Rules, or other programs or actions if and as necessary to comply with such federal or state law, regulation or decision.

(c) Council Hearings. In the event that the Parties are unable to reach agreement on the effect of such federal or state law, regulation or

decision upon this Agreement, the Applicable Land Use Regulations, the Existing Approvals, the Additional Development Rules, or other programs or actions, the matter shall be scheduled for a public hearing before the Irvine City Council. Ten (10) days' written notice of such hearing shall be given, pursuant to Government Code section 65867. At such hearing, the Irvine City Council shall determine the exact modification or suspension necessitated by such federal or state law or regulation. Developers, at the hearing, shall have the right to offer oral and written testimony. Any modification or suspension shall be no more than is necessary for the Agreement to comply with the newly enacted state or federal regulation and shall be taken by the affirmative vote of not less than a majority (three (3) members) of the Irvine City Council. In the event of such modification or suspension pursuant to this section 4.2.19, this Agreement shall remain in full force and effect to the extent that performance of the remaining provisions would not materially adversely affect the economic feasibility of the Project. If as a result of modification or suspension pursuant to this section 4.2.19, the performance of the remaining provisions would materially adversely affect the economic feasibility of the Project, as determined by Developers, this Agreement may be terminated by Developers upon sixty (60) days' prior written notice to the City.

4.2.20 Later-Enacted Regulations. In the event that, after the Effective Date of this Agreement, the City adopts new rules, regulations, or policies that would have general application to all properties and projects within the IBC, but would otherwise be in conflict with or inconsistent with the Applicable Land Use Regulations, the Existing Approvals, or the Additional Development Rules, Developers may nevertheless elect to become subject to such new rules, regulations, or policies, by providing written notification to the City. Such written notification to the City shall be deemed to make such new rules, regulations or policies a part of the Additional Development Rules.

4.3 Superseding Effect of Additional Development Rules. In the event that any existing or future terms or conditions of any of the Additional Development Rules are deemed by the City to be inconsistent with or in conflict with any of the terms or conditions of any of the Applicable Land Use Regulations or the Existing Approvals, then the Additional Development Rules shall be deemed to supersede and take precedence over any such Applicable Land Use Regulations or Existing Approvals with which they are deemed to be in conflict.

5. Public Benefits. At the time of issuance of building permits for the density bonus residential units covered by the Density Bonus CUP, Developers shall pay IBC Fees to the City in the amount $3,734.00 for each residential unit for which a building permit is issued. If building permits are ultimately obtained for all 360 density bonus residential units covered by the Density Bonus CUP, Developers' total payment to the City shall be $1,344,240.00 in additional IBC Fees for such residential units. The provisions of this section 5 regarding Developers' obligation to pay IBC Fees to the City in the amount of $3,734.00 for each Density Bonus CUP residential unit for which a building permit is issued shall survive the expiration or earlier termination of this Agreement, unless such termination occurs pursuant to sections 4.2.19(c), 6.3.2, or 8.3 of this Agreement. However, a termination of this Development Agreement under sections 4.2.19(c), 6.3.2, or 8.3 shall not, in any subsequent dispute between the Parties regarding the payment of IBC Fees for the residential units covered by the Density Bonus CUP, create any presumption regarding the existence or non-existence of any obligation on the part of Developers to pay such IBC Fees for such residential units.

6. Binding Effect of Agreement.

6.1 City Bound By Agreement. This Agreement shall be binding upon the City and all of its decision-making bodies, commissions, agencies, committees, and authorities, as well as its populace, in accordance with and subject to the terms and conditions herein, notwithstanding any subsequent action of the City, whether taken by ordinance,

resolution, initiative, or otherwise; and the City acknowledges that, by executing this Agreement and relying thereon, the Developers have obtained a vested right to require that the Applicable Land Use Regulations, the Existing Approvals, and the Additional Development Rules shall govern the development of the Property and shall allow the entire Project to be completed, subject to the terms and conditions of this Agreement. The City further acknowledges that it has entered into this Agreement in order to secure the public benefits conferred upon it hereunder to protect the public health, safety and welfare of the City and its residents, and this Agreement is an essential element in the achievement of those goals.

6.2 Enforcement. Unless amended or terminated as provided herein, or modified or suspended pursuant to Government Code section 65869.5, this Agreement shall be enforceable by any of the Parties, notwithstanding any change in any applicable general or specific plan, zoning, subdivision or building regulation or other applicable ordinance or regulation adopted by the City (or by the voters of the City unless found by a court of competent and prevailing jurisdiction to prevail over this Agreement) which alters or amends the Applicable Land Use Regulations, the Existing Approvals, or the Additional Development Rules, including the timing of the development of the Project.

6.3 Initiative or Other Voter-Approved Measures.

6.3.1 Notwithstanding the provisions of section 8.1 below, Developers, in their discretion, shall be allowed, by means of an arbitration initiated pursuant to section 8 below or by means of a mandamus action filed in the Orange County Superior Court, to challenge the legality or applicability of, or to otherwise seek to set aside, a proposed or enacted initiative, ordinance, moratorium, limitation, or other voter-approved measure (collectively "Measure") that purports to invalidate or prevail over, or is otherwise claimed by Developers to be unlawful or in conflict with all or any portion of this Agreement. Such challenge may be brought either as a pre-election challenge prior to the vote on such proposed Measure, or as a post-election challenge following the passage of such Measure. In the event that either a Final Determination (as defined in section 8.2 (iii) below) issued by a

neutral arbitrator or a writ of mandate issued by a court of law upholds the challenge by Developers, invalidates the Measure, or in any way results in a determination that the Project, the Property, or Developers are not subject to such Measure, then, unless the provisions of section 8.3 are satisfied, Developers shall have no right to seek any monetary damages against the City by reason of the Measure.

6.3.2 Should the Measure be determined by an arbitrator or court of law to invalidate or prevail over all or any part of this Agreement, and, as a result thereof, Developers are prevented from, or are otherwise unable to continue developing the Property and completing the Project in accordance with the terms of this Agreement, including, but not limited to, the timing provisions of section 4.2.2, then (a) Developers shall be entitled, in their sole discretion and with thirty (30) days' written notice to the City, to terminate this Agreement upon their determining, in their sole discretion, that the economic feasibility of the Project and the continued viability of this Agreement have been adversely affected to a material degree and (b) the provisions of section 5 above to pay IBC Fees for the residential units covered by the Density Bonus CUP shall be deemed to have been deleted from this Agreement and shall be of no further force or effect with respect to any Density Bonus CUP residential units for which building permits are applied for thereafter; provided, however, that in any subsequent dispute between the City and Developers regarding the payment of IBC Fees for the residential units covered by the Density Bonus CUP, the deletion of section 5 of this Agreement shall not create any presumption regarding the existence or non-existence of any obligation on the part of Developers to pay such IBC Fees for such residential units. A termination of this Agreement pursuant to this section 6.3.1 shall not, in any subsequent dispute between the Parties regarding the payment of IBC Fees for the residential units covered by the Density Bonus CUP, create any presumption regarding the existence or non-existence of any obligation on the part of Developers to pay such IBC Fees for such residential units.

6.4 Appeal. Nothing in this Agreement shall be deemed to limit Developers' right to appeal any such determination that such initiative, ordinance, moratorium, limitation or other measure invalidates or prevails over all or any part of this Agreement.

7. Annual Review. As required by section 65865.1 of the Government Code, City shall conduct reviews of this Agreement at least once every twelve (12) month period from the Effective Date. Such annual reviews shall be held for the limited purpose of allowing Developers to demonstrate, as and when applicable, their good faith compliance with their obligations under section 5 of this Agreement. City shall notify Developers in writing of each date of review at least thirty (30) days prior thereto.

8. Arbitration; Damages.

8.1 During the period of time that this Agreement remains in effect and is not otherwise terminated in accordance with its terms, and except for the mandamus action authorized by section 6.3.1, any controversies, disputes, or claims of whatever nature (collectively, the "Dispute") arising out of, based upon, or relating to (a) the interpretation, enforcement, performance, or breach of any of the provisions of this Agreement, or (b) the respective rights or duties of any the Parties under the Existing Approvals, the Applicable Land Use Regulations, or the Additional Development Rules, shall be resolved solely and exclusively by final and binding arbitration conducted in accordance with the procedures set forth below.

8.2 Arbitration shall be commenced by a Party giving written notice of arbitration to the other Party or Parties to the Dispute. No later than thirty (30) days after such notice of arbitration is given, all Parties to the Dispute shall submit to final and binding arbitration of the Dispute in Orange County, California, before a retired judge from the panel of jurists at the Orange County, California office of the Judicial Arbitration & Mediation Services, Inc. ("JAMS") in accordance with (a) the California Arbitration Act ("Act") Code of Civil Procedure, sections 1280 et seq., (as the Act may exist at the time of signing this

Agreement), except as such statutory provisions may be modified hereinbelow in which case such modifications shall govern and (b) the JAMS Comprehensive Arbitration Rules & Procedures in effect at JAMS at the time of the demand for arbitration, except as such Rules may be modified by the following provisions:

(i) the notice of arbitration shall include a short statement of the factual basis of the Dispute and shall specify the respective claims of each Party to the arbitration;

(ii) Except for the award of any monetary damages which shall be prohibited in the arbitration, the neutral arbitrator shall have the power and authority to award any equitable, provisional, or extraordinary relief or remedy that the Orange County Superior Court could order or grant, including, without limitation, specific performance of any duty or obligation arising under the Agreement, the issuance of any temporary, preliminary, or permanent injunctive relief, or the issuance of any extraordinary relief, such as a writ of mandate;

(iii) the neutral arbitrator shall conduct the arbitration in such a manner that a final award or determination (the "Final Determination"), which shall not include any monetary damages, is made or rendered as soon as is reasonably practicable, but in no event later than ninety (90) days after service of the notice of arbitration or twenty (20) days after the conclusion of the arbitration hearing, whichever is earlier in time. In rendering the Final Determination, the arbitrator shall set forth in writing the reasons for the decision. The Final Determination, shall be final and binding upon the Parties to the arbitration without appeal or review except as permitted by the Act. Any Party to the arbitration may apply to the Orange County Superior Court for entry and enforcement of judgment based on the Final Determination;

(iv) The prevailing Party or Parties in the arbitration of the Dispute shall be entitled to recover its/their attorney's fees, costs, and expenses which

are reasonably incurred from the non-prevailing Party or Parties to the arbitration. In addition, the neutral arbitrator shall award to the prevailing Party or Parties in the arbitration its/their share of (a) the arbitrator's fees and expenses and (b) the administrative fees of the arbitration; and

(v) Pursuant to section 1283.1 of the Code of Civil Procedure, the provisions of section 1283.05, as well as any further amendments thereto, are hereby made applicable to the arbitration of any Dispute under this Agreement.

8.3 In the event that, within thirty (30) days of receipt of notice of Final Determination or within such additional time as the arbitrator may allow upon a showing of good cause, any non-prevailing Party or Parties to the arbitration fail(s) or refuse(s) to comply with any award of relief, or other remedy or ruling, granted in connection with the Final Determination, then such non-compliance shall constitute a material breach of this Agreement. In the event that, within thirty (30) days of receipt of notice of a writ of mandate issued in favor of Developers pursuant to section 6.3.1, or within such additional time as the court may allow upon a showing of good cause, the City fails or refuses to comply with the terms of such writ, such non-compliance shall likewise constitute a material breach of this Agreement. Upon the occurrence of a breach pursuant this section 8.3, a prevailing Party in the arbitration or litigation, as the case may be, may elect, in its sole discretion, to terminate this Agreement as to such breaching Party or Parties and may thereafter file a legal action against such Party or Parties seeking all available legal and equitable remedies, including monetary damages. Until this Agreement expires by its own terms, or is earlier terminated under this section 8.3, the provisions of this section 8.3 shall be the exclusive method by which any Party may file suit against another Party or Parties to this Agreement seeking monetary damages for any claims or liabilities arising under, based upon, or relating to this Agreement, or any of the Existing Approvals, Applicable Land Use Regulations, or Additional Development Rules.

9. Estoppel Certificate. Any of the Parties may, at any time, and from time to time, deliver written notice to another Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended or modified either orally or in writing, or, if so amended or modified, identifying the amendments or modifications, (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and extent of any such default, or (iv) any other reasonable information requested. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. The City's Director of Community Development shall have the right to execute any certificate requested by Developers hereunder.

10. Encumbrances and Mortgage Protection.

10.1 Discretion to Encumber. This Agreement shall not prevent or limit Developers, in any manner, at Developers' sole discretion, from encumbering the Property or any portion of the Property, or any improvement on the Property, by any mortgage, deed of trust, UCC Financing Statement or fixture filing or other security device securing the placement or replacement of financing with respect to the Property or its development.

10.2 Mortgagee Rights and Obligations.

10.2.1 Subordination. The lien of any existing or future deeds of trust recorded against all or any part of the Property shall be superior and senior to any lien created by this Agreement on the recordation thereof. At the request of any lender whose loan will be secured by a deed of trust on all or any part of the Property, the City shall execute a subordination agreement, subordinating its interest hereunder to the lien of such deed of trust, which subordination agreement shall be subject to the reasonable approval of the City. Notwithstanding the foregoing: (i) at the option of the Mortgagee any foreclosure of any such deed of trust shall not serve to extinguish or terminate this Agreement, provided that in no

event shall any dedications or conveyances (or offers of dedication or conveyance) made by Developers to the City be affected or reversed and, provided further, that any IBC Fees then owing to the City under section 5 above shall be paid to the City and any future IBC Fees required under section 5 shall continue to be paid in a timely manner; and (ii) the lien of any bond, tax or assessment shall be superior to the lien of any deed of trust and this Agreement.

10.2.2 No Impairment of Lien. Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any existing or future mortgagee or deed of trust on the Property made in good faith and for value.

10.2.3 Election to Assume Obligations. Except as provided to the contrary in this Agreement, no Mortgagee (a) shall have an obligation or duty under this Agreement to perform the obligations of Developers or other affirmative covenants of Developers hereunder, or to guarantee such performance, (b) shall be liable for any default or monetary obligation or duty under this Agreement to perform the obligations of Developers or other affirmative covenants of Developers hereunder, or to guarantee such performance, or (c) shall be liable for any default or monetary obligations of Developers arising prior to acquisition of title to all or a portion of the Property by such Mortgagee. Notwithstanding the foregoing, however, if a Mortgagee acquires a portion of the Property through foreclosure or otherwise and elects to develop, in accordance with the Existing Approvals and the provisions of this Agreement, that portion of the Property acquired by the Mortgagee, then the Mortgagee shall be required to assume and perform the obligations or other affirmative covenants of Developers under this Agreement. Any termination of this Agreement which may occur as a result of a breach or default on the part of a Mortgagee shall be limited to that Mortgagee only and to that portion of the Property acquired by such Mortgagee, and shall not cause the Agreement to be terminated as to any other portion of the Property or as to any of the Developers (or their successors or assigns) that continue to hold rights or interests in the Property.

10.2.4 Request to Modify. The City acknowledges that the lenders providing financing for the Project may require certain modifications to this Agreement and the City agrees, upon request from time to time, to meet with Developers or representatives of such lenders to negotiate in good faith any such requirement for modification. To the extent that Irvine City Council action is required in order to lawfully adopt the requested modification to this Agreement, the Irvine City Council shall promptly and reasonably consider the request, without imposing any additional conditions, dedications, or Exactions on Developers so long as such requested modification(s) do(es) not materially affect the terms of this Agreement.

11. Assignment. Developers shall have the right to sell, transfer, or assign the Property in whole or in part to any person, partnership, joint venture, corporation, or other entity at any time during the term of this Agreement, provided, however, that any such assignment shall include the assignment and assumption of the rights, duties, and obligations arising under or from this Agreement.

12. Successors and Assigns.

12.1 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 the Parties and their respective heirs, successors and assigns, and all other persons or entities acquiring all or any portion of the Property, or any interest therein, whether by operation of law or in any manner whatsoever.

12.2 In the event that a successor, assign, or transferee (collectively, "Assignee") of any of the Developers seeks to develop, in accordance with the Existing Approvals and the provisions of this Agreement, that portion of the Property acquired by such Assignee, then such Assignee shall be required to perform the obligations or other affirmative covenants of Developers under this Agreement and, in that event, any failure of such Assignee to perform or comply with such obligations or covenants shall be subject to the

default provisions set forth in sections 8.1 and 8.2 above. Any termination of the Agreement which may occur as a result of a default on the part of an Assignee of any of the Developers shall be limited to that Assignee only and to that portion of the Property acquired by such Assignee and shall not cause the Agreement to be terminated as to any other portion of the Property or as to any of the Developers (or their successors or assigns) that continue to hold rights or interests in the Property.

12.3 Notwithstanding any provisions of this Agreement to the contrary, but subject to section 12.4 below, the burdens, obligations, and duties of this Agreement shall terminate as to any lot, residential dwelling unit, or office, commercial, industrial or other nonresidential space (a "Constructed Parcel") which has been finally constructed and individually (and not in "bulk") leased or sold to the purchaser or user thereof, and for which the City has issued an occupancy permit or notice of completion of construction; and thereupon and without the execution or recordation of any further document or instrument, such Constructed Parcel shall be released from and no longer be subject to or burdened by the provisions of this Agreement, provided, however, that the benefits of this Agreement shall continue to run as to any such Constructed Parcel until a building is constructed on such Constructed Parcel and a final certificate of occupancy or notice of completion of construction is issued for such building at which time this Agreement shall terminate as to such Constructed Parcel.

12.4 Notwithstanding the provisions of section 12.3, in the event that, during the term of this Agreement, any entity in which Crow Development has a direct or indirect ownership interest acquires or holds title to any Constructed Parcel as to which this Agreement has been terminated under section 12.3, then, upon the written consent of Crow Development, which consent may be given or withheld in Crow Development's sole discretion, the benefits and burdens of this Agreement, and all provisions hereof, shall once again be applicable to such Parcel and it shall again be considered part of the Property subject to this Agreement.

13. Notices. Any and all notices, demands or other communications ("Notices") required or desired to be given hereunder by any Party or to any mortgagee shall be in writing and shall be validly given or made by any of the following methods: (i) by personal delivery; (ii) by facsimile transmission if also concurrently deposited for delivery by United States mail in the manner described in subparagraph (iii); (iii) by deposit in the United States mail, certified or registered, postage prepaid; or (iv) by delivery by a same-day or overnight courier (e.g. Federal Express, Overnight Express, etc.). Notices delivered personally or by courier shall be conclusively deemed made at the time of such personal delivery or refusal to accept delivery. Notice served by facsimile transmission shall conclusively be deemed to have been made as of the earlier of (a) the first business day following the date of transmission to the facsimile number, if any, set forth below, so long as the sender has reasonable confirmation of the receipt by the receiving facsimile machine of the facsimile transmission; or (b) the effective date of receipt of the concurrently mailed copy of the Notice. Notices delivered by mail shall conclusively be deemed delivered three (3) business days after the deposit thereof in the United States mail addressed to the party to whom such Notice is to be given. Any Party hereto may change its address or facsimile number for the purpose of receiving Notices as herein provided by a written notice given in the manner aforesaid to the other Party or Parties hereto. Notices shall be directed as follows:

If to City:

City of Irvine
One Civic Center Plaza
P.O. Box 19575
Irvine, California 92623-9575
Attention: Director of Community Development
FAX: (949) 724-6440

If to Developers:

Crow Winthrop Development Limited Partnership
Shops at Park Place LLC
3121 Michelson Drive LLC
3161 Michelson Drive LLC
Park Place Parking Company LLC
Park Place Hotel Company LLC
Park Place Residential Highrise I LLC
Park Place Development LLC

c/o Crow Winthrop Development Limited Partnership
3311 Michelson Drive
Irvine, California 92612
FAX: (949) 553-1154

With a copy to: Rus, Miliband & Smith
A Professional Corporation
2600 Michelson Drive, Suite 700
Irvine, California 92612
Attention: Joel S. Miliband
FAX: (949) 252-1514

To a Mortgagee: To the address set forth in such Mortgagee's request for notification provision to Section 10.2 above

14. Additional Provisions.

14.1 Relationship of Parties. The Parties understand and agree that the Project is a private development, that none of the Parties is acting as the agent of the other Parties in any respect hereunder, and that each Party is an independent contractor. The Parties further understand and agree that none of the terms or provisions of this Agreement is intended to, nor shall, be deemed to create a partnership, joint venture, or joint enterprise between or among the Parties.

14.2 Modification or Amendment. This Agreement may be amended from time to time by mutual written consent of the City and all of the Developers then still in existence. No amendment of this Agreement shall be valid unless in writing and signed by duly authorized representatives of the City and all Developers then still in existence.

14.3 No Third-Party Beneficiaries. Except as provided in section 12.1, this Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. Except as may expressly be provided in this Agreement, no other person or entity shall have any rights or interests based upon any provision of this Agreement and there shall be no third-party beneficiaries under this Agreement.

14.4 Not a Public Dedication. Nothing contained herein shall be deemed to be a gift or dedication of the Property, or of the Project, or portion thereof, to the general public, for the general public, or for any public use or purpose whatsoever, it being

the intention and understanding of the Parties that this Agreement be strictly limited to and for the purposes herein expressed for the development of the Project as private property. Prior to dedication, Developers shall have the right to prevent or prohibit the use of the Property, or the Project, or any portion thereof, including common areas and building and improvements located thereon, by any person for any purpose inimical to the operation of a private, integrated, mixed-use Project as contemplated by this Agreement.

14.5 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable by judgment or court order, the remainder of this Agreement shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

14.6 Exhibits. The Exhibits listed in the Table of Contents, to which reference is made herein, are deemed incorporated into this Agreement in their entirety by reference thereto.

14.7 Entire Agreement. This Agreement and the Exhibits hereto contain all the representations and the entire agreement between the Parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement and the Exhibits hereto, any prior correspondence, memoranda, agreements, warranties or representations are superseded in total by this Agreement and Exhibits hereto.

14.8 Governing Law; Venue. This Agreement, and the rights and obligations of the Parties, shall be governed by and interpreted in accordance with the laws of the State of California. The Parties agree that the Superior Court of the County of Orange, Central Justice Center, and the United States District Court for the Central District of California, Santa Ana Division, shall have exclusive jurisdiction over any litigation between the Parties arising out of or relating to this Agreement.

14.9 Consistency with Laws in Force. The City finds, based upon all information made available to the City prior to or concurrently with the execution of this

Agreement, that there are no rules, regulations, ordinances, statutes, or official policies, of, or applicable to, the City in force as of the date of execution of this Agreement that would prohibit or prevent the execution, effectiveness or enforcement of any terms or conditions of this Agreement.

14.10 Justifiable Reliance. The City acknowledges that in investing money and the planning efforts in the Project, and in commencing construction of the Project, Developers will be relying upon the City's covenants contained in this Agreement and upon the enforceability of this Agreement, and the City agrees that Developers may and will be reasonably and justifiably relying upon the City's covenants contained in this Agreement and the enforceability hereof in so doing.

14.11 Consent. Where the consent or approval of the City, or Developers, is required or necessary under this Agreement, the consent or approval shall not be unreasonably withheld, delayed, or conditioned unless otherwise provided herein.

14. 12 Covenant of Cooperation. The City and Developers shall cooperate and deal with each other in good faith, and assist each other in the performance of the provisions of this Agreement. Subject to their right to protest any such requirements, Developers may from time to time apply for and obtain such other additional permits and approvals as may be required by other governmental or quasi-governmental agencies and utility companies having jurisdiction over the Project in connection with the development of, or provision of services to, the Project. The City shall cooperate with Developers in their efforts to obtain such permits and approvals, and, from time to time at the request of Developers and, at no cost to the City, attempt with due diligence and in good faith enter into binding agreements to assure the availability of such permits and approvals or services, provided such agreements are reasonable and not detrimental to the City.

14.13 Nonliability of City Officers and Employees. No official, officer, employee, agent, or representative of the City, acting in his/her official capacity, shall be personally liable to Developers, or any of their respective successors, transferees, assigns,

or mortgagees, for any loss, costs, damage, claim, liability, or judgment, in any way arising out of or connected to this Agreement, or any of the Applicable Land Use Regulations, Existing Approvals, or Additional Development Rules, or for any act or omission on the part of the City or such official, officer, employee, agent, or representative with respect to Developers or their respective successors, transferees, assigns or mortgagees.

14.14 Nonliability of Developers' Members, Officers and Employees. No member, officer, director, employee, agent, representative, shareholder, partner, joint venturer, investor, parent or subsidiary corporation or other affiliate of Developers or any of Developers' successors, transferees, assigns, or mortgagees, shall be personally liable to the City, or any successor or assign, for any loss, costs, damage, claim, liability, or judgment, arising out of or connected to this Agreement, or any of the Applicable Land Use Regulations, Existing Approvals, or Additional Development Rules, or any of the Additional Development Rules, or for any act or omission on the part of Developers or any of Developers' successors, transferees, assigns, or mortgagees, or any of their respective members, officers, directors, employees, agents, representatives, shareholders, partners, joint venturers, investors, parents or subsidiary corporations or other affiliates.

14.15 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by the City of its power of eminent domain.

14.16 Termination. Except as otherwise provided above, this Agreement may be terminated only by the mutual written consent of the City and all of the Developers that are then still in existence.

14.17 Attorneys' Fees. In the event of any dispute, claim, or litigation based upon, arising out of, or relating to, the breach, enforcement, or interpretation of any of the provisions of this Agreement, the prevailing Party or Parties in such dispute, claim, or litigation shall be entitled to recover its/their attorneys' fees, costs and expenses, which are reasonably incurred, from the non-prevailing Party or Parties.

14.18 Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by any other Party shall not constitute waiver of such Party's right to demand strict compliance by such other Party in the future. All waivers must be in writing to be effective or binding upon the waiving Party.

14.19 Recordation. This Agreement shall be recorded in the official Records of the County of Orange within ten (10) days following the Effective Date in accordance with Government Code section 65868.5.

14.20 Time. Time is of the essence of this Agreement and of each and every term and condition hereof.

14.21 Construction. The provisions of this Agreement and the Exhibits hereto shall be construed as a whole according to their common meaning and not strictly for or against any Party and consistent with the provisions hereof, in order to achieve the objectives and purposes of the Parties. The captions preceding the text of each section, subsection, and the Table of Contents hereof are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, or vice versa.

14.22 Signature Pages. For convenience, the signatures of the Parties to this Agreement may be executed and acknowledged on separate pages which, when attached to this Agreement, shall constitute one complete Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date and year first above-written.

Dated: 10/14/02

CITY OF IRVINE,
a municipal corporation

By: _____
Mayor

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

RUTAN & TUCKER LLP

By: _____
Joel D. Kuperberg
City Attorney

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

CROW WINTHROP DEVELOPMENT LIMITED PARTNERSHIP,
A Maryland limited partnership

By: CROW IRVINE #2,
a California limited partnership
its general partner

By: CROW IRVINE #1 LIMITED PARTNERSHIP,
a Texas limited partnership
its general partner

Dated: 10/17/02

By: _____
William H. Lane, Jr.
Managing General Partner

SHOPS AT PARK PLACE LLC,
A Delaware limited liability company

By: CROW WINTHROP DEVELOPMENT LIMITED PARTNERSHIP,
A Maryland limited partnership
Its managing member

By: CROW IRVINE #2,
a California limited partnership
its general partner

By: CROW IRVINE #1 LIMITED PARTNERSHIP,
a Texas limited partnership
its general partner

Dated 10/17/02

By: _____
William H. Lane, Jr.
Managing General Partner

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

3121 MICHELSON DRIVE LLC,
A Delaware limited liability company

By: CROW WINTHROP DEVELOPMENT LIMITED PARTNERSHIP,
A Maryland limited partnership
Its managing member

By: CROW IRVINE #2,
a California limited partnership
its general partner

By: CROW IRVINE #1 LIMITED PARTNERSHIP,
a Texas limited partnership
its general partner

Dated: 10/17/02

By: _____
William H. Lane, Jr.
Managing General Partner

3161 MICHELSON DRIVE LLC,
A Delaware limited liability company

By: CROW WINTHROP DEVELOPMENT LIMITED PARTNERSHIP,
A Maryland limited partnership
Its managing member

By: CROW IRVINE #2,
a California limited partnership
its general partner

By: CROW IRVINE #1 LIMITED PARTNERSHIP,
a Texas limited partnership
its general partner

Dated: 10/17/02

By: _____
William H. Lane, Jr.
Managing General Partner

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

PARK PLACE PARKING COMPANY LLC,
A Delaware limited liability company

By: CROW WINTHROP DEVELOPMENT LIMITED PARTNERSHIP,
A Maryland limited partnership
Its managing member

By: CROW IRVINE #2,
a California limited partnership
its general partner

By: CROW IRVINE #1 LIMITED PARTNERSHIP,
a Texas limited partnership
its general partner

Dated: 10/17/02

By: _____
William H. Lane, Jr.
Managing General Partner

PARK PLACE HOTEL COMPANY LLC,
A Delaware limited liability company

By: CROW WINTHROP DEVELOPMENT LIMITED PARTNERSHIP,
A Maryland limited partnership
Its managing member

By: CROW IRVINE #2,
a California limited partnership
its general partner

By: CROW IRVINE #1 LIMITED PARTNERSHIP,
a Texas limited partnership
its general partner

Dated: 10/17/02

By: _____
William H. Lane, Jr.
Managing General Partner

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

PARK PLACE RESIDENTIAL HIGHRISE I LLC,
A California limited liability company

By: CROW WINTHROP DEVELOPMENT LIMITED PARTNERSHIP,
A Maryland limited partnership
Its managing member

By: CROW IRVINE #2,
a California limited partnership
its general partner

By: CROW IRVINE #1 LIMITED PARTNERSHIP,
a Texas limited partnership
its general partner

Dated: 10/17/02

By: _____
William H. Lane, Jr.
Managing General Partner

PARK PLACE DEVELOPMENT LLC,
A Delaware limited liability company

By: CROW WINTHROP DEVELOPMENT LIMITED PARTNERSHIP,
A Maryland limited partnership
Its managing member

By: CROW IRVINE #2,
a California limited partnership
its general partner

By: CROW IRVINE #1 LIMITED PARTNERSHIP,
a Texas limited partnership
its general partner

Dated: 10/17/02

By: _____
William H. Lane, Jr.
Managing General Partner

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On this _____ day of _____, 200__, before me, the undersigned, a Notary Public for the State of California, personally appeared, _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

_____
Notary Public
in and for said County and State

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On this 17th day of October, 2002, before me, the undersigned, a Notary Public for the State of California, personally appeared, William D. Lam Jr., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Lina Lanier
Notary Public
in and for said County and State

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On this 17th day of October, 2002 before me, the undersigned, a Notary Public for the State of California, personally appeared, William H. Lamb Jr., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Lisa Danese
Notary Public
in and for said County and State

LISA DANESE
Commission # 1277163
Notary Public - California
Orange County
My Comm. Expires Sep 16, 2004

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On this 17th day of October, 2002 before me, the undersigned, a Notary Public for the State of California, personally appeared, William H. Lamb Jr., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Lisa Danese
Notary Public
in and for said County and State

LISA DANESE
Commission # 1277163
Notary Public - California
Orange County
My Comm. Expires Sep 16, 2004

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On this 17th day of October, 2002 before me, the undersigned, a Notary Public for the State of California, personally appeared, William H. Lane, Jr., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Lisa Danese
Notary Public
in and for said County and State

LISA DANESE
Commission # 1277163
Notary Public - California
Orange County
My Comm. Expires Sep 16, 2004

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On this 17th day of October, 2002 before me, the undersigned, a Notary Public for the State of California, personally appeared, William H. Lane, Jr.; personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Lisa Danese
Notary Public
in and for said County and State

LISA DANESE
Commission # 1277163
Notary Public - California
Orange County
My Comm. Expires Sep 16, 2004

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On this 17th day of October, 2002, before me, the undersigned, a Notary Public for the State of California, personally appeared, William H. Jones Jr., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Lisa Danese
Notary Public
in and for said County and State

LISA DANESE
Commission # 1277163
Notary Public - California
Orange County
My Comm. Expires Sep 16, 2004

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On this 17th day of October, 2002, before me, the undersigned, a Notary Public for the State of California, personally appeared, William H. Jones, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Lisa Danese
Notary Public
in and for said County and State

LISA DANESE
Commission # 1277163
Notary Public - California
Orange County
My Comm. Expires Sep 16, 2004

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On this 17th day of October, 2002, before me, the undersigned, a Notary Public for the State of California, personally appeared, William Hare, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Lisa Danese
Notary Public
in and for said County and State

LISA DANESE
Commission # 1277163
Notary Public - California
Orange County
My Comm. Expires Sep 16, 2004

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

PARCEL A:

PARCEL 4 OF LOT LINE ADJUSTMENT NO. 39288-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED JULY 13, 1999 AS INSTRUMENT NO. 19990515978 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 5 OF LOT LINE ADJUSTMENT NO. 39288-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED JULY 13, 1999 AS INSTRUMENT NO. 19990515978 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

PARCEL 1 OF LOT LINE ADJUSTMENT NO. 308965-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED MARCH 20, 2002 AS INSTRUMENT NO. 20020229144 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

PARCEL 1 IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA AS SHOWN ON PARCEL MAP NO. 98-127 RECORDED IN BOOK 302, PAGES 6 THROUGH 8 OF PARCEL MAPS, OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

PARCEL 3 IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA AS SHOWN ON PARCEL MAP NO. 93-194 RECORDED IN BOOK 282 PAGES 4 THROUGH 6 OF PARCEL MAPS, OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

PARCEL 1 OF LOT LINE ADJUSTMENT NO. 45280-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED JULY 25, 2000 AS INSTRUMENT NO. 20000388954 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

PARCEL 1 IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA AS SHOWN ON PARCEL MAP NO. 97-146 RECORDED IN BOOK 298 PAGES 8 THROUGH 10 OF PARCEL MAPS, OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

Parcel 1 IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA AS SHOWN ON PARCEL MAP No. 2000-202 RECORDED IN BOOK 317 PAGES 9 THROUGH 11 OF PARCEL MAPS, OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

PARCEL 3 OF LOT LINE ADJUSTMENT 27579-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED JUNE 23, 1998 AS INSTRUMENT NO. 19980395889 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

PARCEL 4 OF LOT LINE ADJUSTMENT 27579-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED JUNE 23, 1998 AS INSTRUMENT NO. 19980395889 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

PARCEL 1 OF LOT LINE ADJUSTMENT 18831-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED NOVEMBER 8, 1994 AS INSTRUMENT NO. 94-169586 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

PARCEL B OF LOT LINE ADJUSTMENT 16520-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED MARCH 10, 1994 AS INSTRUMENT NO. 94-0169586 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

PARCEL 1 OF LOT LINE ADJUSTMENT 44487-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED JULY 11, 2000 AS INSTRUMENT NO. 20000362543 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

PARCEL 3 OF LOT LINE ADJUSTMENT 308965-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED MARCH 20, 2002 AS INSTRUMENT NO. 200202229144 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

PARCEL 2 OF LOT LINE ADJUSTMENT 308965-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED MARCH 20, 2002 AS INSTRUMENT NO. 20020229144 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

PARCEL 2 OF LOT LINE ADJUSTMENT 44487-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED JULY 11, 2000 AS INSTRUMENT NO. 2000362543 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

Parcel 1 IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA AS SHOWN ON PARCEL MAP No. 2000-156 RECORDED IN BOOK 314 PAGES 38 THROUGH 39 OF PARCEL MAPS, OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

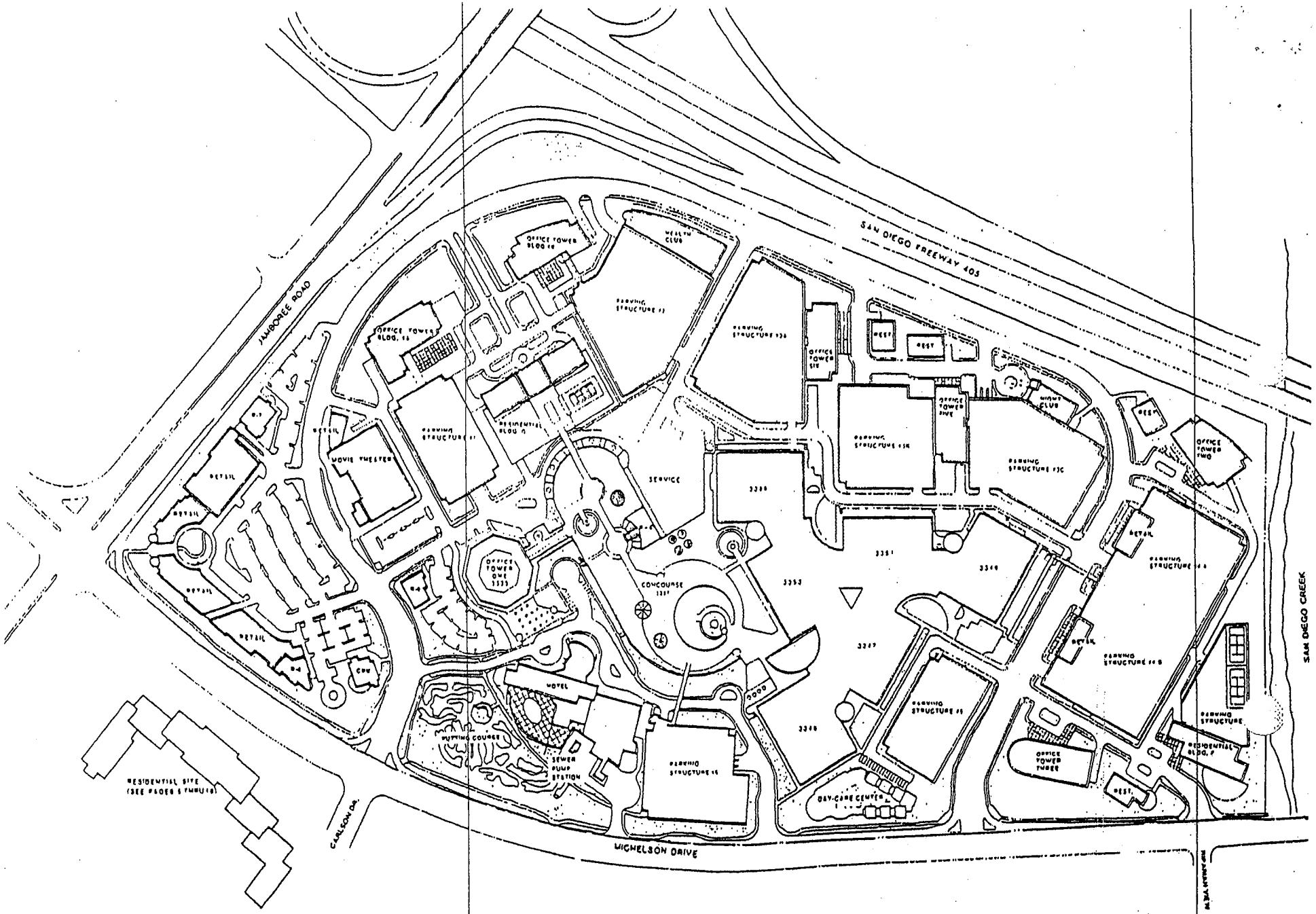
PARCEL 2 OF LOT LINE ADJUSTMENT 27579-LL IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA RECORDED JUNE 23, 1998 AS INSTRUMENT NO. 19980395889 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OS SAID COUNTY.

PARCEL B:

EASEMENTS AS DESCRIBED IN THAT CERTAIN DOCUMENT ENTITLED "CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT" BY AND BETWEEN CROW WINTHROP OPERATING PARTNERSHIP, A MARYLAND GENERAL PARTNERSHIP, AND CROW WINTHROP DEVELOPMENT LIMITED PARTNERSHIP, A MARYLAND LIMITED PARTNERSHIP, SUBJECT TO THE TERMS AND CONDITIONS THEREIN PROVIDED, RECORDED JULY 30, 1985 AS INSTRUMENT NO 85-279768, OFFICIAL RECORDS.

EXHIBIT "B"

MASTER SITE PLAN



COMMERCIAL SITE PLAN

PARK PLACE

IRVINE, CALIFORNIA

EXHIBIT "C"

LIST OF DOCUMENTS/ENTITLEMENTS CONSTITUTING THE EXISTING APPROVALS

The Existing Approvals refer to the approvals, policies and entitlements describing the plan for development of the Property. The List of Documents/Entitlements Constituting the Existing Approvals is:

1. Zoning:

   Ordinances, polices and standards in effect on January 1, 2002, with the exception that development intensity for Park Place is regulated in accordance with IBC Zoning Section V.E-736.5. instead of IBC Trip Budget provisions and V.E-736.9 for Transfer of Development Rights.

2. Limits on Intensity of Development:

   The maximum IBC Net Development Point Limit for Park Place is as follows:

   8,567,880 Total IBC Net Development Points

   Existing Building:

   The existing building on the property described as Parcel 1 of Parcel Map No. 85-142, formerly known as the Fluor Building, consists of 1,956,211 Gross square feet, 484,856 square feet of Exempt/Non-leaseable space with 1,471,355 Gross Leaseable square feet. This results in a total allocation of 4,414,065 IBC Net Development Points for this building.

   Property:

   The Project is allocated 4,153,815 IBC Net Development Points for the development of office, retail/commercial, health club, day-care center, hotel and nightclub. IBC Development Point credit has been granted for Residential, Revenue Producing Uses such as retail, restaurants, nightclub, and hotel and Extraordinary Amenity Credit for the health club and is described in Planning Commission Resolution 89-1380.

EXHIBIT "C"

LIST OF DOCUMENTS/ENTITLEMENTS CONSTITUTING THE EXISTING APPROVALS

The Current Development Point Summary for the Project:

	SQ. FT./DU	#PTS/SF	POINTS	CREDIT POINTS	TOTAL ALLOCATED POINTS	TOTAL POINTS APPROVED	TOTAL UNALLOCATED POINTS*
strial		1	0	980	-980		
dential	1,442	726	1,046,892	1,535,052	-488,160		
ity Bonus**	360	0	0	0	0		
e	2,986,754	3	8,960,262	0	8,960,262		
th Club	35,000	1.5	52,500	105,000	-52,500		
il	189,742	1.5	284,613	341,536	-56,923		
l	410,000	0.75	307,500	369,000	-61,500		
Care	7,461	3	22,383	0	22,383		
tclub	10,000	1.5	15,000	18,000	-3,000		
ma	43,541	1.5	65,312	78,374	-13,062		
AL	3,684,300		10,754,462	2,446,961	8,306,520	8,567,880	261,360

* Any portion of Total Unallocated Points (Development Reserve) can be allocated to any permitted or conditionally permitted land use.

** The density bonus residential units are exempt from general plan and zoning residential intensity limits.

3. List of Approvals for the Project:

Subdivision Committee Resolution Nos. 89-414/89-415, Vesting Tentative Parcel Map 88-TP-0110, dated December 13, 1989.

Planning Commission Resolution No. 87-14, Conditional Use Permit 86-CP-0727, dated January 27, 1987.

Planning Commission Resolution Nos. 89-1379 and 89-1380, Conditional Use Permit 87-CP-0829, dated August 17, 1989.

Planning Commission Resolution No. 90-1461, Conditional Use Permit 1628 EC, dated July 5, 1990.

Planning Commission Resolution No. 90-1462, Conditional Use Permit 1628-CPU, dated July 5, 1990.

Planning Commission Resolution No. 91-1584, Conditional Use Permit 2873-CPS, dated August 1, 1991.

Planning Commission Resolution No. 93-1746, Conditional Use Permit 13948-CPU, dated December 2, 1993.

Conditional Use Permit, Minor Modification 17777-CPS, Amending 87-CP-0829, dated July 27, 1994.

Conditional Use Permit, Minor Modification 17777-CPS – Second Amendment, Amending 87-CP-0829, dated February 23, 1995.

Conditional Use Permit, Minor Modification 29678-CPU, Amending 87-CP-0829, dated July 31, 1997.

Conditional Use Permit, Minor Modification 36956-CPM, Amending 87-CP-0829, dated July 17, 2000.

Conditional Use Permit, Minor Modification 44509-CPM, Amending 87-CP-0829, dated August 9, 2000.

Conditional Use Permit, Minor Modification 47216-CPM, Amending 87-CP-0829, dated July 27, 2001.

Conditional Use Permit, Minor Modification 00304796-PCPM, Amending 87-CP-0829, and dated June 3, 2002.

While the Master Plan CUP identifies total square footages for each land use category and a general location for each building, the plans as depicted in Exhibit "B" are conceptual and do not provide elevations or dimensioned building plans. Planning Commission Resolution 89-1380 requires that details of individual buildings be approved through subsequent staff level reviews. Inherent in the IBC Zoning is the flexibility to modify land uses over time as needed, so long as the original entitlement (points) for the site is not exceeded.

4. Project Summary:

PARK PLACE MASTER PLAN

Total Site Area:	137.77 Acres
Commercial Site:	105.63 Acres (Net)
Existing Zoning	Area 8.1B IBC-Mixed Use, High Intensity
General Plan Designation	Business and Industrial
Building /Site Coverage	26.20%
Landscaping	35.40%
Parking/Private Drive	38.40%
	100.00%

TOTAL BUILDING AREA:

Commercial Site (Site 1)
Building Areas - Gross Square Feet

Office Buildings:	3,699,19
Hotel	410,000
Health-Club	35,000
Day Care Center	7,461
Retail (Including Restaurants)	189,741
Movie Theater	43,541
Night Club	10,000
TOTAL:	4,394,93
Residential - Units	360
Residential Site (Site 2)	
Residential - Units	1,442

The alteration of land uses, such as the conversion of office to retail, or warehouse to church, in existing buildings or in proposed development is a common practice in the IBC and for Park Place. This practice allows the Developers flexibility to develop the Project based on market demand that changes over time. The flexibility is purposely included in the IBC zoning and specifically applies to the Project.

Current Land Use Tabulation:

PROPOSED BUILDINGS	GROSS SQ. FT.	EXEMPT NON-LEASE	GROSS LEASABLE	RATIO	PARKING REQ'D	FLOORS
Proposed Office:						
Office Tower Two	350,961	47,761	303,200	1/SP/500 SF	702	17
Office Tower Three	403,074	51,782	351,292	1/SP/500 SF	806	18
Office Tower Four A (3121 Michelson)	159,630	30,634	128,996	1/SP/500 SF	319	6
Office Tower Four B (3161 Michelson)	337,500	35,733	301,767	1/SP/500 SF	675	16
Office Tower Five	243,695	30,375	213,320	1/SP/500 SF	487	12
Office Tower Six	248,119	31,295	216,824	1/SP/500 SF	496	16
TOTAL PROPOSED OFFICE:	1,742,979	227,580	1,515,399		3,486	
Proposed Retail/Commercial:						
308 Room Hotel	410,000	0	410,000	1.2 SP/Room	370	18
Health Club	35,000	0	35,000	1 SP/150 SF	233	2
Day Care Center	7,461	0	7,461	See Note #3	23	1
East Retail	13,050	0	13,050	1 SP/200 SF	65	1
Night Club	10,000	0	10,000	See Note #2	153	2
SUB-TOTAL RETAIL/COM:	475,511	0	475,511		844	
Proposed Restaurants:						
Restaurant 1	5,500	0	5,500	See Note #2	73	2
Restaurant 2	8,000	0	8,000	See Note #2	116	2
Restaurant 3	10,000	0	10,000	See Note #2	153	1
Restaurant 4	10,000	0	10,000	See Note #2	153	1
Restaurant 5	7,000	0	7,000	See Note #2	98	1
Restaurant 8	7,500	0	7,500	See Note #2	107	1
RESTAURANT SUB-TOTAL:	48,000	0	48,000		701	
TOTAL PROPOSED RETAIL/COM:	523,511	0	523,511		1,545	

TOTAL PROPOSED DEV:	2,266,490	227,580	2,038,910		5,031	
EXISTING OFFICE BUILDING	GROSS SQ. FT.	EXEMPT NON-LEASE	GROSS LEASABLE	RATIO	PARKING REQ'D	FLOORS
3333 Michelson (Tower One)	273,215	74,210	199,005	1 SP/500 SF	546	10
3345 Michelson	211,866	33,866	178,000	1 SP/500 SF	424	4
3347 Michelson	230,266	45,066	185,200	1 SP/500 SF	461	4
3349 Michelson	211,866	33,866	178,000	1 SP/500 SF	424	4
3351 Michelson	230,266	45,066	185,200	See Note #1	921	4
3353 Michelson	230,266	52,466	177,800	See Note #1	500	4
3355 Michelson	211,866	37,066	174,800	1 SP/500 SF	424	4
3337 (Concourse)	356,600	163,250	193,350	1 SP/500 SF	713	4
TOTAL EXISTING OFFICE:	1,956,211	484,856	1,471,355		4,412	
EXISTING SHOPS AND ENTERTAINMENT (Retail Center)						
Retail Shops	83,919	0	83,919	1 SP/200 SF	420	2
2,100 Seat Movie Theater	43,541	0	43,541	1 SP/200 SF	218	2
Restaurant 6	6,953	0	6,953	1 SP/200 SF	35	1
Restaurant 7	7,026	0	7,026	1 SP/200 SF	35	1
Restaurant 9(Under Const.)	5,521	0	5,521	1 SP/200 SF	28	1
Putting Course	1,272	0	1,272	3 SP/Hole	54	
California Pizza Kitchen	5,200	0	5,200	1 SP/200 SF	26	
In-Line Restaurants	18,800	0	18,800	1 SP/200 SF	94	2
SUB-TOTAL RETAIL CENTER:	172,232	0	172,232		909	
TOTAL EXISTING BUILDINGS	2,128,443	484,856	1,815,819		5,321	
SUMMARY						
Total Existing	2,128,443	484,856	1,815,819		5,321	
Total Proposed Office	1,742,979	227,580	1,515,399		3,486	
Total Proposed Retail/Com	523,511	0	523,511		1,545	
GRAND TOTAL	4,394,933	712,436	3,854,729		10,352	

EXHIBIT "D"

APPLICABLE LAND USE REGULATIONS

The Applicable Land Use Regulations, as defined in section 1.2 of the Park Place Development Agreement (the "Agreement"), shall consist of all ordinances, resolutions, codes, rules, regulations, standards, policies, programs, conditions, terms, restrictions, or requirements of the City of Irvine governing the development and use of the Park Place Property and Project, as defined in sections 1.12 and 1.13 of the Agreement, which ordinances, resolutions, codes, etc., in their original or amended form, were in effect as of January 1, 2002, including, but not limited to, the following documents and materials promulgated by the City of Irvine:

(1) General Plan;

(2) Municipal Code;

(3) CEQA Procedures;

(4) Engineering Design Manual and Standard Plans;

(5) Engineering Standard Plans;

(6) Landscape Manual and Standard Plans;

(7) Park Design Standard Manual;

(8) Park Standard Manual;

(9) Subdivision Manual;

(10) Sustainable Landscaping Guideline Manual; and

(11) Traffic Study Guidelines.

EXHIBIT "E"

SECTION V.E-736.5 OF 1989 ZONING CODE

V.E-736.5. Special Regulations: Intensity of Development: Mixed Residential and Industrial Districts.

A. *Intent and Purpose:* It is the intent of these regulations to limit the intensity of development in the Irvine Business Complex so that the traffic generated by this development is within the capacity of the circulation system serving the Irvine Business Complex. Intensity is controlled through the use of development points. Points are assigned to projects based on the types of uses and amount of square footage proposed. Projects must either comply with a baseline limit on intensity or obtain approval of a conditional use permit to exceed this limit. The baseline limit would allow only as much development as could be accommodated by the general plan as depicted in exhibit 736-1 [following this section V.E-736]. The criteria used to review conditional use permits and the findings required for approval ensure that needed circulation system improvements will be provided.

B. *Assignment of Points to Project Proposals:*

1. *Determination of gross number of points:* The community development department shall determine the gross number of development points attributable to each project proposal at the time of zoning compliance review. Applicants shall submit site plans which specify the amount of square footage proposed for each type of use in the project. Projects shall be assigned a gross number of development points based on the ratios stated below:

Type of Use	*Points per Gross Leasable Square Foot of Floor Area*
Office	3.0
Research and development	3.0
General commercial/retail	1.5
Hotels/motels	.75
Manufacturing/warehousing storage	1.0
	Points per Unit
Residential	726

For proposals containing a combination of uses, the square footage shall be separated by use, translated into points, and then totaled. In following this procedure, the community development department shall use gross leasable square footage.

2. *Determination of net number of points:* Applicants who are proposing projects in the mixed use district can apply for adjustments in the gross number of points assigned to their projects. Adjustments can be made through the following mechanisms:

a. Density averaging;

b. Reducing the traffic generated by the project;

c. Providing the following benefits to the city:

(1) Extraordinary circulation improvements;

(2) Residential units;

(3) Revenue to the city over and above property tax;

(4) Extraordinary on-site amenities.

The application procedure and review process for each of these mechanisms are stated in section 736.5.D. Adjustments in assigned points must be approved either by the planning commission or zoning administrator through a conditional use permit.

The net number of development points attributable to a project is derived by taking the gross number and making any adjustments approved by use permit. In those instances where no adjustments have been made, the net number of development points attributable to a project is equivalent to the gross number.

C. *Limits on Intensity of Development:*

1. *Baseline limit on intensity for the mixed use, residential and industrial districts (except for existing corporate headquarters sites):*

a. *Point limit per acre:* Developments can use no more than 32,670 gross development points per acre except as provided in section 736.5.C.1.c.[*]

b. *Limit on points for individual parcels:* Except as provided in section V.E-736.5.C.1.c. the maximum number of gross development points allowed for each parcel shall be determined by dividing the number of square feet in the parcel by the square footage in an acre (43,560 square feet) and then multiplying by 32,670.

c. *Determining compliance with baseline limit:* The community development department shall determine whether or not a proposed project complies with the baseline limit on intensity at the time of zoning compliance review. In order to make this determination, the department shall calculate the gross number of points attributable to the project as provided in section V.E-736.5.B.1. This number shall be compared to the baseline limit attributable to the parcel on which the project is to be built. This limit shall be calculated as provided in section V.E-736.5.C.1.b. If the gross number of points assigned to the project is no more than the baseline limit attributable to the project site, then it shall be deemed in compliance with the baseline limit.

Approval of a project which complies with the baseline limit is subject to development standards stated in [this] section V.E-736.5, and to requirements for improvements, fees and zoning compliance review (as stated in sections V.E-736.6.C., 736.6.D.3.a., and 736.7.) Approval of a project which exceeds the baseline limit cannot be granted unless a conditional use permit is obtained in accordance with section V.E-736.5.C.3.

2. *Baseline limit for existing corporate headquarters sites in the mixed use district:*

a. *Definition of corporate headquarters site:* A parcel or group of contiguous parcels occupied by a single business, where this location serves as the regional, national or international office of the business. Manufacturing, research or distribution activities may also occur on the site; but this loca-

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[*] This point limit is equivalent to the following floor area ratios (FAR's) or, in the case of residential uses, the following density:

	FAR/Density
Office/research and development	0.25
General commercial/retail	0.5
Hotels/motels	1.0
Manufacturing/warehousing/storage	0.75
Residential, units per acre	45

This information is provided for reference purposes only. "Floor area ratio" is defined in section V.E-900 et seq.

tion must serve as a focal point for the business' operations within a sizeable geographic area.

b. *Point limit per acre:* Businesses in existence in the Irvine Business Complex as of June 22, 1982, which qualify as a corporate headquarters site can use up to 65,340 gross development points per acre without obtaining a conditional use permit to exceed the limit established in section V.E-736.5.C.1.a. Applicants proposing to use the provisions of this section must meet the following requirements:

(1) They must submit documentation which is acceptable to the director of community development showing that the business qualifies as a corporate headquarters site and that it was in existence as of June 22, 1982.

(2) They must submit a comprehensive plan for the overall development of the corporate headquarters site to the director of community development within 9 months of the effective date of these regulations (i.e., no later than April 22, 1983).

The comprehensive plan may depict development in excess of the baseline limit for the site; but only that amount of square footage within the limit of 65,340 points per acre can be developed without approval of a conditional use permit, subject to the requirements of this section.

(3) They must comply with the requirement for the provision of local circulation improvements as stated in section V.E-736.6.C. and pay fees for areawide improvements as follows:

(a) "A" rate for each net development point up to the first 32,670 net points per acre attributable to the project.

(b) "B" rate for each net development point above the first 32,670 net points per acre attributable to the project.

The "A" rate and "B" rate shall be calculated as provided in sections V.E-736.6.D.3.a. and b.

(4) They must comply with the development standards stated in section V.E-736.3 and the requirements for zoning compliance review as stated in section V.E-736.7.

c. For each comprehensive plan submitted during the 9-month period specified in section V.E-736.5.C.2.b(2), the community development department shall adjust its record of the ambient level of development as provided in section V.E-736.6.D.2.a.

d. Applicants who have complied with the requirements stated in section V.E-736.5.C.2.b(1) and (2) but who propose projects on corporate headquarters sites which exceed the baseline limit of 65,340 gross points/acre must obtain approval of a conditional use permit from the planning commission in accordance with section V.E-736.5.C.3.c and d. In no instance shall the intensity granted through the approval of a conditional use permit exceed the limits specified in section V.E-736.5.C.3.b.

e. The provisions of this subsection shall be the exclusive means whereby comprehensive plan entitlement may be used for all uses in the mixed use district, pursuant to section V.E-736.2, land use regulations.

Applicants who have complied with the requirements stated in section V.E-736.5.C.2.b(1) and (2) may convert in phases any unused points to any permitted mixed use district use with approval of a conditional use permit by the planning commission. Any such conditional use permit approved shall contain a condition of approval requiring the applicant to pay all A and B rate fees for areawide circulation improvements within ten (10) days following the effective date of the conditional use permit.

The provision of this subsection is exempt from the requirements set forth in section V.E-804.6.B and C.

3. *Development in excess of baseline intensity limit in the mixed use district:*

   a. *Intent and purpose:* It is the intent and purpose of this section to allow projects in the mixed use district to exceed the baseline limit on gross development points established in section V.E-736.5.C.1. with approval of a

litional use permit by the planning mission or zoning administrator. However, a project that exceeds the base line limit shall be exempt from the conditional use permit procedure if it meets the requirements stated in section V.E-736.5.C.3.f. This section allows developers to avoid the conditional use permit progress for small-scale additions or minor improvements to existing developments.

b. *Maximum limit on development intensity:* In no instance shall the intensity granted through the approval of a conditional use permit exceed the following limits:

District	*Maximum Number of Net Development Points Permitted per Acre*[a]
Mixed use district:	
Medium-intensity	65,340
High-intensity	130,680
	Density/Acre
Residential uses	45 units

c. *Procedure for review of conditional use permit applications:*

(1) Applicants who apply for a conditional use permit for the purpose of exceeding the baseline intensity limit specified in section V.E-736.5.C.1 or C.2. shall include a site plan illustrating the project proposal as part of their submittal. The site plan shall specify the amount of building square footage proposed for each type of use in the proposal.

(2) The community development department shall determine the total number of development points attributable to the project, as provided in section V.E-736.5.B.1. This total shall be translated into gross points/acre as follows:

$$\text{total \#} \div \frac{\text{\# of sq. ft. in parcel}}{\text{\# of sq. ft. in acre}} = \text{gross points/acre}$$

(3) The community development department shall determine the total number of net development points attributable to the project as provided in section V.E-736.5.B.2. This total shall be translated into net points/acre as follows:

$$\text{total \#} \div \frac{\text{\# of sq. ft. in parcel}}{\text{\# of sq. ft. in acre}} = \text{net points/acre}$$

If the net points/acre attributable to the project exceeds the baseline limit specified in section V.E-736.5.C.1. or C.2., approval is subject to the development standards stated in sections V.E-736.3 and V.E-736.4, and to requirements for improvements as stated in section V.E-736.6.C, for fees as stated in section V.E-736.6.D.3.b. or 4., whichever is ap-

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[a] These point limits are equivalent to the following floor area ratios (FAR's):

District	*FAR*
Mixed use district:	
Medium-intensity	0.5
High-intensity	1.0

This information is provided for reference purposes only. "Floor area ratio" is defined in section V.E-900 et seq.

ible, for zoning compliance review stated in section V.E-736.7., and to the findings required by section V.E-736.5.C.3.d.

d. *Findings required for approval of conditional use permit to exceed baseline intensity limit* The planning commission or zoning administrator shall grant a conditional use permit which allows a project to exceed the baseline limit only if they find that circumstances exist as stated in (1), (2) or (3) below. If finding (3) is applicable to the project, finding (2) cannot be substituted. In addition, findings of fact must be made in accordance with (4), (5) and (7) below prior to approval of conditional use permits for projects which exceed the baseline limit and in accordance with (6) and (7) below for conditional use permits for residential uses.

(1) The net points/acre attributable to the project are at or within the baseline limit on intensity specified for the district in which the proposed project is located. The applicant will pay circulation improvement fees as required by section V.E-736.6 of these regulations.

(2) When the building square footage in the proposed project is added to the ambient level of development[*] in the Irvine Business Complex, and this total is compared to the net land area in the Irvine Business Complex, the floor area ratio which results is less than 0.35. The applicant will pay circulation improvement fees as required by section V.E-736.6 of these regulations.

(3) When the building square footage in the proposed project is added to the ambient level of development[*] in the Irvine Business Complex, and this total is compared to the net land area in the Irvine Business Complex, the floor area ratio which results is more than 0.35. The applicant has identified specific circulation improvements which will mitigate the traffic impact caused by the development in excess of an average FAR of 0.35 for the Irvine Business Complex and has agreed to provide their proportionate share of these improvements as a condition of approval on the proposed project. The proposed improvements are in addition to those identified as feasible by resolution of the city council.

(4) The city has reasonable assurance that the traffic impacts created by the proposed project can be accommodated by the circulation system which serves the Irvine Business Complex and that needed improvements to that system to accommodate this project have been funded.

(5) The proposed project has been referred to the agency or agencies responsible for water and sewer service, and the agency has determined that the necessary domestic water and sewage treatment facilities and capacity are or will be available by the projected date on which certificates of use and occupancy will be issued. Projects which exceed 45,748 gross development points per acre have been referred to the agency responsible for water service and the agency has determined that adequate water supply fire flow is or will be available by the projected date on which certificates of use and occupancy would be issued.

(6) The proposed project has been referred to the appropriate school district, and they have determined that facilities are or will be available for the children anticipated from this project by the projected date on which certificates of use and occupancy would be issued.

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[*] "Ambient level of development" is defined in section V.E-736.5.D.2.a.

(7) The findings required by section V.E-804.4 of the Irvine Code, which concern the approval of conditional uses in general, have been met.

e. *Hearing responsibility for conditional use permit applications:*

(1) Review and approval of conditional use permit applications for projects which exceed the baseline limit up to 45,738 gross development points per acre shall be the responsibility of the zoning administrator.

(2) Review and approval of conditional use permit applications for projects having between 45,738 gross development points per acre and the maximum point limits stated in section V.E-736.5.C.3.b. shall be the responsibility of the planning commission.

f. Improvements or additions to an existing development which is already over the baseline limit or improvements or additions which cause an existing development to exceed the baseline limit are exempt from the conditional use permit procedure if the following criteria are met:

(1) The proposed improvement or addition adds less than 10,000 development points per acre to the site where the project is located.

(2) The developer pays the fee determined by the city council for each net development point added to the project by the addition or improvement.

D. *Mechanisms To Adjust Development Points Assigned to Projects in the Mixed Use District:*

1. *Density averaging:*

a. Through the use of density averaging, a development that consists of two (2) or more contiguous parcels may be considered to be a single site for the purpose of calculating development points and complying with intensity limits. It is not necessary that all of the parcels be developed simultaneously to qualify for density averaging. Density averaging may be utilized with a combination of both developed and undeveloped parcels.

b. *Approval of averaging:* Use of density averaging must be approved through a conditional use permit in accordance with section V.E-736.5.C.3.c.—e. Whenever density averaging is sought, a comprehensive development plan shall be submitted which shows the total projected square footage for all buildings within the site area. The comprehensive development plan shall be in the form of a site design. Approval of density averaging shall include approval of the comprehensive development plan. Approval shall only be given if the owners of the parcels included in the comprehensive development plan agree to a binding agreement which limits the development potential of each parcel to the point count shown for that parcel in the comprehensive development plan. This agreement shall be recorded and shall run with the land. This requirement is not intended to preclude developers from rearranging the distribution of points between the parcels under the comprehensive development plan if the total number of points remains the same, the rearrangement is approved by the city, and the recorded document limiting the development potential of the parcels is modified to reflect the new distribution of points.

c. *Modifications to the comprehensive plan:* Changes to an approved comprehensive development plan which do not result in an overall increase in the number of development points shall be submitted to the director of community development for review and approval. Modifications which result in an

overall increase in the number of development points must be reviewed and approved by the planning commission.

2. *Reduction in traffic generation:*

a. *Definition of "typical traffic volume":* For purposes of this ordinance, the traffic generation rate which is considered typical for the 3-hour PM peak period for office-type uses in the Irvine Business Complex is 1 trip for each 805 gross development points assigned. Based on this definition, it is assumed that the number of trips per acre which will be produced by a specific project in the Irvine Business Complex is as follows:

$$\text{\# of points assigned} \div 805 = \text{trips}$$

$$\text{trips} \div \frac{\text{\# of sq. ft. in parcel}}{\text{\# of sq. ft. in acre}} = \text{trips/acre}$$

b. Reductions in the number of development points assigned to a project can be granted if the developer can demonstrate that the trips/acre generated by the project is lower than the typical rate defined in section V.E-736.5.D.2.a. The procedure for evaluating requests for reductions based on lower generation rates shall be as follows:

(1) The project proposal shall be submitted in the form of a site design and shall be accompanied by a traffic analysis. The traffic analysis shall include the following:

(a) Calculations showing the trip generation rate per acre anticipated for the project for the 3-hour PM peak period.

(b) Technical justification as to why the proposed use will generate less trips per acre than the typical rate defined in section V.E-736.5.D.2.a.

(c) If the developer proposes to use a transportation management plan, a description of all elements of this plan and an estimate of their effectiveness in reducing traffic generated by the project.

(d) Any additional information deemed necessary by the manager of transportation services to analyze the traffic impacts of the proposed project.

(2) All traffic analyses submitted for the purposes of this section shall be reviewed for adequacy by the manager of transportation services. After the manager has determined that an analysis is adequate, the community development department shall use the trip generation rate justified by the analysis to determine the reduction in development points which can be granted. This reduction shall be calculated as follows:

(a) Determine the number of trips/acre which would be generated by the project if it were typical using the formula stated in section V.E-736.5.D.2.a.

(b) Compare the typical generation rate to that justified by the traffic analysis and determine the difference.

(c) Translate the difference into development points which can be deducted from the total assigned to the project.

$$\underset{\text{trips/acre}}{\text{normal rate}} - \underset{\text{trips/acre}}{\text{proposed rate}} = \underset{\text{trips/acre}}{\text{difference}}$$

$$\underset{\text{trips/acre}}{\text{difference}} \times \frac{805 \text{ pts.}}{\text{trip}} \times \frac{\text{\# of sq. ft. in parcel}}{\text{\# of sq. ft. in acre}} = \text{points/parcel to be deducted.}$$

(3) Requests to use a lower trip generation rate as justification for reducing the points assigned to a project shall be approved only if the amount of parking provided on the project site is adjusted as follows:

(a) The amount of parking provided for uses other than office-type uses does not exceed the minimum required by section V.E-401 et seq. of the Irvine Code.

(b) The amount of parking provided for office-type uses is reduced from the minimum required by section V.E-401 et seq. of the Irvine Code by an amount which corresponds to the reduction in trip generation rate below that defined as typical in paragraph (a) above. This reduction shall be calculated as follows:

$$\frac{\text{(typical trip generation rate/acre} - \text{proposed rate/acre)}}{\text{typical trip generation rate}} \times \text{minimum \# of parking spaces required for proposed office-type uses} = \text{\# of spaces to be reduced}$$

* * *

Office-type square footage proposed ÷ 250 = minimum # of spaces required before reduction

c. *Approval of reductions in traffic generation rates:* All requests for adjustments in traffic generation rates shall be approved through a conditional use permit in accordance with section V.E-736.5.C.3.c.—e.

3. *Credit for extraordinary circulation improvements:* The provision of local and area-wide improvements to the circulation system servicing the Irvine Business Complex (or equivalent fees) is required as a condition of project approval by sections V.E-736.6 and 736.7 of these regulations. Reductions in the number of development points assigned to a project based on credit for circulation improvements provided in addition to those required shall be granted according to the following procedure:

a. *Evaluation of improvements:* The applicant shall submit a list of improvements they propose to build which exceed the requirements of sections V.E-736.6 and 736.7 of these regulations. This list shall include an estimate of the capacity added to the roadway system by the improvements, along with an estimated construction cost for each improvement.

The manager of transportation services shall verify the estimate of added capacity and cost, or if they disagree with the applicant's estimate, shall revise it.

b. The added capacity created by the list of improvements shall be expressed in terms of trips added during the 3-hour PM peak period. The number of development points which can be deducted from the total gross number assigned to the project is as follows:

$$\underset{\text{3-hour PM peak period}}{\text{\# of trips added in}} \times \frac{805 \text{ points}}{\text{trip}} = \underset{\text{to be deducted}}{\text{total \# of points}}$$

c. Approval of credit for extraordinary circulation improvements shall be granted through a conditional use permit in accordance with section V.E-736.5.C.3 and shall include the following conditions:

(1) Funding of the circulation improvements for which credit has been granted shall be a condition of approval on the project.

(2) The task force referenced in section V.E-736.4(11) shall determine how the improvements shall be phased and their determination shall also appear as a condition of approval on the project.

4. *Residential development credits:*

a. Reductions in the number of development points assigned to a project based on credit for the provision of housing shall be granted on the following basis:

Type of Unit Provided	*Number of Points Deducted*
Market rate	726
Affordable to moderate income	1476
Affordable to low income	1776

b. To qualify for credit, the units must meet the following criteria:

(1) They must be located within the Irvine Business Complex.

(2) If credit is being given for the units as low or moderate, they must meet the definitions established in the housing element of the city's general plan and any implementing resolutions adopted by the city council and in effect at the time credit is requested.

c. Approval of credit for residential units shall be granted through a conditional use permit in accordance with section V.E-736.5.C.3.c.-e. and shall include the following conditions:

(1) Construction of the residential units must commence prior to or concurrent with the issuance of building permits for any development being built in excess of the baseline limit through the use of residential credits.

(2) Developers who receive credit for affordable units shall comply with the policies contained in the city's housing element and any implementing resolution adopted by the city council regarding establishing price and rent ranges for low- and moderate-cost units, distribution of these units, and screening of the prospective buyers and tenants.

5. *Credit for uses which produce added revenue:* Reductions in the number of development points assigned to a project based on credit for the provision of revenue to the city over and above property tax shall be granted on the following basis:

a. *Types of uses allowed:* Uses such as retail shops and stores, gas stations, restaurants, and hotels/motels are examples of the type of use envisioned by this section. They could also include theaters and other forms of commercial recreation if they produce sales tax or if at some future date the city enacted an entertainment tax. The use should be such that the city has some reasonable assurance that it will continue for an indefinite period into the future.

b. *Amount of credit allowed:* The amount of credit shall be determined according to the following procedure:

(1) The applicant shall submit a plot plan for the project which indicates all buildings and how the square footage in the buildings is distributed by use.

(2) The community development department shall determine how much square footage is proposed of the type noted in section V.E-736.5.D.5.a., and shall translate this square footage into gross development points as provided in section V.E-736.5.B.1.

(3) For each point assigned, 1.2 points can be deducted.

c. Approval of credit for uses which produce added revenue shall be granted through a conditional use permit in accordance with section V.E-736.5.C.3.c. —e. provided that the following conditions can be met:

(1) Any retail space for which credit is being granted conforms to the following design standards:

(a) If the retail space is being placed in a building with office and/or research and development uses, and it is not a restaurant, hotel or motel, the retail space must be placed on the ground floor.

(b) If the retail space is being placed in a building separate from office and/or research and development uses, the building cannot exceed 2 stories.

(c) Restaurants can be placed on any floor of a mixed use building.

(2) The city has reasonable assurance that the uses for which credit is being granted will remain for the life of the approved use by virtue of the design of the building and the location of the building relative to other uses on the site and in the Irvine Business Complex, and that replacement uses would have similar revenue-producing characteristics.

6. *Credit for uses which declare Irvine as site of sale:* Credit for uses for which Irvine is site of sale for sales tax purposes shall be granted under the circumstances described in a, b, and c below.

a. Those firms located in the Irvine Business Complex (IBC) which generated at least $100,000 in sales tax revenue to the City of Irvine from July 1, 1981, to June 30, 1982, shall be given a credit for the payment of IBC fees for circulation improvements if they meet all the following criteria:

(1) The City of Irvine is their point of sale for sales tax purposes.

(2) They generated sales tax equal to or in excess of the amount generated for fiscal year 1981-82 during the fiscal year preceding the date on which they propose to pull building permits requiring payments of IBC fees for circulation improvements.

The firm will be required to enter into an agreement and post surety for the fees as described below. For purposes of qualifying for this credit, a firm may be considered to consist of all wholly owned subsidiary corporations of a single corporate entity. The credit shall only apply to property owned by the qualifying firm. This credit shall be administered in the following manner:

(3) Determination as to whether a firm qualifies for this credit shall be made by the director of administrative services, based on sales tax data provided by the State of California.

(4) When a firm that has qualified for this credit submits a development proposal that would require the payment of IBC circulation fees, the director of community development shall compute the exact amount of the IBC fee based on the plans submitted. Prior to the issuance of building permits, the firm will be required to enter into an agreement and post surety for the full amount of the calculated fee. Eighty-five percent of the annual incremental increase in a sales tax revenue, as measured from the base year, may be applied to the payment of IBC circulation fees. The base year shall be defined as the fiscal year preceding the year that building permits are issued for development requiring the payment of IBC fees. Payment of the incremental increase will occur for a maximum of 20 years, or until the IBC fee attributable to the development is paid. The amount of the surety can be reduced on an annual basis by the amount of the incremental sales tax increased paid to the IBC fund.

(5) The director of administrative services shall be responsible for transferring the incremental increase in sales tax revenue to the IBC circulation fund.

(6) Payment of any fees unreimbursed from sales tax revenue shall be due if a firm changes its point of sale so that sales tax revenue is no longer received by the City of Irvine.

b. Any firm for which the City of Irvine is their point of sale and which generates at least $10,000 in sales tax revenue to the city in the fiscal year of 1981-82, and which generated sales tax equal to or in excess of the amount generated for fiscal year 1981-82 during the fiscal year preceding the date on which they proposed to pull building permits requiring the payment of IBC fees shall be eligible to offset their IBC circulation fees with credit for sales tax generated. Eighty-five percent of the annual incremental increase in sales tax revenue, as measured from the base year, may be applied to the payment of IBC circulation fees. The base year shall be defined as the fiscal year preceding the year that building permits are issued for development requiring the payment of IBC fees. This credit may be applied toward the payment of fees for a given development application for a maximum of five years. This credit shall be administered in the following manner:

(1) The director of administrative services shall determine if a firm qualifies for the credit based on sales tax data provided by the state.

(2) The director of community development shall compute the exact amount of the IBC fee based on the plans submitted.

(3) The director of administrative services shall then calculate for the subject firm the incremental sales tax increase expected over five years as measured from the base year. The subject firm will then be allowed to reduce the IBC fee for the proposed development by 85% of this calculated 5-year incremental increase in sales tax revenue. The subject firm shall be required to enter into an agreement and post surety for the amount credited. The director of administrative services shall be responsible for transferring the incremental increase to the IBC circulation fund.

c. Any firm for which the City of Irvine is their point of sale which did not provide at least $10,000 in sales tax revenue to the city in fiscal year

1981-82, but which generates at least a total of $10,000 in sales tax revenue in 4 consecutive quarters subsequent to the fiscal year 1981-82, shall be eligible to offset their IBC circulation fees with credit for sales tax generated. Eighty-five percent of the annual incremental increase in sales tax revenue in excess of $10,000 may be applied toward the payment of IBC circulation fees. This credit may be applied for a given development for a maximum of five years. This credit shall be administered in the following manner:

(1) The director of administrative services shall determine if a firm qualifies for the credit based on sales tax data provided by the state.

(2) The director of community development shall compute the exact amount of the IBC fee based on the plans submitted.

(3) The director of administrative services shall then calculate for the subject firm the incremental sales tax increase expected over $10,000 expected in the next 5 years. The subject firm will then be allowed to reduce the IBC fee for the proposed development by 85% of this calculated 5-year incremental increase in sales tax revenue. The subject firm shall be required to enter into an agreement and post surety for the amount credited. This surety will be adjusted each year by the actual incremental increase in sales tax realized. The director of administrative services shall be responsible for transferring the incremental increase to the IBC circulation fund. (Ord. No. 84-21, § 2, 10-5-84)

7. *Extraordinary amenity credit:* Reductions in the number of development points assigned to a project based on credit for extraordinary amentities shall be granted on the following basis:

a. *Types of amenities allowed:* Amenities such as extraordinary open space, parks, plazas, facilities for the arts, athletic facilities and child care centers are examples of the types of amenities envisioned by this section. They should provide a benefit not only to the site on which they are located but also to the larger community. The city should receive assurance that any structure or area proposed for credit as an amenity will be used for that purpose for the life of the project receiving this credit.

b. The site in which the amenity area is located must be a minimum of 10 acres in order for the area to qualify. If the site consists of more than 1 parcel, then the parcels which comprise the 10-acre minimum site must be linked by a comprehenive plan as described in section V.E-736.5.D.1.b. and approved by the planning commission or zoning administrator.

c. For each square foot of amenity area provided, 3 development points can be deducted up to a maximum deduction of 6,534 development points per acre.

d. Any open space, park or plaza for which credit is being requested shall comply with the criteria noted below. These criteria shall not apply to areas devoted to lakes or other water elements.

(1) The area must be in addition to that necessary to meet landscaping, park and setback requirements.

(2) *Minimum size:* The area must contain a minimum of 4,000 square feet.

(3) *Sunlight patterns:* The amenity area shall be able to receive direct sunlight on at least 30% of the surface area from 10:00 a.m. to 2:00 p.m. between the spring and fall equinox.

(4) *Design and landscaping:* At least 1 major element, such as art work or water, shall be included in the amenity area. The dominant landscape elements shall be trees and turf. The amount of impervious surface should not exceed 40% of the amenity area unless unique design considerations are offered.

e. Approval of extraordinary amenity credit shall be granted through a conditional use permit in accordance with section V.E-736.5.C.3.c.—e.

8. *Credit for development of a rapid transit system: reductions in the number of development points assigned to a project based on credit granted for the development of a rapid transit system within the Irvine Business Complex:*

a. The rapid transit system could include, but is not limited to the following:

(1) Rapid transit facilities (i.e. monorail);
(2) Dedication of right-of-way;
(3) Rapid transit infrastructure.

b. The granting of any credit for development entitlement is subject to the following:

(1) Consistency of the conditional use permit with the city general plan;

(2) Approval of a conditional use permit by the planning commission in accordance with sections V.E-804 and V.E-736.5.C3.c-e and subject to the following condition:

Prior to the issuance of building permits for development of entitlement for which rapid transit system credit has been granted, the applicant shall:

(a) Construct the rapid transit system improvements upon which credit has been based and receive all necessary operating permits for those improvements; or

(b) Provide a guarantee, in a form acceptable to the city, of funding for the construction of those improvements.

(c) The establishment of a criteria by the city council which assures that a net circulation benefit is achieved.

c. The amount of credit granted for development of a rapid transmit system shall be established and justified by conditions incorporated into the conditional use permit. The factors to be considered in establishing the amount of credit granted for development of a rapid transit system may include but shall not be limited to the following:

(1) Reduction in traffic generation;
(2) Dedication of right-of-way for rapid transit systems;
(3) Provision of a benefit not only to the site on which the proposed rapid transit system improvements are to be located, but also to the larger community;
(4) Capital cost contributions to area-wide, community-wide, or regional rapid transit system improvements.

E. *Development Priority List:*

1. In the event conditional use permits have been approved which utilize all or substantially all of the points available for development in excess of the baseline intensity limit set forth in section V.E-736.5.C.1. or C.2., a priority list shall be

established in accordance with the provisions of this section for the purpose of allocating points which may become available pursuant to the provisions of section V.E-736.5.E.

2. The priority list for the allocation of development points as set forth in paragraph 1. above shall be established as follows:

   a. Applicants with an application for a conditional use permit on file with the community development department for development above the baseline intensity limits shall have 30 days from the effective date of this ordinance to submit to the director of community development a letter signed by the appropriate officers or agents of the applicant requesting the withdrawal of the conditional use permit and to file an application for inclusion on the Irvine Business Complex development priority list.

   b. On September 1, 1985, the director of community development shall establish a priority list for development based on the order of the filing dates of the withdrawn conditional use permits. After all the withdrawn conditional use permits have been given an order of priority, new applications for inclusion on the development priority list will be included on the priority list in the order established by the date the development priority list case was filed and accepted as complete.

   c. The following information shall be submitted as a part of the development priority list application:

      (1) A completed application form.

      (2) Plans, to scale, including site plans showing approximate building locations, parking areas on-site circulation, and building heights.

      (3) A deposit/fee as required by resolution of the city council.

      (4) A letter of justification describing the project.

      (5) Other information as required by the director of community development.

   d. After 4 years from the date the application for development priority was filed and accepted as complete, if development points are not available for the project, the applicant will be notified and the project removed from the development priority list.

   e. The director of community development shall keep a record of development points that are subject to allocation pursuant to the provisions of section V.E-736.5.E. or are made available by amendment of this section V.E-736.5. When enough development points accumulate to be allocated to the next application on the priority list, the director of community development shall notify the applicant. The applicant shall have 45 days from the date of notice to file an application for a conditional use permit for development in excess of the baseline limits set forth in section V.E-736.5.C.1. or C.2. and have the application accepted as complete. In the event the conditional use permit is approved, the points will be allocated in accordance with the approved conditional use permit. If the conditional use permit is disapproved, the next application shall be notified if sufficient points are available for the next applicant's project, and the next application shall then have the same opportunity to apply for a conditional use permit for the allocation of the development points.

f. Applicants for conditional use permits not withdrawn pursuant to a. above shall not be entitled to placement on the development priority list in accordance with the filing date of the conditional use permit but may apply for addition to the priority list in accordance with subsection b. above. Conditional use permit applications not withdrawn shall proceed to public hearing and disposition in accordance with established city procedures. The only exception to the foregoing shall be applications for conditional use permits for development above the baseline intensity limits for which the time for acting on such applications pursuant to Government Code section 65960 et seq. expire prior to the effective date of this ordinance. Applicants for such projects shall be entitled to apply for inclusion on the development priority list pursuant to a. above and shall be entitled to a priority based upon the filing date of the conditional use permit even though the conditional use permit may have been withdrawn by the applicant or denied by the city due to the lack of available development points. (Ord. No. 85-19, § 5, 6-25-85)

Editor's note—Ord. No. 84-21, adopted Oct. 5, 1984, added subsection 6 to § V.E-736.5.D. The city has instructed that the existing subsection 6 be redesignated as subsection 7. Section 5 of Ord. No. 85-19, adopted June 25, 1985, added § V.E-736.5.F., which the editor has redesignated § V.E-736.5.E in order to maintain continuity of subsection designations.

V.E-736.6 Construction of Circulation Improvements and/or Payment of Fees Required for Project Approval.

A. *Intent and Purpose:* It is the intent and purpose of this section to ensure that improvements to the city's traffic circulation system, needed as a result of development approvals in the Irvine Business Complex, will be provided.

B. *Classification of Circulation Improvements:* For the purposes of this section, circulation improvements are classified as follows:

1. *Local improvements:* These improvements are minor in nature and are usually installed adjacent or in close proximity to a project site. Examples include signals and associated interconnect, restriping, left- and right-hand turn lanes, acceleration and deceleration lanes.

2. *Area-wide improvements:* These improvements provide significant increases to the capacity of the circulation system and, at the same time, the city has the authority to require them. Examples include construction and/or expansion of local, collector and arterial streets; construction of overcrossings; and expansion of freeway interchanges.

3. *Regional improvements:* These improvements provide significant increases to the capacity of the circulation system but, for the most part, the city has no authority over their design, construction or operation. They include such items as construction or expansion of the freeway network and provision of public transit through buses, light rail or other modes.

C. *Requirement for Provision of Local Improvements:* The public works department shall analyze each submittal for conditional use permit approval where the conditional use permit is being required because the proposed project exceeds the baseline limit, or in those cases where a conditional use permit is not required each submittal for zoning compliance review, to determine if local traffic improvements are needed to mitigate the impacts of the proposed project. The public works department can require the applicant to submit a traffic study if they deem it necessary to conduct their analysis. If, as a result of this analysis, the manager of transportation services determines that local road improvements are needed, applicants shall be required to provide these improvements as a condition of approval on their site design. Applicants may pay fees in place of

EXHIBIT "F"
LIST OF TRIP RATES

Use	A.M.	P.M.	ADT	Quantity	Unit
Office	1.30	1.38*	13.77	1,000	SF
Industrial	0.45	0.42	4.62	1,000	SF
Retail	2.54	6.96	84.00	1,000	SF
Lodging	0.42	0.68	10.00	1	Room
Residential	0.50	0.52	6.30	1	DU
Zoning Potential	1.30	1.38*	13.77	1,000	SF
Mini warehouse	0.29	0.27	3.04	1,000	SF
Hotel, extended stay	0.38	0.42	5.14	1	Room

For example: 100,000 points results in a transfer of 46.02 p.m. office trips to a receiving site (100,000/2173). The receiving site adds 43.35 a.m. office trips (46.02/.00138 = 33,347.83 x .0013) and 459.20 office ADT (33,347.83 x .01377.)

* Existing Zoning Code states the p.m. trip rate for Office and Zoning Potential is 1.31. This is an error in the Existing Zoning Code. The above table reflects the correct trip rates.

in tele net
COMMUNICATIONS, INC.

February 26, 2007

Via First Class Mail and Facsimile to (949) 724-6440

Mr. Bill Jacobs
Principal Planner
City of Irvine
One Civic Center Plaza
P.O. Box 19575
Irvine, California 92623-9575

Re: Response by InteleNet Communications, Inc. ("InteleNet") to the Notice of Preparation for the Draft Irvine Business Complex ("IBC") Vision Plan and Mixed Use Overlay Zoning Code (the "Project")

Mr. Jacobs:

We are in receipt of the Notice of Preparation for the Project in the IBC, and thank you for the opportunity to comment. First let me say that we agree wholeheartedly with the City's determination that an EIR should be prepared for a project of this magnitude in an area of obviously incompatible land uses. It is our hope that the EIR will bring out the facts showing the incompatibilities with many surrounding business operations, and that the EIR analyzes true non-residential alternatives in those areas of the IBC that are in close proximity to existing industrial businesses such as InteleNet.

Background on InteleNet Communications, Inc.

InteleNet Communications, Inc., which operates the business located at 17222 Von Karman Avenue, is a leading and well-established managed hosting company. Its state-of-the-art 55,000 square foot data center in the IBC is a 24x7x365 facility that includes fully redundant power with backup diesel generators, redundant internet access, and leading physical environmental control features. This facility is an important regional data center in which many significant regional and national businesses house their critical computing infrastructure and connect this infrastructure to fully-redundant power and bandwidth. Our customers must have access to their computing infrastructure which they have colocated at our site 24x7x365. By concentrating infrastructure and technology at our site, our customers are able to meet the exacting demands of constant up-time and complete security required to run a modern successful business. In addition, our public/regulated company customers and our customers serving regulated companies must be located in a data center facility such as ours in order to meet certain federal regulatory burdens imposed upon them. In short, without facilities like InteleNet in the City of Irvine that are free to operate and grow without threat of residential interference, the City would have difficulty attracting precisely the types of businesses that it would like to attract to the City. The presence of companies such as InteleNet in the IBC not only provides the kinds of high paying jobs that will support a robust work/live economy within the IBC, but it provides the millions of dollars of infrastructure which attracts other companies and their high-paying jobs into the City of Irvine and the IBC.

InteleNet established its operations here because this is a business complex – not a residential village – and we want to be able to continue to operate and grow our business at this location, responding to the significant regional demand for the services we provide. Our operations create noise 24x7x365, including customers, trucks and deliveries coming and going at any hour, the periodic noise of our 1250kW and

2000kW generators (large enough to power more than 2000 homes), and the constant noise of our rooftop environmental infrastructure, such as condenser unit fans. InteleNet's noise has increased, and will only increase further, as it continues to expand its operations in response to customer demand. In addition to noise, each generator has an associated above-ground diesel fuel storage tank (2,000 gallon and 3,000 gallon). These tanks are necessary in the event that we should be required to switch to back up power generation for a lengthy period of time. In addition, we have imminent plans to add an additional 2000kW generator and an associated 3000 gallon diesel fuel storage tank. You can find additional information regarding our business at www.intelenet.net and can find additional information regarding our industrial-type operations in our application to be classified as an Industrial Business for purposes of the Industrial Adjacency Analysis, which we previously submitted to the City. We have hosted tours of the facility in the past by City Staff and would gladly host additional members of the City Staff, the Planning Commissioners and/or the members of the City Council on a site tour.

The generators and storage tanks are adjacent to the property line between InteleNet and a pending condominium project at 17150 Von Karman. This places InteleNet in a unique position of having to address adjacency issues on two separate fronts -- a progressing pending project which proposes residential development towering six stories right over InteleNet's generators, and an area-wide redevelopment effort, in which the City has rightfully determined that it is necessary to conduct this EIR.

The City Should Postpone Residential Projects in the IBC Until this EIR is Certified

We strongly urge the City to postpone progress on, and approval of, any other residential projects in the IBC while this overall IBC planning effort is on-going and until this EIR is certified. In a presentation of the IBC Residential Vision Plan to the Planning Commission, total residential caps were discussed, including a cap as low as 20,000 units and as high as 38,000 units. City Staff then indicated that the cap is more likely to be on the lower end. With a total of 3,969 dwelling units currently within the IBC, and an additional 4,147 units approved and 6,291 units pending (for a total of 14,407), too much water is flowing over the dam such that the desired result will not be achieved in the IBC if the IBC has already been largely re-built by the time the new plan is ready.

If the City continues to proceed with pending applications without waiting for this EIR, the City is making a determination that somewhere between 40% and more likely, 72%, of the residential units may be considered and approved without the benefit of this EIR. It is therefore likely that only a very small amount of redevelopment will remain by the time the City fully understands the true cost of all mitigation that will need to occur due to this Project. Therefore, only a small amount of redevelopment projects will be left to pick up the true cost of all mitigation.

There is simply no basis to conclude that these pending projects are not a part of this Project being addressed in this EIR, nor can the City on the one hand conclude that an area-wide EIR is needed while at the same time, allow these individual parts of this larger Project to continue without the benefit of this area-wide EIR, relying instead on project-by-project EIRs. The City should reconsider its position that a project-by-project EIR is sufficient for pending projects. Even with a quick comparison between the EIR scopes under consideration for the IBC EIR and the EIR for the project pending at 17150 Von Karman, which is adjacent to InteleNet's property, one can see why the pending projects must be postponed in order to have the benefit of this IBC EIR. For example, in this Notice of Preparation for the IBC EIR, the Project is correctly identified as one that might physically divide an established community (see page 24, paragraph a). However, the Notice of Preparation and Initial Study for 17150 Von Karman, as initially released for comment, did not make the same determination and did not recognize an existing non-residential community.

Put simply, a single project, taken in isolation, will not divide an existing community; but again, it is evident at this point that each individual project is just a component of this larger IBC redevelopment

project. In addition, an EIR for an individual site project might be able to assume that there will be no infrastructure needs resulting from a single development. It is only when the City treats these as pieces of a larger development, that the true impacts become apparent in terms of the burdens that the project will bring to infrastructure, traffic, schools, etc. These individual pending projects cannot be viewed in isolation given that they are part of this obviously much larger Project that the City is considering.

An overlay slide presented to the Planning Commission at its February 15, 2007, meeting by the Allergan team persuasively showed another problem of allowing site-by-site redevelopment to continue: Not one of the alternative Town Centers discussed in the Vision Plan is well-supported by the total approved and pending residential projects in the IBC at this time. Rather than having the planning drive the development, currently the development opportunities are driving the planning, leaving it to chance as to whether the City's time, money and efforts in regards to the Vision Plan will have any impact on the final development of the IBC, and making it a certainty that there will be adverse impacts resulting from this redevelopment that are not correctly and consistently mitigated.

Industrial Business Designation Process

In lieu of postponing consideration of pending projects until the City has a better handle on the area-wide issues, including incompatibility issues, the City has determined to allow these projects to proceed and has adopted the Industrial Adjacency Analysis (IAA) procedure. InteleNet has applied to be classified as an Industrial Business as requested by the City's new policy. However, we understand from City Staff comments at the February 1, 2007, Planning Commission meeting that the City Staff is having difficulty determining where to draw the line as to what is significant and what is not significant industrial use, and that the City Staff is therefore taking time to do an adequate evaluation prior to acting on any particular application.

The very fact that this determination is difficult for the City Staff underscores the importance of waiting on a properly scoped EIR for the IBC redevelopment prior to acting on any pending individual site projects. A properly scoped EIR will analyze these issues of incompatibility on an area-wide basis and will provide the analysis necessary for the City to make a good determination on what types of businesses should have the benefit of what sizes of buffer zones and other mitigation. The EIR must categorize the types of hazards and industrial operations, thereby providing the information that will enable the City to referee this process in a thoughtful, consistent and workable manner throughout the IBC redevelopment process. The City Staff is correct that these are very difficult questions. However, they are questions that can be addressed to a successful resolution if consideration by the City of pending projects is postponed, allowing all parties to have the benefit of the ideas and analyses that will result from a properly scoped EIR for the IBC redevelopment.

In addition, we believe that a properly scoped EIR will provide information from which the City will conclude that the IAA process is insufficiently defined and should be clarified to, among other things, place a clear burden of proof on those seeking to develop residential projects that their residential projects will not raise any incompatibility issues that mitigation (at the cost of the residential developer and acceptable to the pre-existing business) cannot resolve. The properly scoped EIR for the IBC might also conclude that the IAA process is insufficient in that there is no clearly defined way to analyze incompatibilities that do not exist today but might arise in the future. As the City Staff has acknowledged, this IAA process is a "snap-shot" view of incompatibilities. We are in the process of an IAA and scoping of an EIR relating to the redevelopment of 17150 Von Karman at this time, and while the City's consultants have diligently asked us questions on where future "industrial-type" operations will be located, the premise of the analysis appears to be that unless we can specify distinct plans for expansion now (including, for example, our current estimate as to where a third generator might be placed), these expansion possibilities will not be addressed in the IAA analysis. The IAA process must look at all possible lawful future uses of the existing industrial business property and how those uses might be

incompatible with neighboring residential units. While we are clearly supportive that the City has adopted a process requiring industrial adjacency analysis, we feel that the process is unrefined and could be best refined with the benefit of this properly scoped and certified EIR.

At an absolute minimum, the City should make a clear statement that it remains the burden of the owner of each pending residential project to show that the project will not adversely impact both current and future operations of adjacent non-residential businesses. It should not be the obligations of the pre-existing IBC businesses to prove that there will be an incompatibility.

This EIR Must Recognize Pending Residential Projects as a Part of the "Project" Being Analyzed

The EIR must clearly recognize that those residential projects already approved in the IBC and those that are pending, are a part of this "Project" being analyzed in the EIR. As discussed above, these approved and pending projects likely constitute from 40% to 72% of the future total overall residential units within the IBC. Clearly, they are a significant component of this Project and pending individual site projects should be assessed as a part of the Project, rather than merely being included as a pre-existing condition or likely pre-existing condition.

The EIR Must Contain an Analysis of the Adverse Impacts Resulting From Placing Residents in Close Proximity to Industrial-Type Uses

The scope of this EIR must include not only an analysis of the impacts of new residential development in the region (including the adverse impacts on traffic, infrastructure, parks, etc. that the new residents will cause), but just as important, an analysis of the adverse impacts that are sure to result from placing residential uses (sensitive receptors) in close proximity to long standing existing industrial uses. The EIR must acknowledge that the Project will create a proximity of residents to existing industrial uses that never existed before, thereby creating a new exposure, although not new industrial operations. The developer must be required to mitigate against the adverse impacts caused by the introduction of residents into known and potential industrial operations revealed by the EIR, such as those relating to business noise, odors, glare, hazardous operations or materials, exhaust, night-time operations and traffic.

This mitigation must be full and complete, including buffer zones, set backs, CC&R requirements, real estate disclosure requirements, obligations to pay for mitigation at the industrial business location where possible, sound walls and more, all at the developer's cost. This mitigation must be full and complete as to possible future uses of the property and mechanisms should be analyzed in the EIR that provide for protection of the industrial businesses in the future upon their expansion and/or upgrade. The City must address the business owner's right to expand operations on its business premises and therefore the adequate buffer zone must be measured from the property line considering all possible future operations of the business. Existing businesses must be provided with clear assurances from the City that they will not ultimately be forced by new residents to alter operations, including current operations, upgraded operations and expanded operations. In addition, existing businesses must be protected by grandfathering of current standards - they must be able to continue to rely on industrial zoning to permit continued, expanded and upgraded operations. They cannot be subject to new fees, requirements, and design criteria as a result of their sudden and unplanned close proximity to residential uses or as a result of any rezoning of the land on which the industrial business is located.

The EIR must also acknowledge where it is simply impossible to mitigate completely the adverse impacts of placing residents in the way of industrial uses. Mitigation is not complete if the businesses will be faced with neighbors who have a perception that they are in harm's way or a perception that neighboring industrial activities are dangerous or unacceptable or not as they expected in an expensive neighborhood in the City of Irvine. As we all know, it is the perceptions of the residents that will determine whether they are happy or unhappy with their industrial neighbor, and not necessary realities addressed by scientific and engineering studies of risk, noise, odor, etc. Therefore, the EIR must include an analysis of expected

perceptions of residents in these areas, including studies of similar redevelopment efforts elsewhere and resulting incompatibility issues. After all, at the end of the day, the City of Irvine wants for this Project to be a great success, and in order for it to work, it is clear that the City needs specific examples of similar redevelopment efforts that have worked, as well as examples of those that have failed, and an analysis of the reasons that one effort may fail while another may be successful. The City cannot afford for this to fail. Not only will failure result in the City being involved in refereeing disputes, but it will result in residential vacancy, business vacancy, and job loss in the City. We urge the City to slow down and perform a careful analysis before approving any more residential units in the IBC.

The EIR Must Analyze the Economic Impact of the Project

The EIR must assess the economic impact of the Project (including already-approved and currently pending residential development within the IBC), including an analysis of the impacts to existing businesses. The City's efforts to rezone and the uncertainty that is resulting in the business community is most likely already stifling business in the IBC. The City Council has provided clear direction in its vision statement as to the importance that the City act to "protect the existing job base within the IBC." However, the lack of clarity over what this means, coupled with its decision to allow pending projects go forward without the benefit of this comprehensive EIR, is creating uncertainty within the IBC. The City should ensure that it investigates these economic impacts prior to acting on any pending application so that it can ensure that it is truly acting to protect the existing job base. After all, this is simply too important to leave to chance.

With respect to some pending applications, during Planning Commission meetings, City Staff has concluded that individual projects are not running afoul of this goal of protecting existing business where the buildings being re-developed are vacant. However, unless the City considers whether it is the very uncertainty of future zoning in this region and/or the filing of pending applications for rezoning that is causing these properties to become or remain vacant (or contributing to vacancy rates), we do not see how the City can properly conclude that these individual projects are neutral towards the existing job base. The economic analysis in this EIR should analyze vacancies and business response to possible rezoning in order to allow the City to make a proper determination that it is acting in accordance with its vision statement to protect the existing job base.

Proceeding on any individual projects without the benefit of this analysis would run a great risk that the City's decisions on these pending projects are based on circular and false logic. If the rezoning is allowed for an individual project, in part, due to the vacancy of the project site which is, in turn, caused by the possibilities of rezoning in the region, the City is engaging in circular reasoning. To the extent that the City is going to continue to justify redevelopment by citing to vacancies, it needs to analyze whether vacancies are caused by industrial and other businesses are moving out, creating the need to fill the vacancy with residences, or the looming possibility of leap-frogged residential development in the IBC coupled with concerns over whether there will be full and complete mitigation of adverse impacts to industrial businesses. In addition, even in the case of long-standing vacancies, there is an opportunity cost associated with converting vacant land into residential units that must be analyzed. Only a proper economic analysis can answer these questions and therefore answer the important questions raised by IBC businesses and by most members of the Planning Commission.

All parties appear to agree that the City needs to be cognizant of jobs being displaced. InteleNet and others in the IBC offer the high paying jobs that create the possibility for a work/live balance in this region that benefits the City. InteleNet not only is an employer, but it is a service company that makes it possible for public companies and other important regional businesses to be located in the region. Without world class data center facilities, Irvine cannot attract and retain the business that will serve as the foundation for the work/live balance that the City is trying to achieve.

Once the City determines that this economic analysis is highly relevant, as it should, and once it determines that it must consider the pending projects as a part of this overall IBC "Project" to be analyzed in this EIR, which is a conclusion that it is impossible to avoid, it becomes very clear that it would be imprudent for the individual pending projects to proceed without the benefit of a properly scoped EIR for the IBC redevelopment. If the City does not act quickly to postpone consideration of pending individual site projects, the economic impact to businesses and the job base in the IBC, whatever it may be, will have already occurred.

Sub-Areas of the IBC

The EIR should break down the parts of the IBC, identifying the current building and business types in each area of the IBC. For example, near InteleNet's business premises, the surrounding buildings are largely 1-2 stories.

Parks and Schools

In the context of the analysis of the community-level park requirement and on-site recreational facilities, the EIR should address buffer zones to ensure that these facilities will not be placed so close to existing industrial operations as to render these facilities unpleasant and under-utilized. The impact of these future residents on other community parks will be understated if this is not taken into account. In the context of the analysis of future school needs, the EIR should address buffer zones to ensure that these school facilities will not be placed so close to existing industrial operations as to create an incompatibility problem. In addition, when considering future park and school sites within the IBC, the City should study the information regarding industrial business operations in the IBC that will hopefully be provided in the EIR in order to choose the best locations. We'd like to reiterate that an individual project EIR is simply not broad enough in scope to consider all of these items, given that no single project is large enough in size to justify a community park or a school.

Traffic

It is important to have a good understanding on whether the work/live balance that the City is seeking is likely to be achieved. Given that this balance is a key basis for traffic management in the region, the City should not leave this to chance, nor does the City have to. With over 4,000 approved residential units, a sufficient group of residents exists to perform some sort of analysis on the likelihood that the City's goals are going to be achieved. Of course this must go hand in hand with the City's analysis of the economic impact that the Project will have on the IBC and whether the rezoning (even the indecision about the future of rezoning and the indecision about buffer zones) will drive out of the IBC the very jobs that these residents are expected to have in the IBC. This economic impact to existing jobs, wages and population supported is a key piece of this puzzle that must be analyzed.

Comments to Staff Report Dated February 1, 2007

The Staff report mentions the establishment of a presumptive 200-foot buffer zone around key businesses in which residential units are prohibited. The term "key businesses" is an outdated concept and the term "Industrial Business" should be used when referring to those businesses determined to be Industrial through the IAA process. The business community needs to clearly understand what it needs to do to obtain the benefits of any presumptive buffer zone, and confusion between these two concepts will undermine these efforts. Secondly, further explanation and direction should come from the City as soon as possible as to whose burden it is to prove compatibility and whose obligation it is to provide and pay for full mitigation.

Finally, what is the basis for the 200-foot buffer zone as opposed to a larger buffer zone and how does the City propose that this buffer zone be measured? It is very important that the City communicate these details to the public and the business community. Obviously, these are difficult questions. Again,

however, there is time for analysis but only if the City postpones the progression of the residential growth in the IBC currently pending before the City.

Closing Comments

When a resident buys a home in the City of Irvine, there is no doubt that the resident has a strong and reasonable expectation of safety, security and peace. This is clearly not the same expectation that somebody has when they go to the office for the day, particularly when they work in a region including industrial businesses. When you go to work, you expect that the business next door may have a generator that starts up from time to time or that the outside patio of your office is loud and unpleasant. However, you know that when you go home, you will escape that environment. There is no doubt that there is a significant difference in expectations between work and home, even an urban home. A properly scoped EIR for this Project, coupled with postponing the progress of pending projects until this EIR is certified, is the only means by which the City can ensure that it is not creating situation in which future owners of deluxe condominiums are surprised to find out, for example, that loud generators blast noise from time to time, and that loud condenser fans hum constantly. These projects must be considered from the perspective of these future residents and what we all know will be their expectations upon moving to the City of Irvine. If this is not done, in the long term, this work/live balance that the City is striving for will fail.

Not only is it unfair for the future residents to endure the noise and proximity to industrial uses, but it is unfair for the industrial businesses to be faced with a future of residents' complaints. With the significant capital investment that has been made into InteleNet's IBC data center and the fact that our customers have chosen us based upon our close proximity to their business locations, relocation is simply not an option. Furthermore, the "industrial" aspects of our business are not optional. Therefore, we urge the city to conduct a careful and complete analysis in this EIR, and to postpone individual projects until the certification of this EIR.

Thank you again for providing us with the opportunity to comment on this Project.

Sincerely,

Monica J. Burick
General Counsel
InteleNet Communications, Inc.

Cc: Irvine City Council (hand delivery at February 27, 2007, City Council meeting)

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February 27, 2007

Via Hand Delivery

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Re: IBC Vision Plan and Residential Mixed Use Overlay Zoning Code
Comments Regarding Notice of Preparation of Draft EIR
Our Matter No.: 0000323339

Dear Mr. Jacobs:

As you know this office and the undersigned represent the interests of Allergan, Inc. with respect to the issues of redevelopment of the IBC into a residential mixed used community. Allergan thanks the City for proceeding to prepare a programmatic EIR with respect to the significant changes occurring within the IBC. Please accept this correspondence as Allergan's comments on the Notice of Preparation and Initial Study and as its requests related to the scoping of the EIR.[1]

GENERAL COMMENT

Allergan is concerned with multiple issues related to the IBC and its redevelopment. Quite candidly the massive changes proceeding in, and proposed to, the IBC present the significant risk of collapsing the economy of the IBC and its other functional components.[2] Allergan is concerned about industrial adjacency issues and conflicts

[1] In an effort to not repeat many matters previously stated, we simply refer to comment letters of the cities of Newport Beach and Tustin and Deft, Inc., as well as the testimony and comments provided to the City throughout the nearly three years of process on this project and we enclose a DVD disk that contains the documentation of the 1992 EIR, subsequently approved projects to the 1992 EIR, and the Vision Plan proceedings largely to date.

[2] Staff has testified as to the numbers of potential residential units and a possible cap on them within the IBC. It is well documented that there are 14,000 residential units within the IBC either constructed, approved, or in consideration. This is a massive change in the nature of the IBC from its current residential unit count of less than 4,000. If residential build out is capped at 20,000 units, these 14,000 units make up 70% of the build out potential of the under the Vision Plan and

between residential uses and industrial and manufacturing uses; traffic and parking issues in what is documented in many ways to be largely a dysfunctional transportation and parking system within the IBC; public infrastructure and utilities; and the probable significant physical impacts to be caused by economic disruption.

SPECIFIC ISSUES TO ADDRESS

Bingham McCutchen LLP
bingham.com

1. Industrial Adjacency Issues.

Evidence has been provided to the City demonstrating that the placement of residential development within 1,000 feet of existing industrial uses creates great risk to industry and to the proposed residential projects.[3] We note that current City regulations and past environmental review acknowledges the conflicting nature of residential and industrial/manufacturing uses.[4] In addition to the testimony of the multiple concerned businesses and their representatives, we have provided the written testimony of Joseph DiMento, Ph.D. and J.D. on this issue and enclose his curriculum vitae establishing his professional qualifications to address these questions. Dr. DiMento is convinced of the inconsistency of industrial and residential uses and has recommended a 1,000 foot buffer between industrial and residential uses. Additionally, we enclose the report of Phillip King, Ph.D, along with Dr. King's curriculum vitae establishing his credentials. As you can see from Dr. King's survey of the situation in the IBC, he has rendered an opinion that residential development adjacent to industry creates a significant risk that industry will flee the IBC and the City will lose a large economic value. Additionally, he is concerned about the potential of urban decay as a result of such industrial flight, especially when combined with past and current hazardous materials used within the

With respect to the hazardous materials issues as addressed in the Initial Study, hazardous materials usage, storage, and transportation is a critical concern. The Initial Study discusses the question of whether any "proposed project could involve a release of hazardous materials." (IV. HazMat (a)(b)(d).) This issue must be looked at, however, from another direction as well. The question is whether or not any existing manufacturing or industrial use creates a significant risk of release of hazardous

if one uses the 38,000 unit figure, this 14,000 unit figure represents over a third of the potential build out. This is a massive change and when looked at in light of the potential completion of this EIR in 2008, we can see most of this will either be approved or in construction before the completion of the EIR.

[3] We have enclosed the document entitled, "Excerpts of Public Hearing Testimony Re Inconsistency of Residential Development near Industrial/Manufacturing Uses in the IBC (April 12, 2005 - February 1, 2007)," and transcripts from the previous critical proceedings are scanned onto the DVD database provided.

[4] We enclose a History of Regulations Regarding Redevelopment of the IBC researched and prepared by Jessica A. Duncan, Esq., of this office, for your consideration.

materials. That is a key issue for adjacency. It should not, however, be an existing industry's responsibility to mitigate this risk to an incoming residential project. Certainly industrial users must meet or exceed the safety standards of their respective industries as currently in place, but residential development must carry the burden of providing a safe environment for its own potential occupants.

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It is insufficient to say "No release . . . [of hazardous materials] . . . is anticipated" (VI. HazMat (c)) when dealing with this issue of industrial adjacency. The EIR must assume a worst case scenario by anticipating a release and then provide for protection of the incoming residential users and most particularly sensitive receptors within them.

Based upon the testimony and evidence submitted over the last two to three years, Allergan must respectfully request the City delve deeply into the industrial adjacency issue in the context of the EIR. To date all consistency analysis has largely been driven by the concerns of industry. Allergan requests the City take these concerns related to the inconsistency of industrial/manufacturing uses and residential uses deeply to heart and carefully evaluate them within the context of this EIR. [5]

In the context of the adjacency question, Allergan requests the City analyze an alternative that offers an opportunity to accommodate industrial and manufacturing needs, thus meeting Element No. One of the Vision Plan adopted by the City in protecting existing job base, and providing safe neighborhoods for development of residential uses, thus fulfilling Element No. Five of the Vision Plan. This alternative would consider a scenario where the City required a legislated 1,000 foot buffer around current industrial / manufacturing uses.

2. **Service and Public Utility Issues**.

Allergan is deeply concerned that this residential redevelopment of the IBC will collapse the functionality of the IBC. We address the large issues related to the same and request the City to conduct a current comprehensive analysis of all of the issues related to this redevelopment project and most particularly ones listed below.

a. Traffic and Parking.

The transportation system, as identified by the City's own traffic reports, and as analyzed by, the traffic consultant on behalf of the City of Newport, is in a condition of minimal functionality with failing segments and intersections. Quite frankly, this situation affects

[5] We enclose correspondence from Allergan dated September 1, 2006, addressed to Stuart Michener, The Planning Center. The questions and concerns set out in that letter by Allergan have never been addressed. We request these issues be addressed in the context of the EIR when dealing the analysis of the issue of consistency between residential and industrial uses and how to balance the conflicts that result from placing them near each other.

Allergan and its employees. The influx of 38,000 residential units or even 20,000 residential units, will have a serious and significant impact on this situation.[6]

Additionally, parking is a very serious concern within the IBC. One need only attempt to utilize the shopping center at the corner of Jamboree and Michelson during a business lunch hour, or some other rush time, to see the lack of parking. Parking is truly a significant problem. Any further development must carry its fair share of parking. Density bonuses and shared parking agreements can, and have in the past, resulted in deficits in parking stock. To not recognize that most households have at least two cars, and some of the households being contemplated will have more, will cause a very significant adverse impact on parking stock, making it probable future needs will not be met.

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b. Air Quality Issues.

Air quality is closely related to transportation and land uses within the IBC. Stationary land uses such as the industry currently situated within the IBC present significant risks to sensitive receptors in their immediate vicinity. This issue must be taken very seriously. While we hope there will not be any emergency situations that occur, one can anticipate accidents will happen. Appropriate protections for residential developments and sensitive receptors in developments adjacent to or near to industrial uses must be provided. A serious evaluation must be given to whether or not the "shelter and place" program is adequate to address these issues.

Further, the impacts of mobile pollutants is closely related to traffic. Long waiting times at intersections and poorly functioning roadway segments have a significant impact on air quality. One cannot simply say that traffic proceeds in an acceptable manner within the IBC pursuant to accepted guidelines by the City of Irvine when addressing air quality impacts. The guidelines acceptable to the City of Irvine are below standard functionality. Thus, in and of themselves, they create a larger impact for air pollutants. These issues must be studied and addressed.

[6] As analyzed in Dr. King's report and commented by others, Allergan requests the City use more accurate residential forecast numbers identifying the average number of people who will reside in these proposed residential units. Residential units within the County of Orange contain on average 3.3 persons and within the State of California contain on average 2.6 persons. The IBC residential development proposals include apartment living and condominiums. While certainly some of these units are "luxury" in nature and unlikely to produce high occupancy ratios, others are not. A more realistic occupancy number must be used in order to forecast the impacts accurately. At the very least, the City must analyze the impacts utilizing all potential numbers and explain why it chooses it particular set of data to utilize.

c. Utilities and Service Systems.

The massive change going on within the IBC is going to have a significant impact on utilities and public services. Irvine Ranch Water District is already planning an expansion of its water facilities with respect to new residential development as well as studying the affirmative needs within the IBC. This analysis should be completed at least to the level where appropriate mitigation measures can be established within the IBC prior to concluding adequate water supply infrastructure is available. The significant potential influx of residents must have sufficient water resources to meet the new residents' needs.

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d. Recreation and Parks.

There have been conflicting statements throughout the City process regarding recreation and parks within the IBC. Members of the Planning Commission have been asking, or recommending orally, though without specific motion, that the City immediately begin searching for appropriate property within the IBC to acquire a community park. Planning Commissioners discussed the fact that it is unlikely that San Diego Creek would meet the open space and recreation needs of the potential residents in the IBC. On the other hand, Staff appears to be indicating that it is unlikely the City will be able to acquire land for community park purposes within the IBC. (Bill Jacobs' testimony in the Community Services Commission on February 21, 2007). This conflict must be addressed.[7]

e. Biological Resources.

The issue of biological resources is closely allied to the question of recreation and parks. San Diego Creek is an important biological resource not only for the IBC but the entire region. The impacts on the Creek must be closely studied. If there is insufficient recreation provided elsewhere in the IBC, the Creek and the proposed Creek Walk will receive tremendous influx of people. While the Creek Walk is proposed to be on the bank of the Creek, one should still anticipate the potential large number of users creating a significant adverse impact on biological resources such as the Creek. This issue truly must seriously be studied and any potential significant adverse impact mitigated.

3. **Economic Impacts**.

There are very significant economic impacts one can clearly anticipate through the redevelopment of the IBC. These issues have been specifically addressed by Phillip King, Ph.D, whose report and curriculum vitae are enclosed. As you can see, the

[7] We note that testimony regarding the project at 2851 Alton indicated an18 month old appraisal was being used to set park fees for development. A realistic appraisal must be used in order to truly mitigate the impacts on parks and public recreation. We ask the City to update the appraisal and make it applicable to the unique circumstances within the IBC now and keep it updated so that these impacts can be adequately mitigated.

redevelopment of the IBC creates the very substantial possibility of huge adverse economic impact on the City, and the region. Dr. King has also identified weaknesses in the City's previous fiscal analysis of proposed projects. All of these issues must be closely analyzed. It would tragic to provide for the this large influx of residences into the IBC in order to create a "jobs/housing balance" only to have the high paying jobs flee the IBC, thus leaving luxury condominiums without high paying jobs to support them.

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This issue is not only a CEQA issue, but also a General Plan consistency issue. The City has multiple policies within its General Plan providing for careful economic analysis and goals related to the fiscal well being of the City. Additionally, the City has economic strategy it has adopted that needs to be followed in order to be consistent with the City's policies. Please analyze the potential of bringing these residential units into the IBC and their economic and fiscal impacts consistent with the General Plan and economic strategy of the City and with CEQA requirements.

CONCLUSION

Allergan is pleased to see the City proceeding with a comprehensive programmatic EIR and is pleased to participate in this interactive process. We will continue to develop information on the issues involved and reserve the right to submit materials as they become available in the process in hopes of assisting in fashioning excellent comprehensive environmental documents and ultimately an excellent plan for the IBC. In the mean time, Allergan once again, however, requests the City cease processing any residential development applications within the IBC until this analysis is completed and the programmatic EIR certified. To do otherwise, will cause the City to miss its one true opportunity to fully mitigate potential adverse impacts of this Project and to fully achieve its goals within the IBC.

Sincerely,

Geoffrey K. Willis
Partner
Bingham McCutchen, LLP

DRH/cer

Enclosures:

- Power Point presentations provided to Planning Commission February 15, 2007
- Summary of testimony -- The DiMento Report and CV; the King Report and CV
- Allergan letter dated September 1, 2006 to Stuart Michener at The Planning Center
- Exhibits regarding complaints and issues from Charter Apartments and Essex Apartments to adjacent industrial uses
- Excerpts of Public Hearing Testimony re Inconsistency (04/01/2005 through 02/01/2007)
- History of Regulations Regarding Redevelopment of the IBC
- DVD of the record

cc: Robert Hawkins, Esq. (w/o encl.)
Whitman Manley, Esq. (w/o encl.)

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of February 27, 2007 To
Bill Jacobs, AICP, of the City of Irvine

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1.	**PowerPoint Presentation provided to Planning Commission February 15, 2007**
2.	**Summary of Testimony - Dr. Joseph DiMento Report and Curriculum Vitae**
3.	**Summary of Testimony - Dr. Philip King Report and Curriculum Vitae**
4.	**Allergan, Inc. letter dated September 1, 2006 to Stuart Michener at The Planning Center**
5.	**Exhibits regarding complaints and issues from Charter Apartments and Essex Apartments to adjacent industrial uses**
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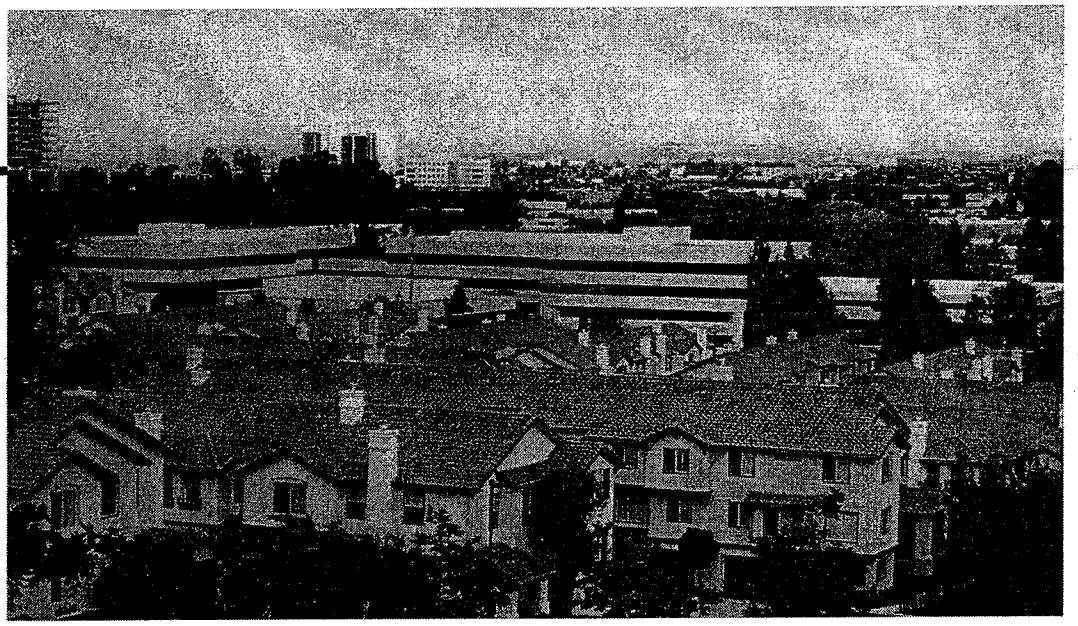
8.	**Record - DVD**

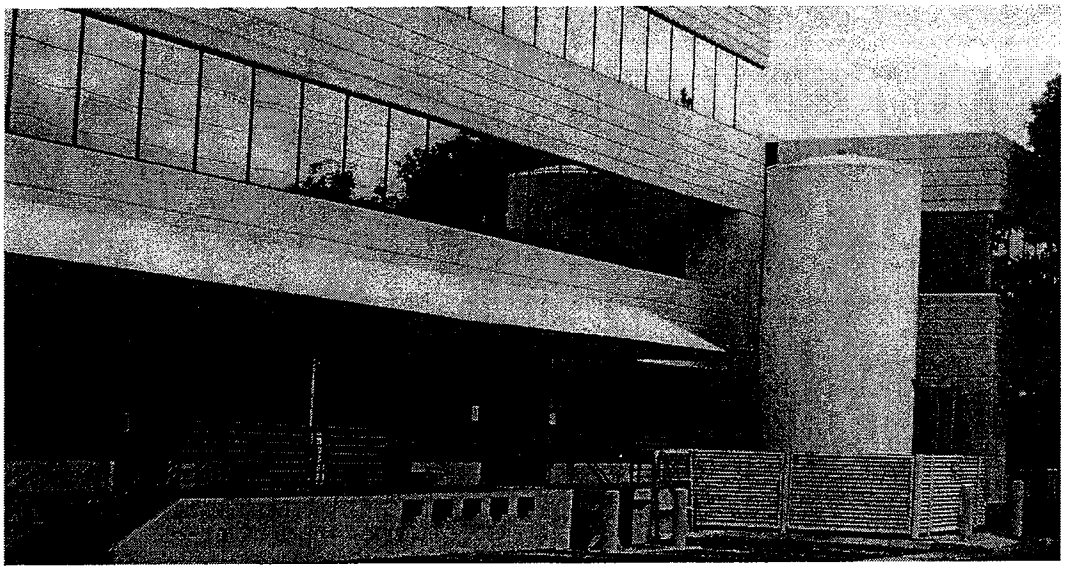


Non-Industrial uses of Industrial Lands

City of Irvine
Planning Commission
February 15, 2007

WATERIDGE





Residents litigated and won judgment against industrial facility and developer

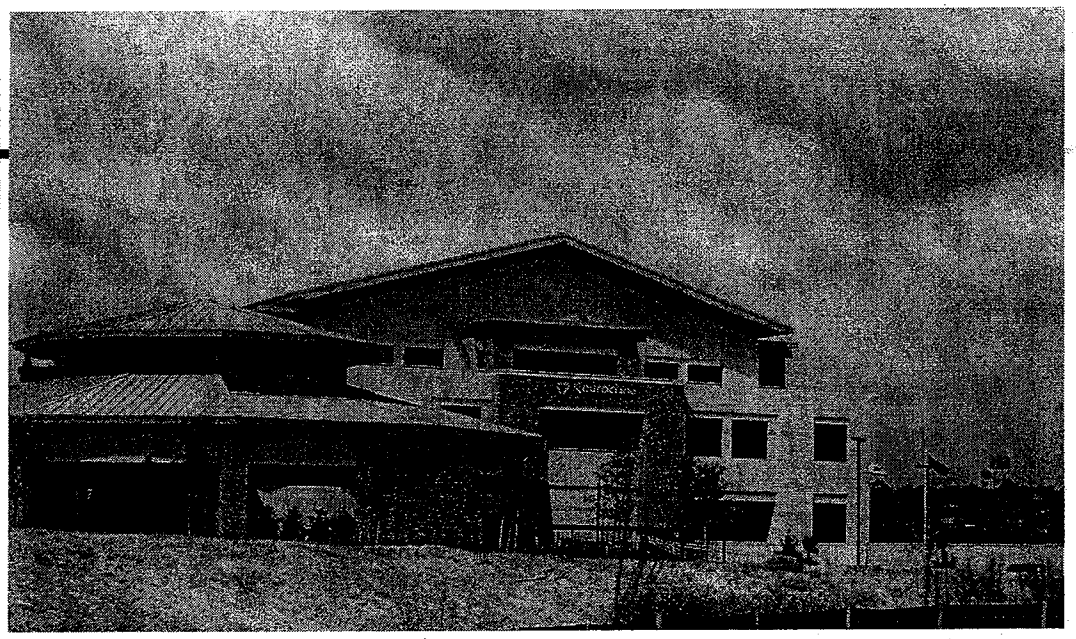
LITTLY ITALY

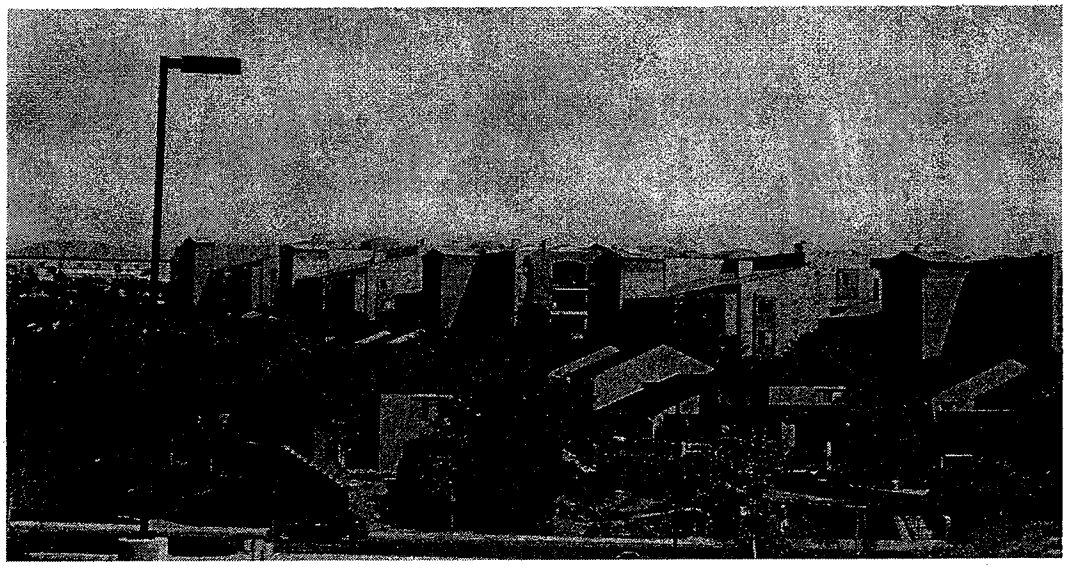




Residents complain about noise and operating hours

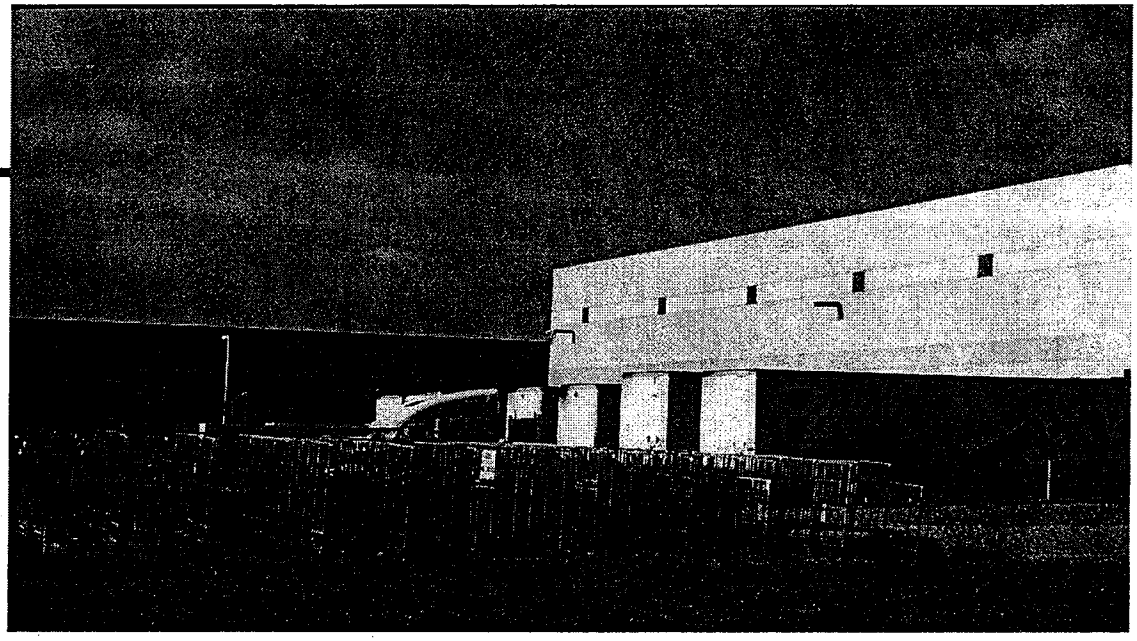
DEL MAR HEIGHTS

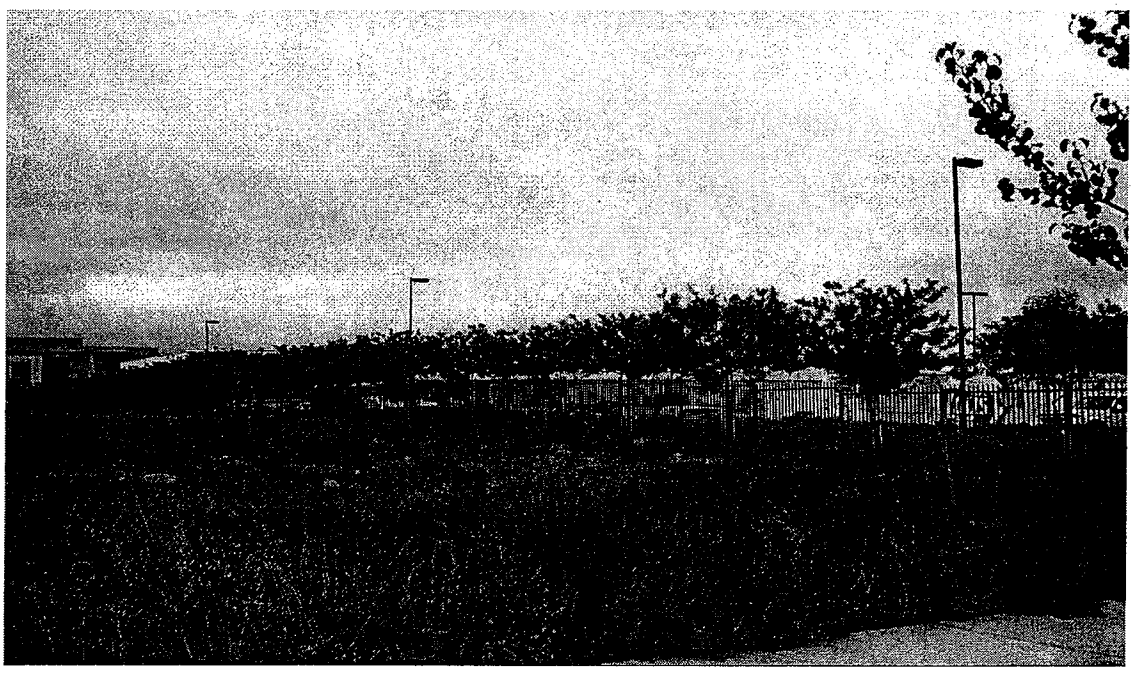




Biotech company forced to limit evening operating and meeting hours

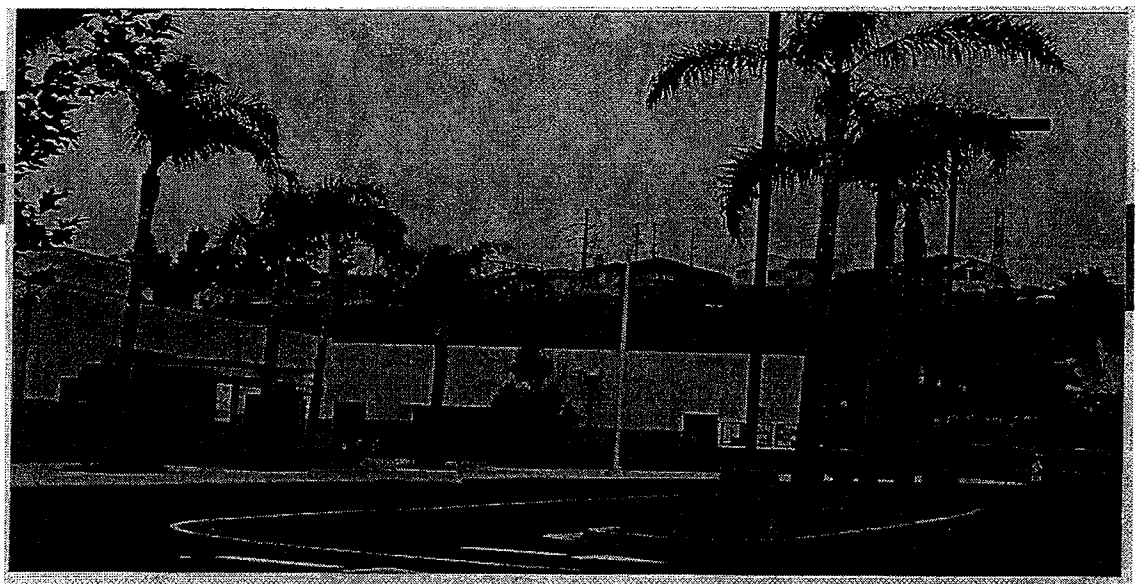
FRITO-LAY

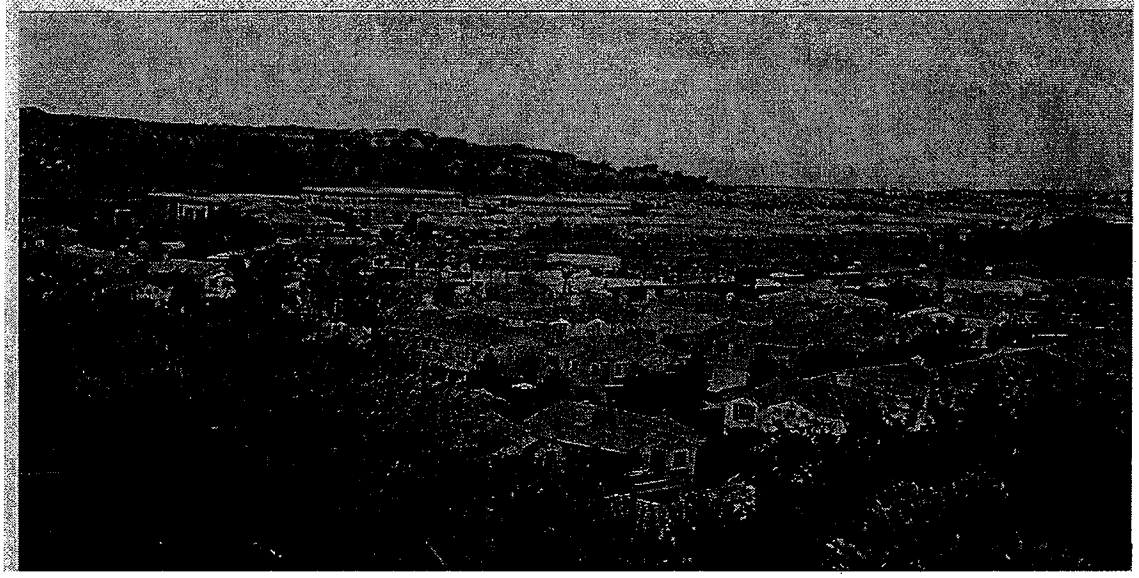




Residents complain about truck traffic

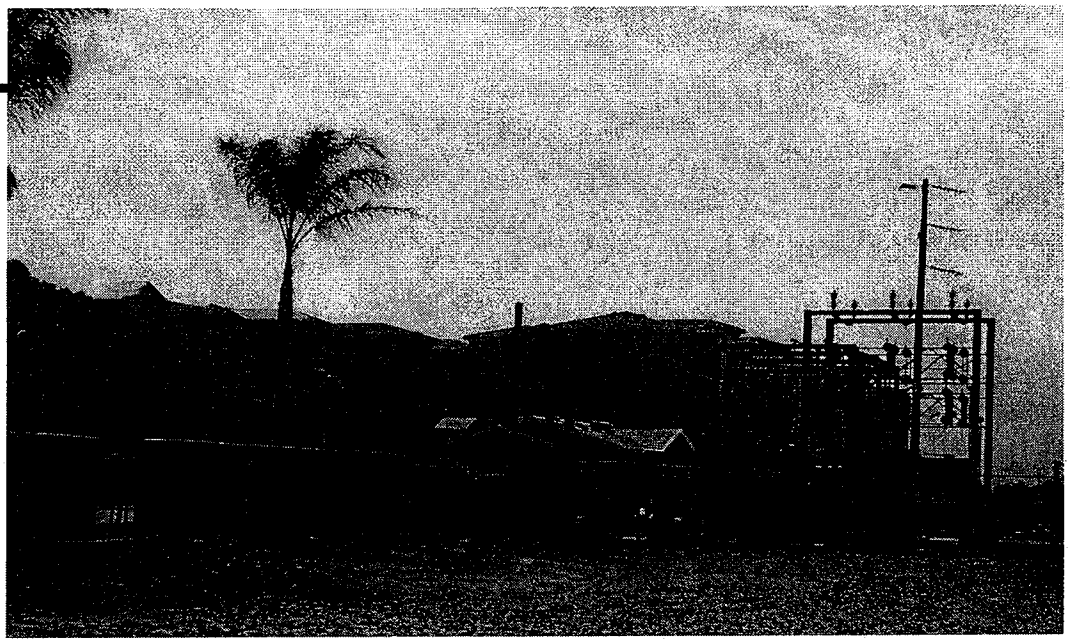
TORREY HILLS





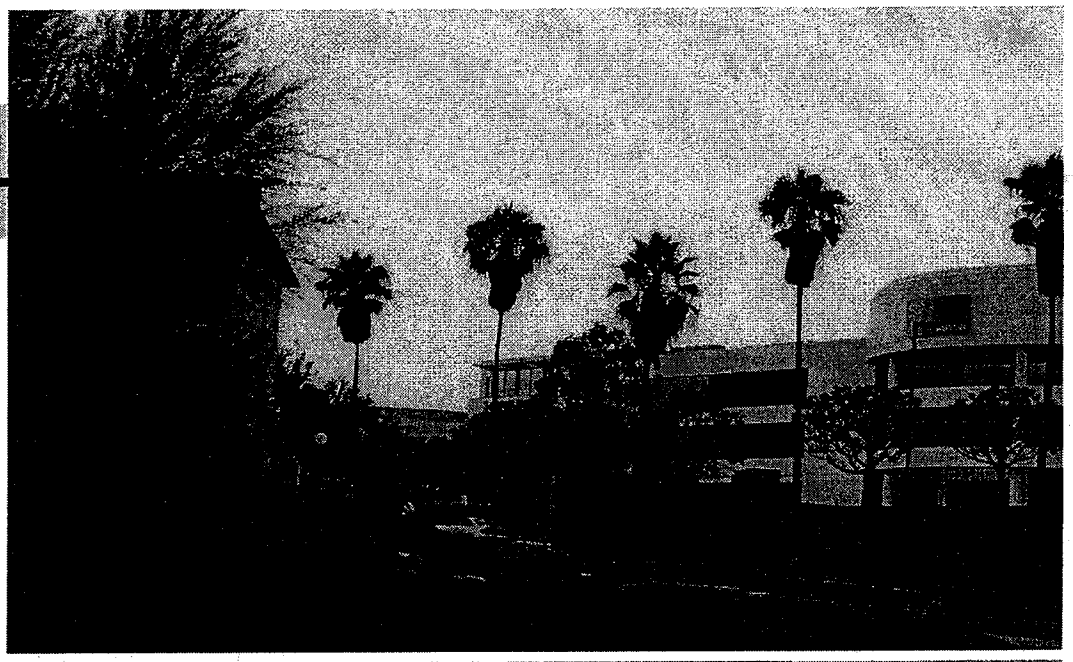
Building permit for biotech company denied by courts due to proximity to school

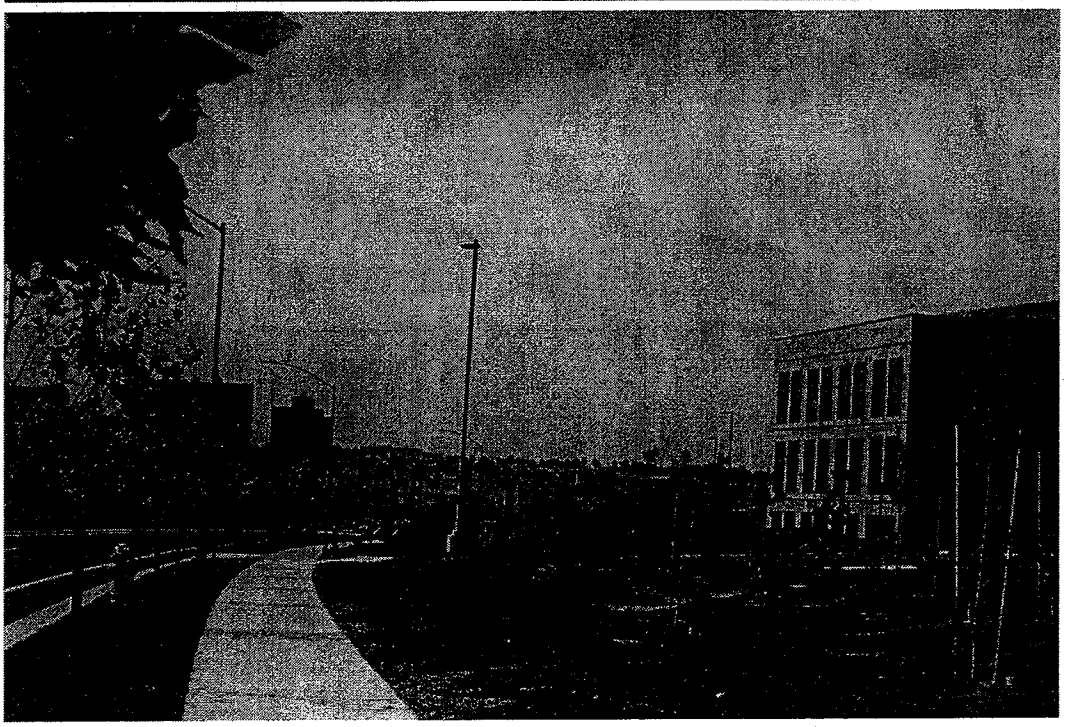
KEARNY MESA



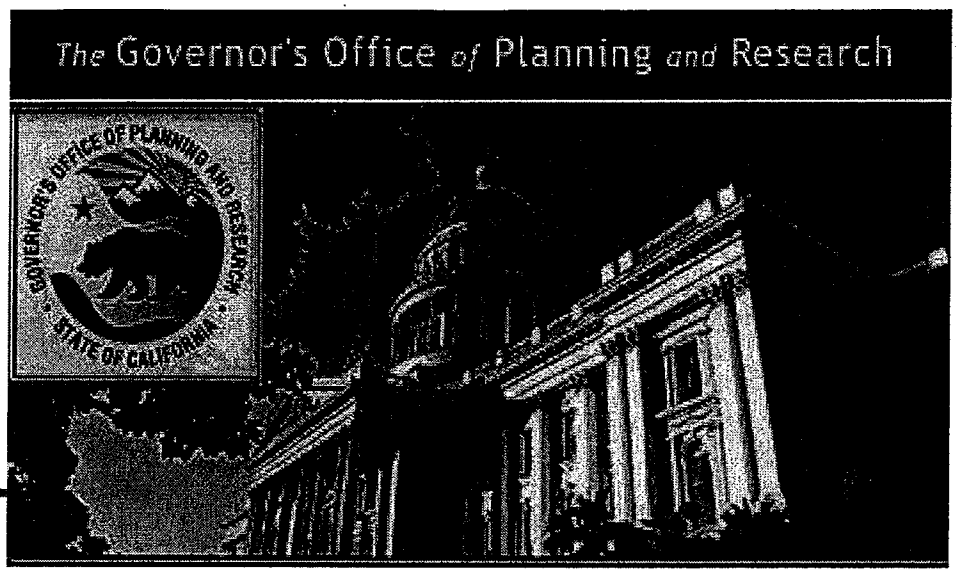
Community wants substation moved

UTC





Research labs only; product development and manufacturing may be limited by adjacent residential



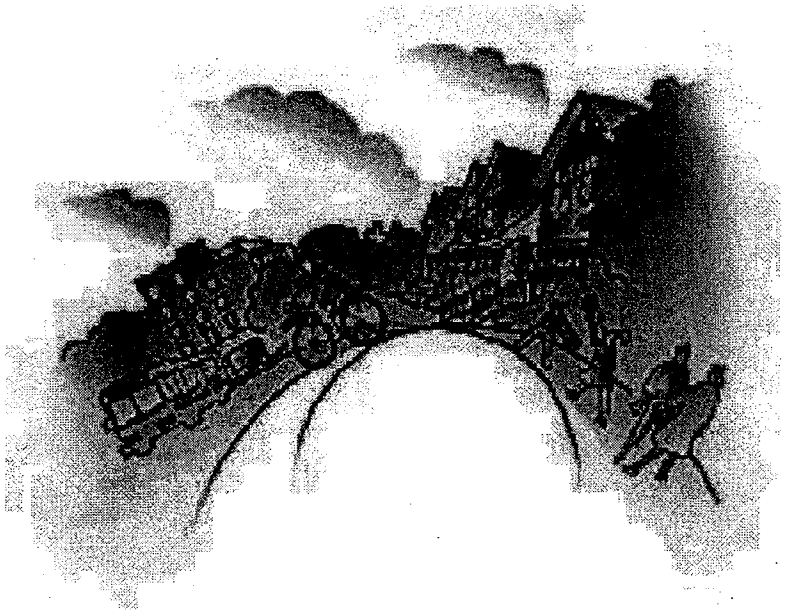
Office of Planning and Research:

• It is important to recognize that there are certain industrial uses that will always be incompatible with residential and school uses. Residential and school uses are harmed by incompatible land uses that have environmental effects, such as noise, air emissions (including dust) and exposure to hazardous materials.

• The compatibility problem can also operate in reverse and harm a business in the form of higher mitigation costs or the curtailment of economic activities.

• Residential and school uses in proximity to industrial facilities and other uses that, even with the best available technology, will contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety.

AIR QUALITY AND LAND USE HANDBOOK: A COMMUNITY HEALTH PERSPECTIVE



April 2005

California Environmental Protection Agency
California Air Resources Board

City Of Santa Clara

City of Santa Clara

Unified Port of San Diego

Unified Port of San Diego

City of Los Angeles

"The Most Efficiently Run Big City in California"

THE CITY OF SAN DIEGO

City of San Diego

CITY OF CHULA VISTA

City of Chula Vista

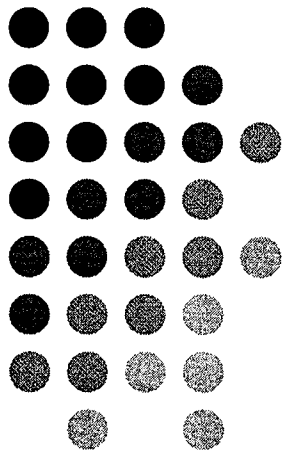
CITY OF SAN MARCOS CALIFORNIA

City of San Marcos

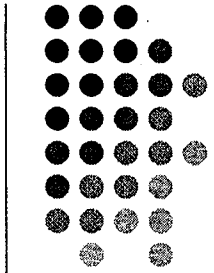
Economic and Fiscal Impacts from the Build Out of Condominiums in the IBC

Philip King, Ph.D.

San Francisco State University

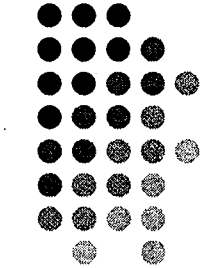


Negative Impacts on Business



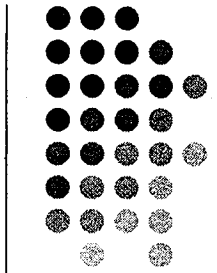
- Residential Development will seriously Impede Business in the IBC
- 31 sites within the IBC with over 1000 kg (2200 lbs.) of hazardous material
- 126 additional sites with at least 100 kg (220 lb.) of hazardous material
- Noise from large cooling fans and trucks
- Litigation in Other Cities

Loss to Irvine will be Substantial



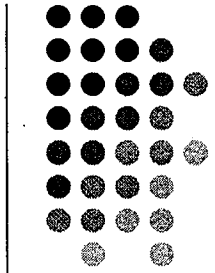
- Dr. King collected data and surveyed businesses in the IBC
- All said that residential construction would harm business significantly, leading some businesses to close
- Conservatively estimate that 25% of manufacturing would be lost, 10% of service
- Would lead to a Direct Loss of $3 billion
- With Indirect and Induced effects Loss would be $5 billion

Estimates of Economic Impact



Industries	Direct Impact ($ millions)	Indirect Impact ($ millions)	Induced Impact ($ millions)	Total Impact ($ millions)
Manufacturing	$ 1,851	$ 890	$ 401	$ 3,142
Service	$ 1,227	$ 401	$ 393	$ 2,021
Total	$ 3,078	$ 1,291	$ 794	$ 5,163

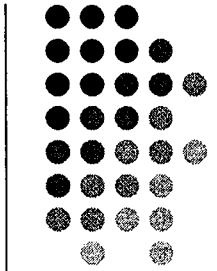
Fiscal Impacts of Condominiums



- Academic Studies indicate that businesses have high revenue/cost ratios
- Residential Development generates taxes but also high costs of services

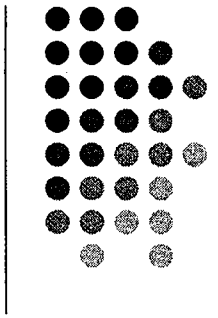
Type of Land Use	Fiscal Impact on Cities
Office Buildings	Very Positive
Hi-Tech Industry	Very Positive
Traditional Manufacturing	Positive
High Density Housing	Neutral
Leap-Frog High Density Housing	Negative
Low Density Housing	Negative
Trailer Parks	Very Negative

Fiscal Impacts Prepared for these Projects



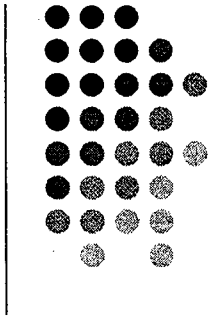
- Ignore Losses to Business
- Assume Inflation is Zero
  - Prop.13 Caps Property Tax 2% increase/year
  - Costs will increase more than Property tax
- Assume no major new infrastructure
- Assumptions of Residents per Unit too low
  - E.g.,1.3 residents/unit in affordable housing; Statewide avg. for Multifamily units is 2.3
  - More people/unit means higher costs for the City

Urban Decay



- Urban Decay (Blight) is serious concern with hazardous materials
- Creates liabilities for the City
- Possibility of Serious Health Hazards, especially for Children
- Needs to be Evaluated

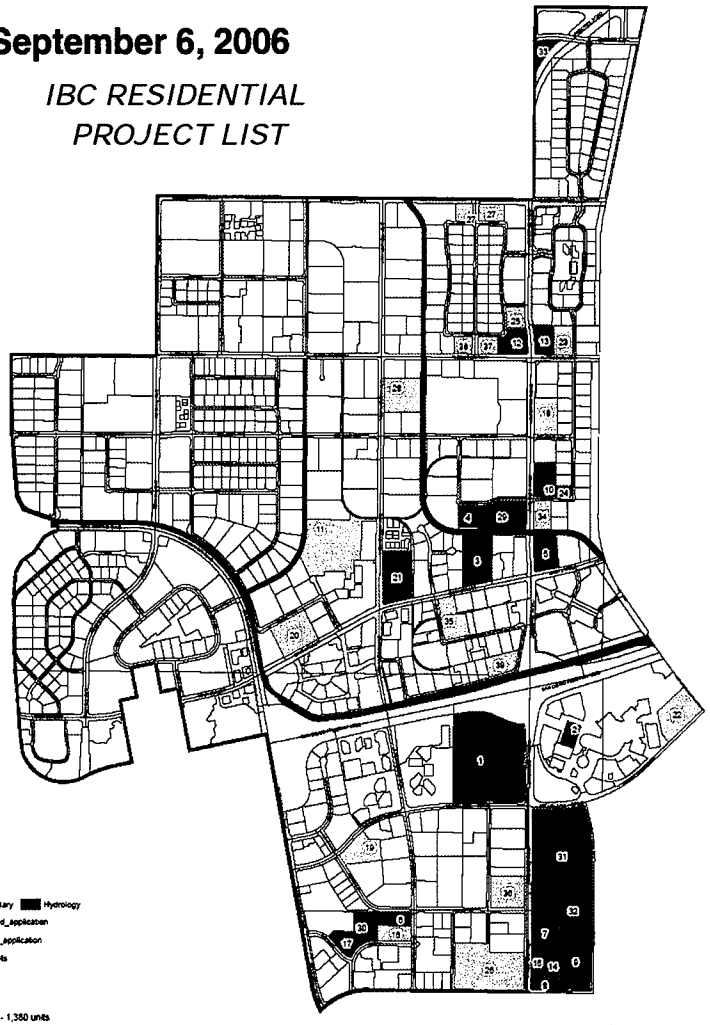
Conclusion



- City should seriously consider costs of losing business
- Fiscal Impact Reports need to address other key issues
- Urban Decay is a real possibility
- A 1000 ft buffer zone is a reasonable compromise

September 6, 2006

IBC RESIDENTIAL PROJECT LIST

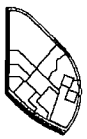


Legend

City Boundary
Hydrology
Approved_application
Pending_application

Total: 13,944 units

1. Central Park - 1,380 units
2. Marquee at Park Place - 232 units
3. MetLife Apartments - 481 units
4. Essex Apartments - 132 units
5. R.D. Olson/Legacy Partners - 290 units
6. The Lofts @ Von Karman - 115 units
7. Campus Center Apartments - 341 units
8. The Plaza-Irvine: Condominiums (Phase I & II) -202 units
9. Watermarke Condominiums - 535 units
10. 2801 Kelvin Avenue (John Laing Homes) - 246 units
11. Irvine Crossings - 688 units
12. Avalon Bay: "Avalon Jamboree Village" - 280 units
13. 2801 Alton Parkway - 179 units
14. Campus Center Apartments Modification - 61 units
15. The Plaza Irvine: Condominiums (Phase III & IV) - 105 units
16. Martin Street Condominiums - 82 units
17. Carlyle @ Colton Plaza - 156 units
18. 2801-2823 McGaw - 280 units
19. 2132-2168 Michelson Drive - 317 units
20. 1929-2031 & 17809-17819 Gillette - 306 units
21. 2323 Main - 445 units
22. BOSA II - 566 units
23. 2851 Alton - 170 units
24. 17421 Murphy - 71 units
25. 16901 Jamboree - 183 units
26. Irvine Technology Center - 1,000 units
27. 16542 Millikan and 2502 Barranca - 250 units
28. 17150 Von Karman - 469 units
29. Charter Apts - 403 units
30. Metropolitan Condos - 261 units
31. Villa Siena - 1,442 units
32. Toscana - 563 units
33. Irvine Inn - 192 units
34. 2802 Kelvin - 165 units
35. Metropolis - 381 units
36. Village - Mixed Use - 264 units
37. Park Ave Apts. - 187 units
38. Mountain Vista - 190 units
39. 2900 McCabe - 314 units



Although every effort has been made to ensure the completeness of the information displayed on this map and it has been checked to the best of our ability, no warranty, expressed or implied, is made regarding accuracy, adequacy, completeness, legality, reliability or usefulness of the information.

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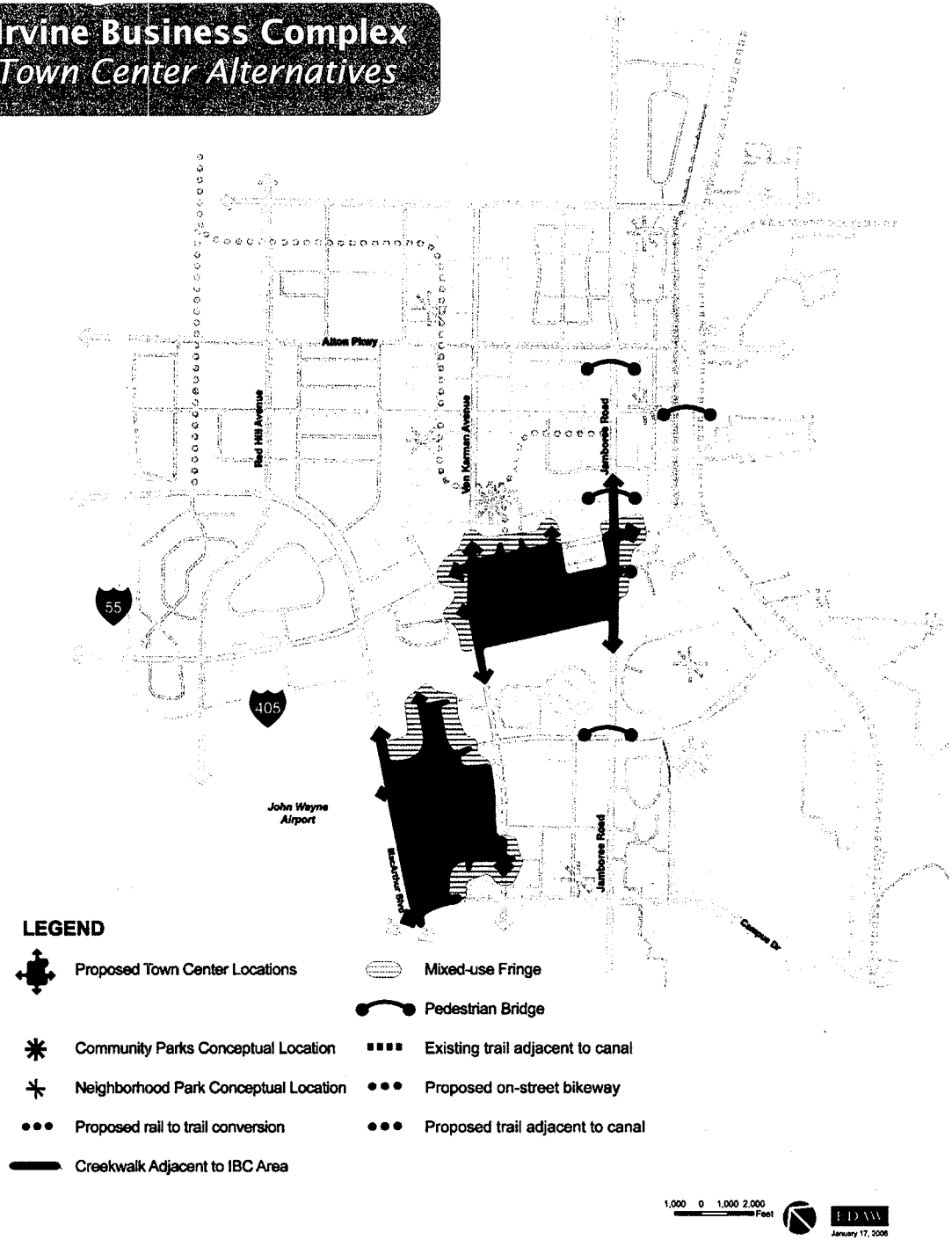
Irvine Business Complex
Town Center Alternatives



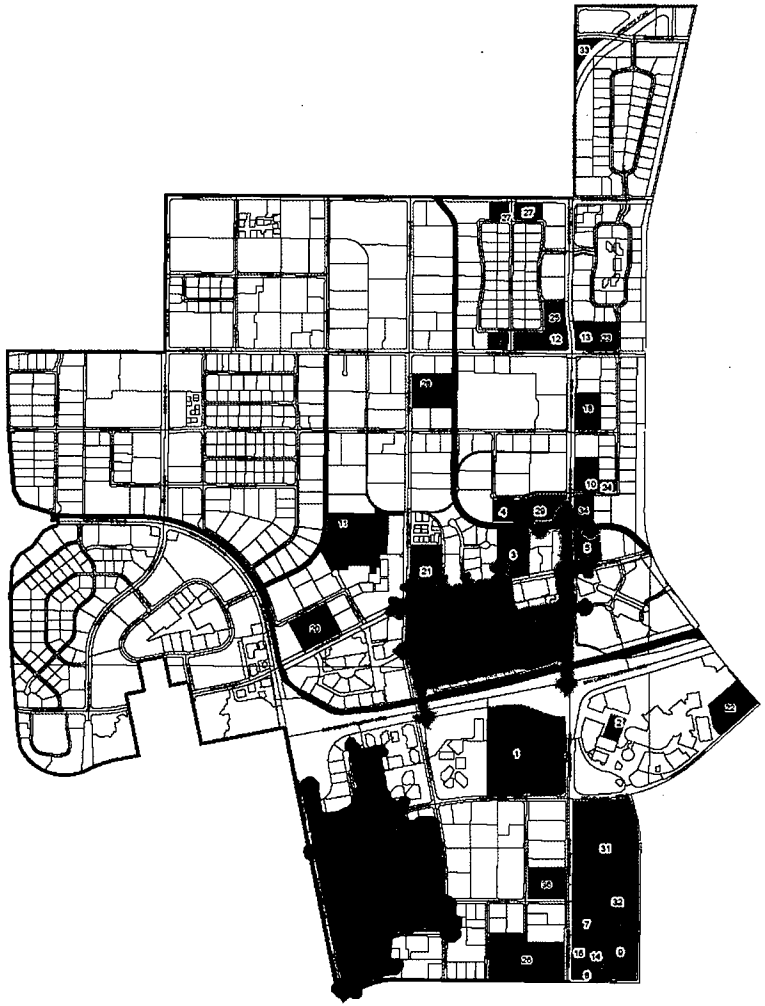
- Town Centers located at two key locations that **emerged from Vision public process**
- Recognize the **importance of the Airport**

PROS

- **Recommended** by previous **visioning process**
- Creates valuable **gateway opportunity** off the 405
- Areas are generally **not yet redeveloped**
- Close to **regional transportation** infrastructure - **405** and **airport**
- **Land assemblage** may be easier
- Future **HOV interchange/405** access

CONS

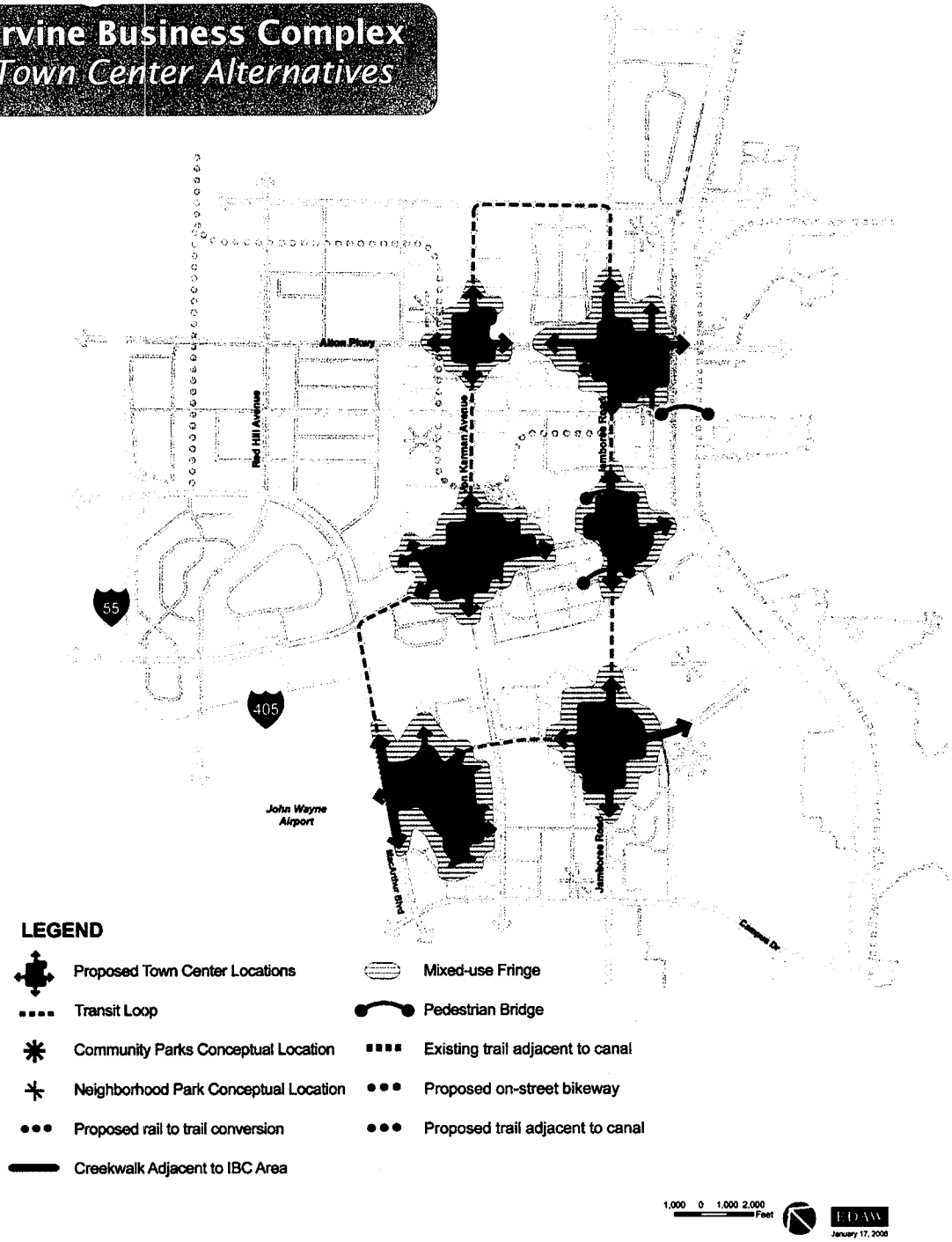
- **Limited** trip reservoir
- **Development community concerns** on shifting focus of development away from Jamboree



Alternative #2

South Eastern Island Removed

Irvine Business Complex
Town Center Alternatives



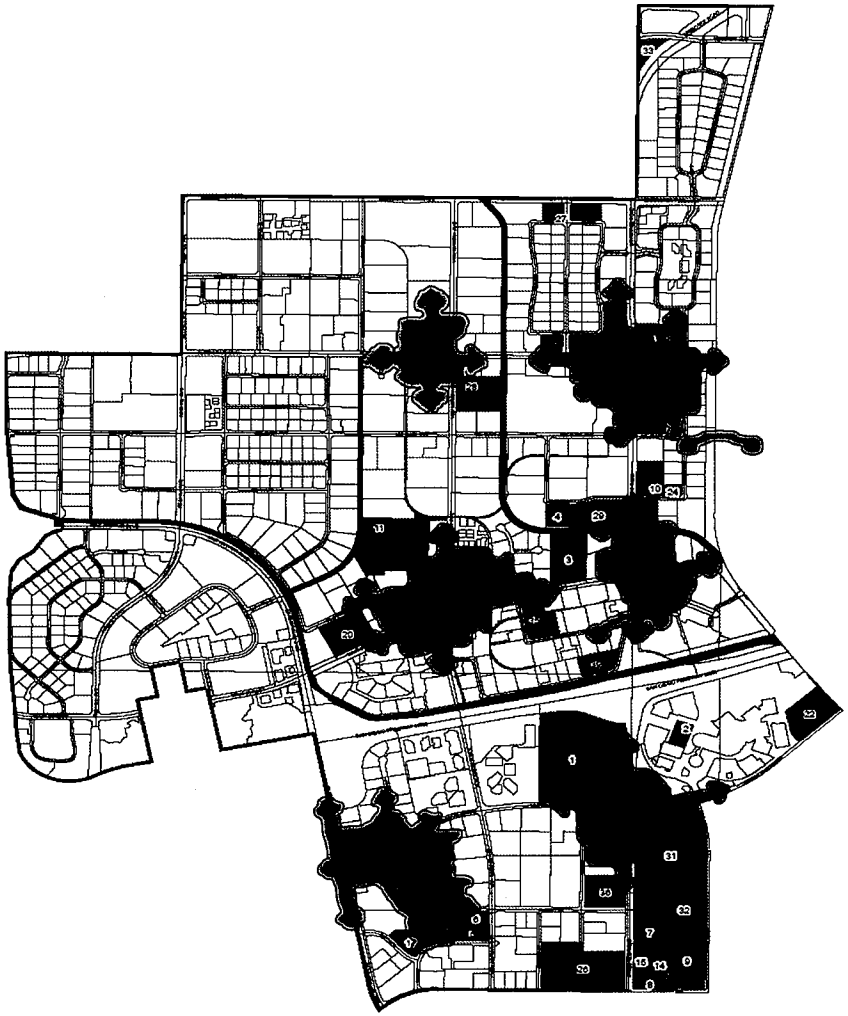
- Individual smaller **nodes of high density** mixed use development
- Takes advantage of **planned Transit loop**

PROS

- Can **move and shift** based on landowner/market dynamics
- Focused on **key intersections** where intensification activity ongoing
- Can be **single-developer initiated** and controlled
- **Broader/decentralized distribution** of trips generated by higher density
- **Land assemblage** may be easier

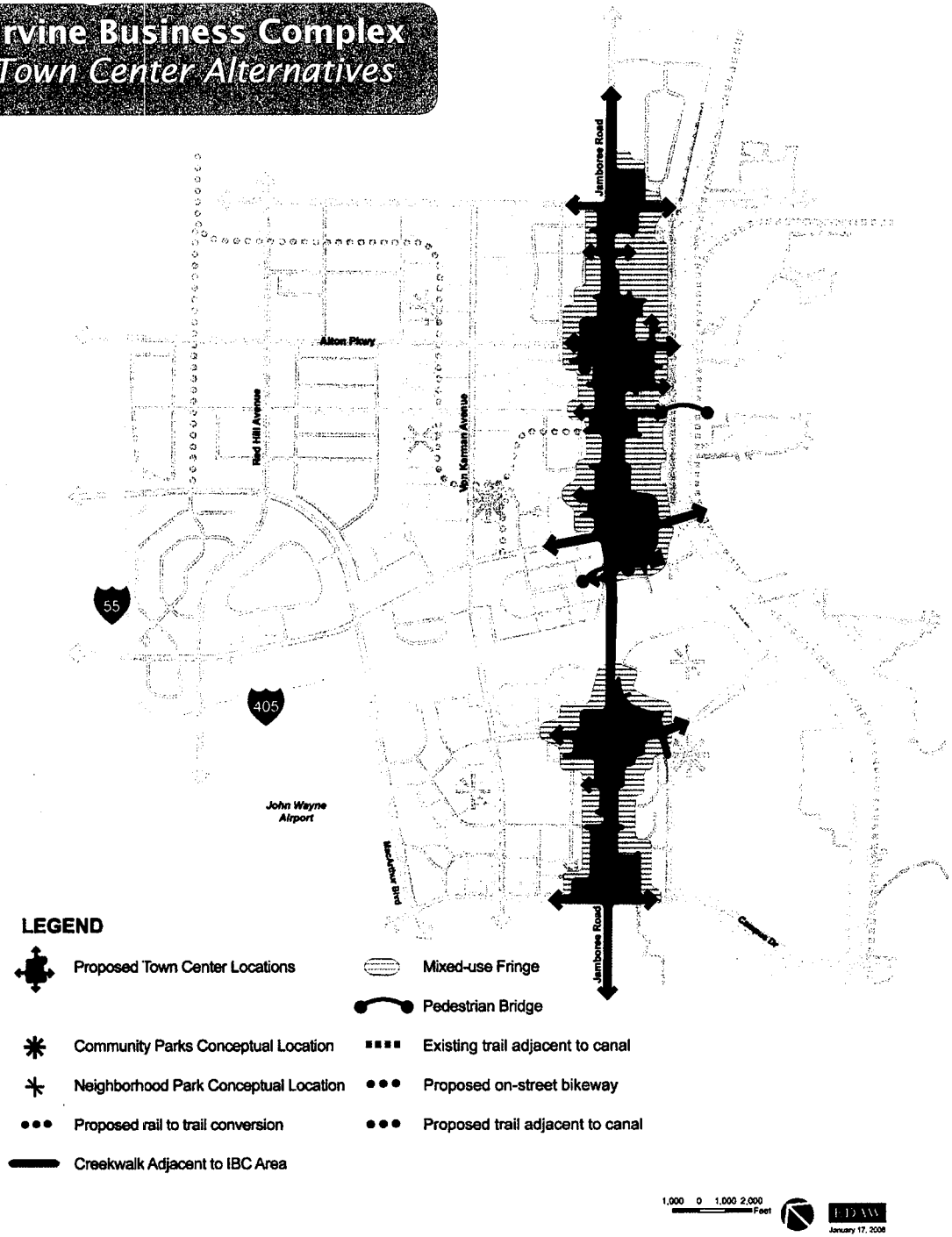
CONS

- **Harder** to create **focused town center**
- **Reduced trip capture** opportunity



Alternative #3
South Eastern Island Removed

Irvine Business Complex
Town Center Alternatives



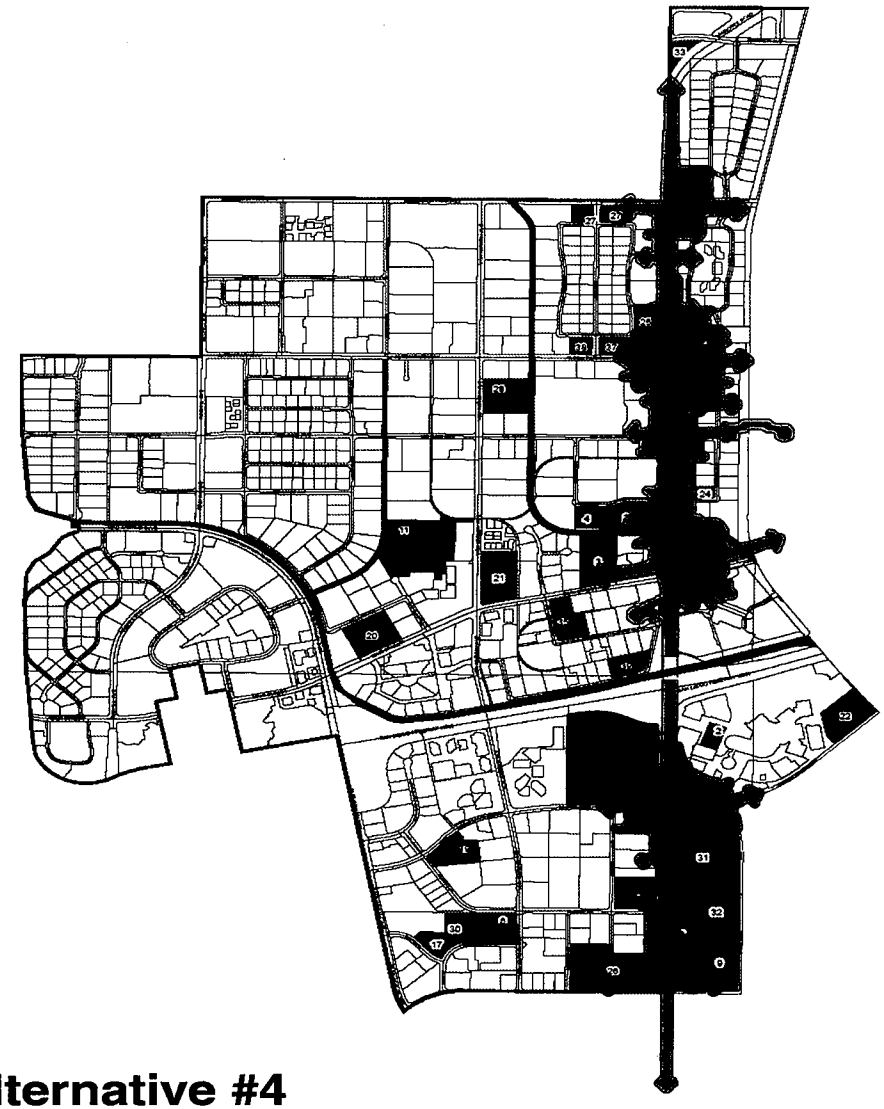
- **High density corridor** centered along **Jamboree Blvd**
- General **concentration of residential** between Jamboree and San Diego Creek to link to **Creek Walk open space/trail amenities**
- **Nodes** of higher concentration along corridor

PROS

- General **support** from **development community**
- **High-visibility** corridor reflecting developer **land purchase patterns**
- Aligns cores for strong **transit** network

CONS

- **Pedestrian** environment **difficult** to co-exist with heavy traffic on Jamboree
- **Jamboree traffic** capacity already stressed - likely to **exacerbate condition**
- **Regional** destination - **unlikely** to have **village identity** and character



Alternative #4

South Eastern Island Removed

File=Allergan Report

February, 2007

To: The Honorable Planning Commission of the City of Irvine

Re: City of Irvine's recent and proposed actions in the Irvine Business Complex

From: Joseph DiMento

Introduction

My name is Joseph DiMento. I have been asked to give my professional opinion on several questions regarding the City of Irvine's recent and proposed actions in the Irvine Business Complex [IBC]. These involve comprehensive environmental review under the California Environmental Quality Act, opportunities the City has for identifying significant environmental impacts of its ongoing actions in the IBC, and the consistency with the City's General Plan of the City's recent and proposed actions--allowing for dramatically increased residential use and accompanying decreases of industrial uses in the IBC. Finally, I have been asked to discuss the need for buffers between residential land uses and those that use or manufacture hazardous and toxic materials and to recommend an appropriate buffer to prevent conflicts from driving industrial users from the IBC.

Summary of Testimony

It is my opinion that the City's actions, which in aggregate would approve several general plan amendments, zone changes, and conditional use permits in the IBC and allow for a tripling of residential units, have not been adequately assessed for their environmental impacts; have not been fully subjected to community comment and view;

put citizens of Irvine at risk because of insufficient segregation of incompatible land uses; threaten the viability of valuable and important industrial users in the IBC; and create inconsistencies with the City's fundamental planning goals. It is also my opinion that a comprehensive environmental review of possible changes in IBC uses would provide an important opportunity for citizens of Irvine, policymakers in the City, and closely neighboring cities to address important questions of urban growth which confront the region in light of population and job creation pressures and environmental conditions. Further, failure to adequately address impacts of the changes being sought in a redevelopment in the IBC will lead to costly, including to the City, conflicts between residential and retail uses and industrial uses in the City that have contributed to the City for many years. Finally, if quantifying a new buffer area is done by the City, numerous examples are available from other jurisdictions. Based on my analysis of these and of the functional needs for segregation of uses I recommend at least a 1000 feet separation between residential and industrial facilities which work with toxic and hazardous substances.

I base my conclusions on familiarity with the General Plan, the 1992 IBC EIR, Supplemental EIRS, review of Commission and staff response to serious concerns of businesses in the IBC and neighbors and on what I consider to be the leading thinking on these matters in the planning community. I have a PhD in urban and regional planning and a law degree. I teach land use and development control law and policy and environmental law. I have written and taught about local government planning for several decades. Among my areas of expertise are environmental impact analysis and the comprehensive plan and the consistency doctrine. I have written extensively about these

matters including in several articles on environmental impact assessment and a book entitled The Consistency Doctrine and the Limits of Planning. I have attached a copy of my *Curriculum Vita* for your information.

I would like to enter my written comments--which support these conclusions--into the record.

IBC plans

Throughout your consideration of projects in the IBC you are asked to consider General Plan changes, zone changes, and a large number of conditional use permits. You are not engaged in overseeing minor modifications. You are asked to use your discretionary authority to make decisions and recommendations regarding major alterations in the city's plans and development control rules.

When the 1992 IBC EIR was certified it was determined that no additional residential units beyond the existing and approved projects would be allowed within the IBC. Now changes contemplated in the IBC by completed, approved, or proposed projects would see over 14,000 additional residential units in the area, and perhaps more. This number is approximately 3 times the number of residential units studied under the IBC EIR--a document which itself was considered a post hoc analysis with regard to already approved residential uses.

In recent years early IBC or IBC-close developments once considered the pioneers in mixed use development have been built. On the ground they look much less mixed in use than some of the original plans and renderings suggested. Walking to

market, to the park, to theater or to work is not the modal activity of people who live in certain of these very dense condominium projects. Improvements that would have fostered non automobile transit from home to other activities have not materialized. Why this is the case is subject to many interpretations; but it seems clear that to make mass transit feasible and to make for decisions on where parks and town centers should be sited requires a threshold number of users and potential users. The project by project approach being used to redevelop the IBC does not make clear whether those thresholds should or will be reached.

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Analysis

1. Programmatic Environmental Impact Analysis.

It is my opinion that comprehensive programmatic environmental review is indicated under good planning practice as well as under the California Environmental Quality Act. The City has a responsibility to undertake this type of review in light of changes being requested in the Irvine Business Complex. The City should cease processing applications for developments in the IBC until that comprehensive EIR is done.

<u>The rationale for undertaking comprehensive, programmatic environmental impact analysis of the new vision</u>

How does one reasonably determine whether a master or programmatic impact review is required? A number of California code sections address the legal

requirements. Independent of these there are strong planning and policy reasons to systematically review the impacts of your actions and proposals for the IBC.

Codes addressing a master or program EIR have surely been noted for you by others. I have listed what I consider the most pertinent in Appendix A. My own analysis is that the 1992 IBC EIR is insufficient to address the impacts of the present IBC "Project". It is my opinion that the 1992 EIR did not contemplate the type of project that is incrementally being developed in this most sensitive part of the City. There are circumstances when an older master environmental impact report can provide an adequate basis for understanding the effect of subsequent projects but those conditions do not exist with the massive changes being pursued in the IBC and with the new information that has become available.

The strong new demands in the IBC [at least cyclically in this market], the City's access to new and exciting planning ideas, and the availability of economic resources to do comprehensive planning now provide an opportunity, not an obstacle, to careful consideration of the long term healthy development of this critical planning area.

On a less positive side there is a need for additional consideration: because of the scale of the changes being contemplated; because of the extent and nature of the environmental impacts associated with those changes; because there is controversy over the new "project" and there will be, in my opinion, additional controversy once the citizens of Irvine and neighboring areas recognize the scope and nature of the changes. While SCAG may conclude that individual projects now under review are not regionally significant, the types of concerns articulated by neighboring cities are classic and legitimate. It is reasonable and justified to focus on regional traffic impacts such as those

that are associated with the new housing and new mix of uses in the IBC. SCAG may view the regional significance of the redevelopment projects differently if the amount of housing that the city approves approaches 20,000 or even 38,000 units in the IBC, both numbers having been discussed by Irvine planners. [See for example staff presentation of February 1, 2007.]

The responses to comments in the EIRs for specific projects, for example Martin Street, state that future residential developments are not a foreseeable consequence of the development of a residential project site under review and that the City analyzes development applications as they are proposed and submitted. But the City is advancing the notion that the area will be one of mixed use, high density residential: it is known that a preferred vision of some city leaders is for future residential developments. The specific legal requirement of CEQA relating to piecemealing need not control; rather the general recognition that the area will continue to change dramatically from the time of the last comprehensive environmental analysis calls for a new overall look with all of the stakeholders involved.

It is a fiction that the SEIRs which you are considering are all for independent projects with specifically identifiable and contained impacts. There will be interactive effects of the massive change to residential that these discretionary approvals are creating. Interactions may apply for example to the issue of trip generation and to congestion. A programmatic or master environmental assessment would allow for an analysis of whether the trip transfer method sufficiently considers hot spots of traffic congestion –in contrast to conclusions that overall the trip analysis is acceptable. It would offer the opportunity to analyze the assumptions made about trip capture by mixed use

developments in light of [a] the actual walkability of streets near freeways and near super streets such as Jamboree; [b] the potential for transit substitution among high income residents in areas where the automobile has remained the primary means of moving from place to place; [c] the realism of jobs housing balance in discreet urban redevelopments with many low paying jobs and much high end housing; and [d] the extent to which positive effects of mixed use development are functions of scale that do not apply for smaller projects.

[The SEIR for one of the projects (at p. 4-32) states "the shorter the distance between the job opportunities and housing opportunities the less VMT and the greater the opportunity that residents and employees will rideshare, walk, or use transit rather than a single –occupant automobile." Decision makers need to ask whether there are boundary conditions for such effects, in light in part of an extensive literature on trip substitution and land use form. See, for example, the work of UCI graduate Michael J. Greenwald, "The Road Less Traveled: New Urbanist Inducements to Travel Mode Substitution for Network Trips," Journal of Planning Education and Research, Vol 23, No 1, 39-57 (2003) and A. Downs, Still Stuck in Traffic: Coping With Peak-Hour Traffic Congestion 2004]. Comprehensive looks at the new cluster of proposed developments might provide ideas for alternatives that could improve, rather than assent to, the dismal LOS that drivers confront in areas of the IBC.

Interactive effects might also be relevant to decisions on where to locate parks. Based on the number of residences at build-out of the redevelopment it may be shortchanging IBC residents to have their recreational areas provided elsewhere in the city, through in lieu fees, or to have their parkland plan-and-zone-changed to another

dense housing development. Transferring parkland to other parts of Irvine does not satisfy the parent wishing to walk to a community park with his or her children.

Mitigation measures in the redevelopment area focus on incremental improvements through a series of speculative, and in my view unrealistic, behavioral changes expected of new residents. Studies of actual use of public transportation and bicycles and walking in the City of Irvine need to be updated on the basis of completed changes in the IBC and proposed changes.

A programmatic approach would provide an opportunity for the City to define what the project is. What are the city's long range goals for the IBC? The incremental approach to reaching an undefined long range goal is deficient from the CEQA perspective of project definition and from overall notions of good planning. A programmatic comprehensive environmental analysis would give citizens and city officials a chance to consider the cumulative effects of the existing 3,969 units in the IBC with the 4,147 approved units and the almost 6300 units submitted for review [IBC Residential Mixed Use Vision Plan and Overlay Zone-EIR Scoping Session, Planning Commission, February 1, 2007]. The comprehensive analysis will focus attention in ways that decisions on supplemental EIRS and project specific analyses are less likely to. This is not to suggest that decisionmakers do not carefully consider all of the numerous IBC SEIRs; rather it is to point out that the full information that decisionmakers need for projects like the build out of the IBC is best done through programmatic analysis rather than case by case review.

As staff and some councilpersons have noted: "We have not kept up with developers," "We are not looking at the entire plan, but just increasing residential units

without considering the full effects overall, which raises many concerns" (September, 2005) and "There have been so many IBC projects that have come through the pipeline; staff is doing its best." That best however sees SEIRs that rely on boilerplate, are repetitive and fail, including in brief analyses of cumulative impacts [See SEIR, page 3-7-3-12] that do not fully inform decisionmakers of the implications of their approvals. Or the SEIRs include assumptions which decisionmakers need to understand, such as with regard to impacts in the future. [SEIR @ 4-26, 33: "It is assumed that emissions factors, including CO2, in the future years will decrease with technology advancement...Future cars will become 'cleaner' faster than any local rate of traffic growth'.]

Comprehensive analyses allow the City to respond to legitimate concerns of long term stakeholders rather than to react to challenges to the adequacy of segmented environmental reviews. Comprehensive analysis will allow the City to be more confident about the need for, timing of, and revenue sources for mitigation measures called for in the IBC EIR. [I understand that an "area wide" development agreement calculated fees sufficient for infrastructure improvements to be funded as anticipated in the 1992 IBC EIR , not the evolving IBC redevelopment.]

Put in a positive form, comprehensive environmental impact assessment at this stage of building out the IBC may provide the most realistic planning analysis possible. Planners are now able to assess whether mitigation measure are working, to evaluate the realism of the assumptions they have made about the effects of the earlier approved residential uses, and to enter into their studies the specific data from proposed projects that have been calibrated to corrections in the earlier formulas.

With the large numbers of projects on line for the IBC, comprehensive analyses will allow for recognition of synergies among developments which may allow improvements in the aesthetics, mobility, and safety in the planning area.

As the City has taken a long term comprehensive analysis of what should be a Great Park so too it needs to continue long range planning and accompanying environmental impact assessment in highly demanded planning areas elsewhere in Irvine. Good planning strives to avoid rushed conclusions given in supplemental environmental reports [such as "comment noted" or "special circumstances" demand that an impact cannot be mitigated, i.e., the routine use of overriding consideration conclusions]. The City is building itself for a future of centuries and, in my opinion, this cannot be done through conditional use permits for developer generated market driven projects.

2. Risks and perceptions of risk associated with proximity to land uses that involve hazardous and toxic materials storage and use.

The question of appropriate buffers between residential uses and other land uses raises several sub questions: 1. What is the nature of the hazardous and toxic materials being used? 2. How mobile are those substances? Are they created on site or shipped past residential uses in trucks or other vehicles? 3. What is the volume of the substances? 4. What are the hazard zone geometrics when the users are independently managed and regulated by various agencies? 5. How well do agencies that require various buffer requirements coordinate? However questions of distance between residential and industrial use must also confront the human element in risk assessment: What are the perceptions of residents of risks associated with neighboring land uses and how are those perceptions mediated by perceived and actual distance from the sites which generate or use the materials?

Leading academic work done on multi use projects has identified instances of successful sitings, but also many examples of prolonged litigation and adversarial interactions. My colleagues who are experts in risk perception and risk assessment consider a key to avoiding conflicts to be reasonable and early public participation in the process of environmental assessment and decision-making. They also have found most affected residents are silent about their concerns but that a vocal few can cause major delays and challenges to mixed use plans. They conclude that building trust early on is crucial. Public concerns have to be addressed in a serious way, recognizing that public groups frame the risk management issue in legitimate alternative ways than do experts.

The City in choosing an appropriate buffer can learn from the choices made by other jurisdictions and agencies. In Appendix B I list several that I consider relevant to the choice the City faces. The City is an excellent position to put to rest the concerns of both industrial users and new residents by developing a convincing model that it links to its quantitative choice of buffer zone. Santa Monica is undergoing such a process with the aim of developing a comprehensive spatial method for evaluating community vulnerability. It takes into consideration both the human component and the hazardous materials component with the goal of creating a human hazard potential map (HAZHUMAN).

In order to respond to the multiple inputs on choice of an acceptable buffer and to reach a goal that the buffer reduces potential impacts to a level of insignificance [both for residents and for industrial users that wish to maintain their business viability in Irvine] I suggest a separation of uses of at least 1000 feet.

3. Inconsistency between IBC projects and City plans.

Conflicts between the existing industrial uses and proposed residential development

In California the general plan is the constitution for all future development. It evolves from a long and serious process that involves stakeholders in the city's future. Citizens rely on it for choices about life style and residence, and industry relies on the plan for fundamental business planning and decisions. All important land use decisions need to be consistent with the plan. Spot planning is not allowed and ongoing changes to

the plan to accommodate shifting developer interests are incompatible with the goals of California planning law and acceptable practice.

In undertaking the consistency analysis, which is ongoing, of considerable importance are a number of objectives including Objective A-6 of the Land Use Element and Objective A-7, Urban Design, of The Irvine General Plan.

Objective A-6 of the Land Use Element is entitled "Land use compatibility." The goal is to "[a]chieve harmonious land use patterns throughout the City."

Among the policies articulated to achieve that goal:

"...ensure, through the discretionary review process, the public health, safety, and welfare of sensitive receptors/land uses when locating such uses in close proximity to the following land uses:

Uses which handle, generate, and/or transport hazardous substances...

Uses which create other land use conflicts.

"..ensure ... that the proposed sensitive receptors/land uses will not have an impact on the continued operation and/or expansion of...

Off-site hazardous waste facilities

Solid waste facilities

Manufacturing uses.."

It is my opinion that the siting of several thousand additional dwelling units in close proximity to facilities that use hazardous and toxic substances is inconsistent with this important goal.

The Initial Study for [Att-A] Central Park found "Substantial Change in Project Requiring Major EIR Revisions" for

VII. HAZARDS AND HAZARDOUS MATERIALS

...in that the project would

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...

...

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5..."

SEIRs for proposed developments in the IBC have also noted elevated cancer risk to adults and child park visitors "mostly due to the presence of vinyl chloride in groundwater and cadmium in the soil" (@ p. 4-45).

I have reviewed some of the strategies that the City has proposed or adopted to limit conflicts between residential and hazardous uses. I question their effectiveness. For one example:

"The applicant shall comply with the City's ... Good Neighbor Program for Sensitive Land Study"...[and elsewhere]..."the CC&R's for each project shall require that each HO...Maintain an emergency notification subscription following the expiration of the developer purchased subscription...[maintain a] data base of resident phone numbers....[and elsewhere]... and provide a shelter-in-place program... provide a Notification Letter and Safety Plan... that includes staff training, emergency tools, and first aide provisions, supervision of children and other individuals in an emergency situation, and a shelter-in-place program for when evacuation is not appropriate or practicable." And elsewhere..."The staff will attempt to ensure your child will be safe by taking them to the leasing office or an area determined to be reasonably safe."

For neighboring residents a mitigation approach of this kind is likely to create anxiety, rather than comfort. This has been the case in other jurisdictions as other testimony has chronicled. Residents are likely to focus on risks linked to ongoing sources within the IBC. They are likely to seek means of discontinuing uses which they perceive to put them and their children at risk.

Dr. Phillip King has summarized the extent of the existing uses of hazards and other land uses which are undesirable neighbors to residents. He notes that there may be as many as 31 sites within the IBC with over 1000 kg (2200 lbs.) of hazardous material and 126 additional sites with at least 100 kg (220 lb.) of hazardous material. He further recognizes that ..."high-tech firms such as Verizon and Intellnet ....have enormous

arrays of computers and data storage facilities which require continuous cooling 24 hours a day" creating the need for very noisy cooling fans and for thousands of gallons of diesel fuel for generators in case of a power outage or brownout. Diesel fuel is considered a carcinogen.

Residential industrial conflicts in insufficiently planned mixed used development have been noted in other cities. For example in Portland:

"The city often has to walk a fine line between encouraging mixed-use development and saving the city's core industries...Residents of newly built apartments often complain about the activities of nearby businesses, which were probably established in the neighborhood long before the residents moved in.....The changing dynamics of mixed-use projects often displace some businesses whose rents become unaffordable as the property values skyrocket. Some find their businesses no longer match the residential complexion of the neighborhood" The report recognized the need to "meld successfully the objectives of a very diverse groups of stakeholders" and to take a "long-term perspective, especially when trying to do it on a large scale" ["Mixed feelings about mixed-use," www.djc.com/news/re/11161876.html]

The point was made at a Planning Commission hearing (July, 2006) that rental residential is better in the area because renters can move out should inconsistencies with the surrounding uses be perceived. Rather than a solution, this suggests to me a problem both in the acknowledgement of the potential for incompatibilities and because many of the units in the area will be owner occupied.

A response to comments in one SEIR indicates to me the deficiency of the consistency analysis: "The over-arching regulator on land uses within the IBC was trip

intensity within the IBC Database. With that limiting factor in mind, the City's General Plan and Zoning code permit the change in land uses from commercial/industrial to residential so long as the number or IBC Database trips that would be generated by the proposed residential use does not exceed the trips that would have been generated by the commercial/industrial use on that same site." This hydraulic analysis makes irrelevant much of the General Plan. Trip generation is important: it is not, however, the controlling goal of comprehensive planning. Citizens do things, even in Southern California, other than take trips.

The City in trying to explain the consistency between its proposed actions and its plans and proposed plans has concluded that current 5.1 Multi-Use zoning "does not allow for the anticipated true mixed-use style of" some of the developments proposed. What is a true mixed use is a question that should be determined by the city's overall assessment of the development demands for and potential of the area and not on the basis of a case by case analysis wherein developers are claiming that the particular collection of uses that they favor is true mixed use.

Objective A-7, Urban Design. The goal is to "[c]reate a visually attractive and efficiently organized City." Among the policies articulated: "Conduct a comprehensive concept planning process for each planning area to prevent piecemeal and inefficient community development and to resolve area wide planning issues prior to development approval." The City's vision for the IBC has evolved and changed over time. Since the 1992 EIR, changes have added thousands of proposed residential units and razed thousands of square feet of industrial use. This is occurring in a piece-meal fashion, creating conflicts between residential developer goals and some city policies including

the creation of a visually attractive Jamboree corridor. The city has the opportunity to minimize inconsistencies with this and other elements of the General Plan by undertaking a comprehensive planning and environmental impact review process for the IBC before approving, through its *discretionary* review process, projects which may challenge overall planning goals.

CONCLUSION

I respectfully present my opinion that for good planning and practical reasons the City should not use its discretionary authority to approve additional residential uses which have not been assessed for their full environmental impacts, which have not been fully subjected to community comment and view, which can put citizens of Irvine at risk, which threaten the viability of solid industrial users in the IBC and which create inconsistencies with the City's fundamental planning goals.

Since the first days of Euclidian zoning the goals of local government have been to segregate land uses to protect the public health, safety and welfare. In the many decades since the drafting of the Standard State Zoning Enabling Act numerous flexibility devices have been devised to counter the restrictions of stark Euclidian zoning. These include overlay zones, floating zones, conditional uses and the like. While such innovations can provide for a needed integration of uses, the paramount goal of land use control must be to separate uses which create the types of threats to public health and safety that original zoning schemes targeted.

Joseph F. C. DiMento

Appendix A

Relevant CEQA sections regarding Master and Program Environmental Impact Reports

PUBLIC RESOURCES CODE
SECTION 21157-21157.7

21157. (a) A master environmental impact report may be prepared for any one of the following projects:
(1) A general plan, element, general plan amendment, or specific plan.
(2) A project that consists of smaller individual projects that will be carried out in phases…..

Article 1 (commencing with Section 17210) of Chapter 1 of Part 10.5 of, Division 1 of Title 1 of the Education Code.
(b) When a lead agency prepares a master environmental impact report, the document shall include all of the following:
(1) A detailed statement as required by Section 21100.
(2) A description of anticipated subsequent projects that would be within the scope of the master environmental impact report, that contains sufficient information with regard to the kind, size, intensity, and location of the subsequent projects, including, but not limited to, all of the following:
(A) The specific type of project anticipated to be undertaken.
(B) The maximum and minimum intensity of any anticipated subsequent project, such as the number of residences in a residential development, and, with regard to a public works facility, its anticipated capacity and service area.
(C) The anticipated location and alternative locations for any development projects.
(D) A capital outlay or capital improvement program, or other scheduling or implementing device that governs the submission and approval of subsequent projects.
(3) A description of potential impacts of anticipated subsequent projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the master environmental impact report. This description shall not be construed as a limitation on the impacts which may be considered in a focused environmental impact report.
[Emphasis added].

14 Cal Code Regs 15165-168.Single program EIR to be prepared where multiple individual projects or a phased project to be undertaken.

Pub Res Code 21156 *et seq*, and 14 Cal Code Regs. Master EIR may be prepared for a project that consists of small individual projects that will be carried out in phases

Pub. Es. Code21157.6 and 14 Cal Code Regs 15179 Master EIR must be periodically reviewed

Appendix B

Relevant Buffer Rules and Policies

I. Federal and State Statutes and regulations

a. Health & Safety Code 25507.10 (Acutely Hazardous Materials Release): The emergency rescue personnel must advise the superintendent having jurisdiction over a school within one-half mile of a release or threatened release of an acutely hazardous material.

b. Health & Safety Code 25221 and 25232 (Hazardous Waste Disposal Site): Any person who intends to construct a building for purposes of a school, hospital, residence, etc. on land, or within 2000 feet of land, where the person knows or had probable cause to believe that a significant disposal of hazardous waste has occurred, must apply to the Department of Toxic Substances Control prior to the commencement of construction for a determination of whether the property should be designated a hazardous waste property or border zone property. Health & Safety Code 25221. Should the property be designated as a hazardous waste property or border zone property, then construction of a residence, hospital, school, etc. is prohibited on the premises. Health & Safety Code 25232(b).

c. Health & Safety Code Section 25534.1 (RMPP Preparation): Requires consideration of proximity of facility to schools, residential areas, hospital, long term health care facilities and day care facilities. "Each RMP required to be prepared pursuant to this article shall give consideration to the proximity of the facility or proposed facility to populations located in schools, residential areas, general acute care hospitals, long-term health care facilities, and child day care facilities."

d. Health & Safety Code 41700 (Public Nuisance): States that no person shall discharge from any source any air contaminant which causes nuisance or annoyance to any considerable number of persons of the public or endangers the comfort, health or safety of such persons or public.

e. Health & Safety Code 42301.6 (Hazardous Air Emission Permits): Before approving an application for an air permit to construct or modify a source which emits hazardous air emissions and that is within 1,000 feet of a school, the air pollution control officer must prepare a public notice. The public notice must be distributed to parents or guardians of children

enrolled in any school, within one quarter mile and to each address within a radius of 1,000 feet.

f. Public Resources Code Section 21151.4 (Environmental Impact Report): Requires written notification to, and consultation with, the school district before approval of an environmental impact report or negative declaration for construction or alteration of a facility involving reasonable anticipation of air emissions or handling of acutely hazardous material within one-quarter mile of a school.

g. Public Resources Code Section 21151.8 (Hazardous Waste Facility): Requires identification of facilities within one-quarter mile of a school, which might reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste and a finding that such a facility does not and will not constitute an actual or potential endangerment for approval.

h. Air Resources Board

   i. Regulation of certain emissions by Toxic Air Contaminant List (long term health effects)

   ii. Specific guidelines that recommend the avoidance of residential uses within 1,000 feet of industries using chromium

i. EPA model buffer ordinances

http:www.epa.gov/owow//nps/ordinance/misc.htm

II. Orange County, Irvine and South Coast Air Quality Management District (SCAQMD) Rules

a. Orange County Zoning Ordinance Section 7-9-57 (BI "Buffer" District): Recognizes the importance of buffer district zoning for the purpose of "buffering two areas of use that are incompatible."

b. City of Irvine Zoning Ordinance Section 2-13-7 (Facility siting criteria and permitting requirements): In siting a hazardous waste facility, there must be "a minimum buffer distance of 2,000 feet from residences and other sensitive land uses" per Health and Safety Code § 25202.5(b) and (b). Additionally, the "health and safety assessment shall evaluate, at a minimum, the area within 2,000 feet of the site, which is designated a sensitive area, an shall evaluate the potential impact on sensitive populations."

c. SCAQMD Rule 212 (Standards for Approving Permits and Issuing Public Notice): Before approving an application for an air permit to construct or modify a source which emits hazardous air emissions and that is within 1,000 feet of a school, public notice must be distributed to parents or guardians of children enrolled in any school, within one quarter mile and to each address within a radius of 1,000 feet.

III. Other Guidance Documents

General Plan Guidelines (2003) (http://www.opr.ca.gov/planning/PlanningPubs.html) (prepared by the California State Office of Planning and Research (OPR)) (pages 24-28): The General Plan Guidelines urge the use of buffer zones on a General Plan and project-by-project basis.

> Residential uses "are harmed by incompatible land uses that have environmental effects, such as noise, air emissions (including dust) and exposure to hazardous materials".
>
> "Cities and counties should develop policies that provide for the location of industrial facilities and other uses that, even with the best available technology will contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety in an manner that seeks to avoid overconcentrating these uses in proximity to schools or residential dwellings." (page 26)
>
> "Cities and counties should provide for the location of new schools and residential dwellings in a manner that seeks to avoid locating these uses in proximity to industrial facilities and uses that will contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety." (page 27)

IV. Other Jurisdiction Laws or and Proposed rules

a. City of San Diego Draft General Plan July 2005 (http://www.sandiego.gov/planning/genplan/pdf/discussiondraft/fullversion.pdf): Proposed a 1,000 foot buffer to separate industrial facilities that are a source of toxic air contaminants or toxic substances and residential land uses (Economic Prosperity Element, The City of San Diego General Plan, July 2005)

b. City of Chula Vista: Adopted 1,000 feet buffer zone between residential industrial uses.

c. Port of San Diego: Adopted 1,000 feet buffer zone between waterfront and maritime industrial uses and residential uses. . ."

d. Bay Area (BAAQMD) Regulation 2, Rule 1.Section 412 (Re: Toxic Air Contaminant Permit, Public Notice Schools): Requires applicant within 1,000 feet of a school to prepare and distribute a public notice of the proposed new and modified source and the related proposed emissions. The notice must be distributed to the parents of the children in any school within one-quarter mile of the source and to each address within a radius of 750 feet.

e. Bay Area (BAAQMD) Regulation 2, Rule 1.(General Requirements): Sources emitting Toxic Air Contaminants (TACs) must conduct a Health Screen Risk Assessment if their emissions are above a specified trigger level. The results of this assessment indicate chronic (cancer) and acute health risks to sensitive populations from the facility's emissions of TACs. The list of TACs includes many common and familiar materials including: toluene and xylene (found in many adhesives) and methyl alcohol (also known as denatured alcohol), a common solvent, as well as some 70 additional materials known for their chronic and acute health hazards. Facilities plan their abatement devices and engineering controls based upon the outcome of their HSRA's, which are dependent upon distances from sensitive receptors. If non-industrial uses encroach upon an industrial facility emitting a TAC, the facility will very likely be required to re-engineer its facility, or cease it operations, to comply with this regulation.

f. Bay Area (BAAQMD) Regulation 1, Section 301 (Re Public Nuisance): State no person shall discharge from any source any air contaminant, which causes nuisance or annoyance to any considerable number of persons or the public or endangers the comfort, health and safety of such persons or the public. Three or more violations issued within a 30 day period shall give rise to the rebuttable presumption that the violations resulted from negligence.

VITA

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Education

1969	B.A. (Government, cum laude), Harvard College, Cambridge, Massachusetts.
1974	Ph.D. (Urban and Regional Planning), University of Michigan.
1974	J.D. University of Michigan.

Academic Positions

1984-	Professor, Planning, Policy, and Design and Criminology, Law and Society, School of Social Ecology; Paul Merage School of Business; Transportation Science; and Global Peace and Conflict Studies, University of California, Irvine.
2001-	Director, Newkirk Center for Science and Society, UCI
1995-	Head, Focused Research Group in International Environmental Cooperation,UCI
1990-1992	Assistant Executive Vice Chancellor, UCI.
1989-1990	Director of Land Management, Office of the Chancellor, UCI.
1975-1992	Consultant, Public Policy Research Organization, UCI.
1988-1989	Head, Criminology, Law and Society Section, Program in Social Ecology, UCI.
1988-1989	Head, Center for Orange County Research, UCI.
1988-1989	Associate Director, Public Policy Research Organization, UCI.
1985-1986	Visiting Professor, University of Florida Law School.
1980-1985	Director, Program in Social Ecology, UCI.
1979-1980	Visiting Associate Professor, Ph.D. Program in Urban and Regional Planning and Visiting Faculty, Law School, University of Michigan.
1978	Visiting Scholar, School of Architecture and Urban Planning; Co-teaching, Law School, UCLA.
1974-1984	Assistant-Associate Professor, Program in Social Ecology, UCI.

Professional Activities

Memberships and Affiliations

The American Society of International Law

State Bar of California

State Bar of California Environmental Law Section

State Bar of California, Condemnation Committee, 1983-1985

City of Irvine Planning Commission 1988-1989

City of Irvine Transportation Commission 1988

City of Irvine Committee on Environmental Assistance

Irvine Campus Housing Authority, Board of Directors, 1984-1985 and 1989-; Vice President, 1984-1985; Secretary, 1989-1998.

Science Advisory Board, United States Environmental Protection Agency, Technology Assessment and Pollution Control Advisory Committee, 1978-1981

Public Law Center, Board of Directors, 1989-91

Panel Member, Pro-Mediate and Real Estate Arbitration and Mediation Services

South Coast Air Quality Management District, Advisory Council, 1981-1985

Faculty Fellow, Lincoln Institute of Land Policy

The Law and Society Association

Comitato Scientifico (Scientific Committee), Rivista Giuridica Dell'Ambiente

Editor, "Focus North America," Rivista Giuridica Dell'Ambiente

Environmental Law Network International

National Trust for Historic Preservation

Senior Care Resources, Newport Beach, California, Vice President

International Environmental Agreements: Politics, Law and Economics, Book Review Editor

Related Experience

2006-	Fulbright Distinguished Professor, Polytechnic of Torino, Italy
1999-	Adjunct Professor, Whittier Law School.
2000	Visiting Lecturer, environmental law, Universita' degli Studi dell'Isubria; Universita' Cattolica Del Sacro Cuore, Sede De Piacenza.
1998	Fullbright Research Fellow, Italy (criminal law and the environment).
1986-1987	Special Assistant, Appellate Section, Land and Natural Resources Division, United States Department of Justice, Washington, D.C.
1986	National Endowment for the Humanities Summer Seminar, "Dante's Italy," Florence, Italy (focus on urban development laws).
1981-1984	Kellogg National Fellow (focus on scientific basis of environmental and occupational regulation).
1980	National Endowment for the Humanities Summer Seminar for Law Teachers, Yale University Law School (focus on the Takings Issue in Constitutional Law).
1972-1973	Research Assistant, State of Michigan Department of Natural Resources.
1969-1971	Assistant to the Director, Ann Arbor Model Cities Program, Ann Arbor, Michigan.

Publications

A. Books

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C. Book Reviews and Column Articles

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DiMento, J., "L'Accordo di Cooperazione Ambientale tra Stati Uniti, Messico e Canada," 1/1999, Focus-North America, Rivista Giuridica Dell'Ambiente. "Takings: Recent Law as a Controversial Doctrine."

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Teaching Areas

Domestic, Comparative and International Environmental Law, Management and Policy; Land Use and Development Control Law; Urban and Regional Planning; Administrative Law and Regulation; Business and Government; Conflict Resolution; Property Law.

Faculty Governance

Chair, Academic Senate, Irvine Division, 2004-2005; Chair-Elect, UCI Faculty Senate, 2003-2004; Committee on Educational Policy; Graduate Council and Systemwide Graduate Council; Committee on Academic Personnel (Chair, 1995-96); and others.

Non Academic Publications

New York Times; Los Angeles Times; Los Angeles Herald-Examiner; Los Angeles Daily Journal; Christian Science Monitor; Orange County Register; Independent Press Telegram; L'Impresa Ambiente; others.

February 2006

Memo February 15, 2007

To: City of Irvine

Philip King Digitally signed by Philip King
DN: cn=Philip King, c=US, email=pgking@sfsu.edu
Date: 2007.02.15 08:49:48 -08'00'

From: Dr. Philip King, Associate Professor of Economics, San Francisco State University

Re: Proposed Condominium Construction within the IBC

I have been asked by Bingham McCutchen LLP, attorneys for Allergan Inc., to estimate the economic impact of proposed condominium construction in the Irvine Business Complex (IBC) and to comment on three specific proposals before the City.

After analyzing an extensive array of government data, interviewing and surveying members of Irvine's business community and reading a wide variety of documents pertaining to condominium construction within the IBC, it is my professional opinion that there will be a substantial and significant negative impact on the City which has not been properly evaluated. In particular, I am concerned about several issues:

1. The City has failed to properly analyze the fiscal and economic impact of business closings (or failure of businesses to expand) which would result directly from construction of condominiums within the IBC, especially condominiums constructed within close proximity to existing manufacturing and other businesses which are not compatible with residential zoning.
2. Overall, I estimate a loss of $5 billion to the City of Irvine's economy directly resulting from placement of residential projects adjacent to or near business without appropriate buffers residential construction within the IBC. This in turn will lead to thousands of lost jobs in the City and a loss in City revenue of at least ten to twenty million dollars.
3. The fiscal impact studies filed in conjunction with these projects contain serious flaws which lead to significant underestimates of the project's fiscal impact.
4. There is a serious potential for urban decay. A recent study by Environmental Data Resources identified 31 sites within the IBC with over 1000 kg (2200 lbs.) of hazardous material and 126 additional sites with at least 100 kg (220 lb.) of hazardous material. Location of condominiums within close proximity to these sites would likely involve serious health and environmental concerns for residents and concern on the part of the businesses. The potential liability here for these businesses and for the City is enormous. Should these residences have to be evacuated, parts of the IBC could become a ghost-town. The economic (urban decay) consequences of such a scenario would be devastating and need to be carefully evaluated.

5. While everyone is aware of the critical need for residential construction in the City of Irvine and Orange County, there are other opportunities for residential construction outside of the IBC which would not create the negative effects that the proposed construction would. While these sites might be more expensive to private developers, they would provide a better outcome for residents of the City of Irvine.

Many other cities in California have voted to protect industrial zones in order to preserve manufacturing jobs, which have declined substantially in both relative and absolute terms over the past twenty years. Environmental groups such as the Sierra Club have supported the preservation of industrial zones in order to minimize the serious health and safety impacts of mixed use zoning.

The remainder of this memo will elaborate on these concerns.

The Potential for Incompatibilities between Residential and Industrial Uses

The construction of residential housing, particularly high-density, high-rise condominiums creates a number of potential problems for businesses in the IBC.

A recent study by Environmental Data Resources identified 31 sites within the IBC with over 1000 kg (2200 lbs.) of hazardous material and 126 additional sites with at least 100 kg (220 lb.) of hazardous material. Location of condominiums within close proximity to these sites would likely involve serious health and environmental concerns for residents and concern on the part of the businesses.

Residents and owners of condominiums in other southern California cities and other cities across the country have successfully sued already existing businesses over such issues as noise (from cooling fans, trucking, etc.), the use of toxic materials, or the perception of a danger to residents, especially children. For example, the City of San Diego was recently sued by residents of La Jolla and Torrey Pines to prevent building permits for two biotechnology firms, The Salk Institute, and Applied Molecular Evolution (AME). Residents were particularly concerned about deliveries of potentially dangerous chemicals. A number of other companies which one might not consider "industrial" have been forced to spend tens or even hundreds of thousand of dollars on mitigation, even when these companies existed before residential construction occurred. Any mitigation that occurs is almost always at the businesses expense. Three of the largest employers in the IBC are biotech/medical manufacturing firms: Allergan, Edwards Life Science and B. Braun medical. These three firms combined employ approximately 6000 people.

In the City of Irvine, a number of firms that one might not normally think of as "industrial" have similar concerns. In particular, high-tech firms such as Verizon and Intellnet have expressed extreme concern about condominiums nearby. These firms have enormous arrays of computers and data storage facilities which require continuous cooling 24 hours a day every day of the year. The cooling fans on top of these buildings are quite noisy for nearby residents and would be particularly troublesome for high-rise condominium tenants nearby since the fans are generally placed on the roof and the noise escape upward and outward of the structure. The need for continuous cooling also

necessitates on-site location of backup diesel generators and thousands of gallons of diesel fuel to run these generators in case of a power outage or brownout. Diesel fuel has been recognized as a serious carcinogen.

Even where no environmental or health hazard exists, the ***perception*** of such a risk can lead to litigation and the experience of businesses throughout California and the U.S. tends to confirm that such litigation impedes business activity even when the business was created in an industrial zone and disclosures were made ahead of time.

Manufacturing businesses, wholesale distributors and many service industries typically rely on deliver or goods by truck. These deliveries are often during early morning hours (e.g., 5 am) before business starts. The noise and diesel fumes created by these deliveries are consistent with a typical industrial business zone, but are not consistent with residential zoning. Concerns with traffic and parking for these trucks also need to be addressed thoroughly.

The results of my survey of manufacturing and other businesses in the IBC indicate that condominium development near businesses would have a substantial impact, often leading to the closing /relocation of the business (relocation outside of Orange County). Further, most businesses I surveyed or spoke to stated that their businesses **hoped to expand, but said that residential development would halt these plans**.

In sum, even light manufacturing, high tech and warehousing businesses will be seriously impacted by nearby residential construction. Initially mitigation measures are likely to be imposed on businesses. For example, truck deliveries and other noisy operations may be limited to business hours, even though many companies require that deliveries take place early in the morning (before its employees come to work) or later in the day (after the company has processed materials). However, with the exception of substantial (e.g., 1000 ft.) buffer zones, these measures generally fail, or impose such high costs on businesses as to render their operations uneconomic. The business eventually moves or downsizes.

In the case of manufacturers utilizing flammable materials or potentially hazardous chemicals (e.g., Deft, Allergan) mitigation, other than buffer zones, may be difficult or impossible. These firms may decide to move current operations or not to expand within the IBC due to the potential for litigation.

The Economic Impact of Reducing Manufacturing in the IBC

To estimate the impact of reduced manufacturing, we used data from the U.S. government's Bureau of Economic Analysis (BEA), which is part of the U.S. Department of Commerce. This data was obtained through *IMPLAN*, a private software company widely used for this type of analysis. Their data is obtained from U.S. government surveys (e.g., ES 202 data and U.S. Census surveys of businesses) and is generally considered the most accurate and reliable data available. The most recent data available is from 2004. I updated the numbers for inflation. However the data was not updated for

economic growth, which has been substantial over the past three years. Thus, my estimates are likely to be conservative.[1]

The BEA data obtained through *IMPLAN* contains detailed information on output by the North American Industry Classification System (NAICS) code, which divides business and government operations in to specific categories (e.g., coffee and tea manufacturing). It is impossible to tell precisely what the impact of residential construction would be. The impact would depend upon the time frame, the amount and location of construction and the outcome of litigation as well as the general business climate. However, based upon the survey conducted as part of this report, conversations with managers at some of these businesses and a survey of the literature, **it is my professional opinion that it is conservative to assume that eventually manufacturing business would decrease output by 25% if condominium development continues in the IBC without the buffering of existing industrial/manufacturing uses.** some businesses (e.g., Deft, Parker-Hannifin, Royalty Carpet) would likely close if condominiums were built nearby while other businesses would curtail future development. Indeed, it is very possible to construct feasible scenarios where over half of all manufacturing jobs leave the IBC. My analysis ignores agglomeration effects—the fact that businesses tend to cluster in areas where other businesses already exist (e.g., Silicon Valley); taking these effects into account one can easily derive an even larger impact.

In addition to manufacturing, I surveyed and spoke to a number of people in the various service industries who were also concerned with condominium development for several reasons. The two primary reasons mentioned were: (1) increased traffic in an area already congested and with a low CALTRANS rating for traffic; (2) many business principals did not want to be in an area with residential construction and pointed out that their firms had other nearby options for their employees. In addition to these concerns, some service industries (e.g., hotels) indicated that they had some of the same concerns that manufacturers had, for example, noise from truck deliveries or social functions. Overall, I assumed that the build-out of condominiums in the IBC would decrease the service sector by 10%. Since these condos also compete for space which could be occupied by service industries, 10% is a very conservative figure.

The net impact to the City of Irvine and surrounding area would be significant and serious. Table 1 presents estimates of a 25% reduction of manufacturing and a 10% reduction in service industries. All public services and services related to residential construction and servicing residents were omitted. Only traditional office-related

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[1] Data is available by zip code. The three relevant zip codes for the IBC are 92606, 92612 and 62614. However the zip code boundaries and the IBC boundaries are not the same. In order to ensure our economic impact estimates are accurate, I had a research assistant use data on business licenses for Orange County, sorted by zip code and examine each firm with two or more persons employed (out of over 6000) in the three zip code areas to ascertain which were in the IBC and which weren't. The Orange County data does not have information on output. However it does have information on number of employees, which is a reasonable proxy. Overall manufacturing firms in the IBC employ 13,900 people, compared to 455 outside the IBC but in the three zip codes—97% of manufacturing in the three zip codes was in the IBC. For non-manufacturing businesses, 81% of the employees worked for firms in the IBC. The data from these three zip codes was adjusted accordingly. Total impacts were run on an input output model containing data for the entire City of Irvine.

services were included. The reduction in manufacturing would cost the City of Irvine $1.8 billion. However, this impact does not include the indirect impact on other businesses in Irvine which provide services and inputs (the indirect impact) or the impact due to the loss of income in the area (induced impact). When one incorporates these impacts, the total impact of the loss in manufacturing on the City of Irvine is $3.1 billion. It is important to recognize that these impacts are for the City of Irvine only. If one extends the analysis to Orange County (or California or the U.S.), the secondary impacts would be greater.

A 10% reduction in service industry would reduce output in Irvine by $1.2 billion; when one adds in indirect and induced impacts, the total for the service industry comes to just over $2 billion. **Adding the cumulative impacts of both reductions, we estimate that the build-out of condominiums in Irvine will reduce output by $5.1 billion, which is roughly 10% of the entire Irvine economy.**[2]

Table 1: Negative Economic Impact in IBC due to Condominium Construction

Industries	Direct Impact ($ millions)	Indirect Impact ($ millions)	Induced Impact ($ millions)	Total Impact ($ millions)
Manufacturing	$ 1,851	$ 890	$ 401	$ 3,142
Service	$ 1,227	$ 401	$ 393	$ 2,021
Total	$ 3,078	$ 1,291	$ 794	$ 5,163

The Fiscal Impact of Residential Construction

It is difficult to estimate the impact on the City of Irvine revenue stream from the loss of business estimated in Table 1, but it would be substantial, on the order of $10-20 million dollars, which constitutes 5-10% of the City's revenues. Condominium development would generate a great deal of money in taxes, but it is critical to realize that virtually every study[3] on this subject has concluded that residential construction also generates huge liabilities on cities, counties, and other governments since these residents use services such as schools, social services, parks etc. While businesses also use these services, these same studies have shown that, on balance, businesses generate more in local taxes than they utilize in city services.

There is a clear hierarchy of land uses in terms of generating positive or negative fiscal impact. Table 2 presents this hierarchy. As one can see, businesses generate positive fiscal impacts for cities. Even traditional manufacturing is a positive, and the higher tech

[2] Data is from 2004 updated only for inflation. I am confident that Irvine's economy is now considerably larger, but the corresponding impact would also be larger. It is my professional opinion that it is reasonable to assume that the loss to the City of Irvine would be approximately 10% of its entire economy.

[3] For example, see "Fiscal Impact of Conversion of Prime Lands, Holley Ulbrich, Clemson University (Working Paper), February 2000., Robert Burchell and David Listokin, Land, Infrastructure, Hosuing Costs and Fiscal Impacts associated with growth: The Literature on the Impacts of Sprawl vs. managed Growth, Lincoln Institute of Land Policy Research Papers, 2000., James Frank, The Costs of alternative development patterns, Urban Land Institute, 1989.

businesses that are particularly prominent in the IBC (e.g., Allergan) are especially good sources of revenue while generating relatively few costs for the City. On the other hand, residential construction is at best neutral.

Several studies have also shown that so-called "leap-frog" development—placing residential construction in a hodge-podge fashion as opposed to building all residential construction together—increases the negative consequences since the costs of providing services is higher. Further, the fact that the IBC was not zoned for residential construction and has few of the necessary services available nearby places an extra burden on the City of Irvine, its residents and its roadways. Please note that these negative consequences are in addition to the negative economic impact from businesses leaving.

Table 2: Fiscal Impacts of Different Land Uses[4]

Type of Land Use	Fiscal Impact on Cities
Office Buildings	Very Positive
Hi-Tech Industry	Very Positive
Traditional Manufacturing	Positive
High Density Housing	Neutral
Leap-Frog High Density Housing	Negative
Low Density Housing	Negative
Trailer Parks	Very Negative

Specific Fiscal Impact Reports prepared for Condominium Projects

As part of the application process the applicants included fiscal analyses of the projects using a methodology developed by the City of Irvine and discussed in its *Strategic Business Plan 2006*. The City of Irvine should be applauded for developing and requiring such information. In general, the applicant's conclusions are consistent with Table 2 above—that the fiscal impact would be essentially neutral (the Revenue/Cost ratios were 1.01, 1.02, and 1.11, which essentially indicates revenues would balance costs). However these analyses contain several critical omissions that render these conclusions inaccurate—in a way that will critically impact the City of Irvine. While experts can and do disagree on these matters, there are certain standard procedures (based on very basic economics) that all fiscal impact analyses must follow. Unfortunately, the fiscal impact reports presented to the City of Irvine overlooked a few key issues which are critical. In particular, all of these reports have the following significant omissions:

1. All these reports overlook the fiscal impact of displaced businesses—there will be a loss in economic activity and a loss in tax revenue from this displacement.

[4] From sources cited in footnote 3 above.

2. All the reports assume that inflation is zero. This assumption is critical given that California's Proposition 13 places a cap on property tax increases of 2% per year. Thus if inflation is higher than 2% (as it has been for virtually every year for the past 40 years) property tax revenues—the most important source of local tax revenue, will fail to keep up with inflation while costs will increase with inflation, or perhaps faster. Indeed, as is well known, the costs of key services such as medical care and education have risen substantially faster than inflation over the past 10 and 20 years. In other words, while high rise condominiums may generate sufficient revenues in the first few years, over time the property tax revenues will be statutorily constrained by Proposition 13, while costs will continue to rise at a faster rate. Thus, in five to ten years these projects will cost the City of Irvine far more than the revenues that will be generated. At a very minimum, the fiscal impact analyses provided should assume a realistic inflation rate above 2%, as it has been over the past ten or twenty years.
3. While the reports go into elaborate detail on the costs of minor improvements to City infrastructure, they assume no major (and costly) improvements such as a new police substation. While one project alone may not require this level of infrastructure development, it is clear that more projects are slated for the IBC and a comprehensive analysis must examine the costs of these significant and likely necessary improvements. Further, these reports do not address the fact that the "leapfrog" development proposed here generally adds significantly to City expenses, as shown by the reports cited above or that the IBC contains little infrastructure for providing City services to residents of these proposed condominiums.

Problems with Specific Fiscal Impact Reports

In addition to the problems cited in points 1-3 above, the fiscal impact reports make key assumptions without providing a basis or data for comparison. In particular, the number of residents per dwelling appears to be unrealistically low, especially for affordable housing.

Granite Court Apartment Development

- The Granite Court apartment development assumes a density of 1.3 persons per unit (avg. size 937 sq. ft.). While this may (or may not) be reasonable for a typical unit of this size, this is clearly too low for affordable housing. Affordable housing is generally given to families with children based on a sliding scale—larger families are allowed a higher household income. The average household size for these units should have been based on a comparison of similar affordable housing units—not luxury condos. For example a similar study conducted by the City of San Francisco[5] assumed 2.3 residents per unit of affordable housing. This is almost double the number assumed in the fiscal impact report. Increasing the

[5] See City of San Francisco, Treasure Island Backup Plan Documentation, Appendix A, November 2006, http://www.sfgov.org/site/uploadedfiles/treasureisland/Treasure_Island_Development_Plan/Backup25aug06.pdf.

number of resident per unit substantially increases cost of providing city services. California's department of Finance's demographic unit reports that the average household size in Orange County is 3.077 people. For multifamily housing this number is likely to be somewhat lower; the statewide average is 2.36 people per unit.[6]

2323 Main Street Development

- The assumption of 1.3 people per 1200 square feet (avg. size) unit is also rather small. This size would typically be a two (or possibly even three) bedroom apartment/condo —the developer should provide data to support this conclusion with comparable developments with similar square footages and # bedrooms. California's department of Finance's demographic unit reports that the average household size in Orange County is 3.077 people. For multifamily housing this number is likely to be somewhat lower; the statewide average is 2.36 people per unit.[7]

2201 Martin Development

- The assumption of 1.3 people per 1401 square feet (avg. size) unit is clearly too small. This size would typically be a two or three bedroom apartment/condo—the developer should provide data to support this conclusion with comparable developments with similar square footages and # bedrooms. California's department of Finance's demographic unit reports that the average household size in Orange County is 3.077 people. For multifamily housing this number is likely to be somewhat lower; the statewide average is 2.36 people per unit.[8]

The Plaza

- The assumption of 2.13 people per 1800 square feet (avg. size) unit is also small. These units are the size of a typical house—the developer should provide data to support this conclusion with comparable developments with similar square footages and # bedrooms.

Urban Decay Effects

In addition to the impacts discussed above, there is the potential for serious and significant urban decay should residential construction proceed unabated without a proper study of the long term consequences of locating condominiums in close proximity to toxic waste and hazardous materials. There are two principle issues:

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[6] See California Department of Finance Demographic Unit and Statistical Abstract, Data is from 2006, http://www.dof.ca.gov/HTML/FS_DATA/STAT-ABS/Statistical_Abstract.asp.
[7] Ibid.
[8] Ibid.

- The potential that as businesses leave the empty space will not be inhabitable and that other businesses may not want to retenant these sites given the potential liability involved.
- The (less likely but very serious) potential that some condominiums will have to be vacated due to the close proximity of hazardous materials. The current litigation over toxic mold in residential construction today, as well as past litigation involving toxic industrial waste across the United States should create serious reservations for policy makers—in an increasingly litigious world, the presence of these toxins (real or perceived) may lead to an eventual evacuation of parts of the IBC. A full EIR needs to carefully examine these issues.

Urban decay can include several possible adverse impacts on the quality of life in the local community. This includes visible symptoms of physical deterioration, capital stock and buildings in impaired condition, and involves aspects of "broken window" theory—that run-down, abandoned buildings signal lack of public policy concern and invite vandalism, loitering, graffiti, high crime rates, and arson for profit. They signal hopelessness for nearby residents who may lose faith in local government. Such sites also pose significant policing problems and fire protection issues. They could become sites for dangerous rodent infestation and avoidable public health issues. The outward manifestations and visual evidence of urban environmental urban decay and physical deterioration, but are not limited to, such markers as:

- Plywood boarded doors and windows;
- Parked trucks and long term unauthorized use of property and parking lot;
- Extensive gang graffiti and offensive words painted n the buildings;
- Dumping of refuge on site;
- Overturned dumpsters;
- Broken parking barriers;
- Broken glass, litter of liquor or beer bottles;
- Dead trees and shrubbery together with weeds;
- Unsightly and permanent "For Lease" signs;
- Homeless encampments on the property or doorways; and
- Lack of building maintenance, paint peeling, or property encased in an unsightly chain-link fence.

Other Alternative

A complete EIR as well as a complete fiscal impact analysis must also look at other feasible alternatives—in particular residential development elsewhere in Irvine or Orange County and/or substantial legislated buffers that protect existing and future business development. There are clearly other alternatives besides building residential housing in the IBC or not building any new residences and a full and complete analysis would consider these alternatives. Such an analysis must analyze the fiscal and economic benefits of keeping business in the IBC and potentially expanding businesses

(manufacturing and other service businesses) in the IBC. A reasonably complete analysis would also compare the relative fiscal impact of residential construction in a planned community versus the hodge-podge "leapfrog" construction that will occur in the IBC if approved.

Conclusion

It is tempting to dismiss such estimates are unsubstantiated or unduly pessimistic. However, a careful examination of neighboring San Diego County indicates that the concerns expressed by local businesses in the IBC are well founded and the potential for serious litigation and disruption of manufacturing by newly arrived residents is real and significant.

The City of Irvine and Orange County are very fortunate to have such a vital manufacturing base, including a substantial presence of high paying jobs in the biotechnology, medical supplies and data storage industries as well as an unusually strong presence of traditional manufacturing and higher technology manufacturing associated with southern California's aerospace industry.

The City of Irvine should conduct a full investigation of these potential economic, fiscal and urban decay impacts in its Environmental Impact and other Reports. A full report should recognize the economic and fiscal impacts of likely mitigation as well as the possibility that no feasible (from the standpoint of the companies' continued profitable operation in the IBC) mitigation may exist. A full EIR and fiscal impact analysis must also recognize that while residential construction may initially stimulate the local economy, numerous studies have shown that ultimately the costs of providing public services such as schools, social services and public safety typically outweigh the revenues generated by property and other taxes from local residents. This issue is particularly germane in California since Proposition 13 limits yearly property tax increases to 2% even though inflation (and in particular the costs of providing City services) has been substantially higher over the past ten and twenty years. A full EIR also needs to account for the creation of schools, social services, parks, etc., for the thousands of potential new residents in the IBC. Without a supporting business structure, the City of Irvine will be in a worse fiscal position to support these services.

A complete analysis should also look into other alternatives for residential construction and compare the costs of mitigation on local businesses along with the differing fiscal impacts for the City. It is well known that Orange County has a shortage of housing, but other sites in the City and County exist and the fiscal impact of residential construction at many of these sites is likely to be substantially lower.

Consequently, I am of the opinion that a careful analysis of these proposed projects in the IBC will lead the City to endorse specific limitations, such as allowing no residential building within 1200 feet of a manufacturing firm, on residential construction within the IBC. The negative economic impacts I am estimating are real and substantial.

Appendix 1: Reports from IMPLAN software (Analysis of Economic Impact)

Output, Value Added and Employment February 13, 2007

Base Year: 2004 IBC Irvine Impact.iap

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	Industry	Industry Output*	Employment	Employee Compensation*	Proprietor Income*	Other Property Income*	Indirect Business Tax*	Total Value Added*
1	Oilseed farming	0.000	0	0.000	0.000	0.000	0.000	0.000
2	Grain farming	0.023	1	0.001	0.005	0.007	0.000	0.013
3	Vegetable and melon farming	0.925	9	0.173	0.268	0.240	0.010	0.691
4	Tree nut farming	0.000	0	0.000	0.000	0.000	0.000	0.000
5	Fruit farming	3.823	70	1.300	0.651	0.228	0.101	2.279
6	Greenhouse and nursery production	7.016	87	3.004	2.278	0.102	0.092	5.476
7	Tobacco farming	0.000	0	0.000	0.000	0.000	0.000	0.000
8	Cotton farming	0.000	0	0.000	0.000	0.000	0.000	0.000
9	Sugarcane and sugar beet farming	0.000	0	0.000	0.000	0.000	0.000	0.000
10	All other crop farming	0.000	0	0.000	0.000	0.000	0.000	0.000
11	Cattle ranching and farming	0.009	0	0.001	0.000	0.000	0.000	0.002
12	Poultry and egg production	0.059	0	0.008	0.007	0.013	0.000	0.028
13	Animal production- except cattle an	0.042	2	0.008	-0.001	-0.003	0.001	0.005
14	Logging	0.000	0	0.000	0.000	0.000	0.000	0.000
15	Forest nurseries- forest products- an	0.000	0	0.000	0.000	0.000	0.000	0.000
16	Fishing	0.000	0	0.000	0.000	0.000	0.000	0.000
17	Hunting and trapping	0.000	0	0.000	0.000	0.000	0.000	0.000
18	Agriculture and forestry support acti	0.000	0	0.000	0.000	0.000	0.000	0.000
19	Oil and gas extraction	5.392	15	0.574	0.547	1.563	0.307	2.991
20	Coal mining	0.000	0	0.000	0.000	0.000	0.000	0.000
21	Iron ore mining	0.000	0	0.000	0.000	0.000	0.000	0.000
22	Copper- nickel- lead- and zinc mini	0.000	0	0.000	0.000	0.000	0.000	0.000
23	Gold- silver- and other metal ore mi	0.000	0	0.000	0.000	0.000	0.000	0.000
24	Stone mining and quarrying	0.088	1	0.020	0.005	0.021	0.002	0.048
25	Sand- gravel- clay- and refractory	0.000	0	0.000	0.000	0.000	0.000	0.000
26	Other nonmetallic mineral mining	0.000	0	0.000	0.000	0.000	0.000	0.000
27	Drilling oil and gas wells	26.119	63	2.275	0.971	9.415	0.992	13.654
28	Support activities for oil and gas op	0.922	7	0.225	0.106	0.388	0.040	0.758
29	Support activities for other mining	5.624	9	3.034	0.011	0.765	0.087	3.898
30	Power generation and supply	451.084	321	41.123	47.429	169.980	47.197	305.729
31	Natural gas distribution	0.000	0	0.000	0.000	0.000	0.000	0.000
32	Water- sewage and other systems	1.116	3	0.156	0.356	0.280	0.038	0.830
33	New residential 1-unit structures- al	624.107	4,117	173.065	73.627	46.335	4.372	297.399
34	New multifamily housing structures-	44.447	456	18.744	8.250	2.435	0.154	29.584
35	New residential additions and alterat	110.995	555	22.878	9.688	5.509	0.882	38.955
36	New farm housing units	0.000	0	0.000	0.000	0.000	0.000	0.000
37	Manufacturing and industrial buildi	37.393	362	15.433	6.475	3.708	0.244	25.860
38	Commercial and institutional buildi	371.495	3,302	138.150	58.544	33.271	2.774	232.739
39	Highway- street- bridge- and tunnel	66.429	543	23.519	9.920	5.658	0.475	39.572
40	Water- sewer- and pipeline construc	32.781	246	10.547	4.454	2.538	0.240	17.779
41	Other new construction	164.187	1,364	58.201	24.618	14.011	0.836	97.665
42	Maintenance and repair of farm and	107.032	712	29.920	12.724	7.212	0.675	50.530
43	Maintenance and repair of nonreside	152.649	1,209	50.709	21.695	12.239	1.564	86.207
44	Maintenance and repair of highways-	42.439	349	14.910	6.402	3.602	0.313	25.228
45	Other maintenance and repair const	52.211	514	22.558	9.396	4.194	0.315	36.463
46	Dog and cat food manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
47	Other animal food manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
48	Flour milling	0.000	0	0.000	0.000	0.000	0.000	0.000
49	Rice milling	0.000	0	0.000	0.000	0.000	0.000	0.000
50	Malt manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
51	Wet corn milling	0.000	0	0.000	0.000	0.000	0.000	0.000
52	Soybean processing	0.000	0	0.000	0.000	0.000	0.000	0.000
53	Other oilseed processing	14.975	7	0.349	0.026	0.454	0.103	0.932
54	Fats and oils refining and blending	0.000	0	0.000	0.000	0.000	0.000	0.000
55	Breakfast cereal manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
56	Sugar manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
57	Confectionery manufacturing from	0.000	0	0.000	0.000	0.000	0.000	0.000
58	Confectionery manufacturing from	0.000	0	0.000	0.000	0.000	0.000	0.000
59	Nonchocolate confectionery manufa	0.000	0	0.000	0.000	0.000	0.000	0.000
60	Frozen food manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
61	Fruit and vegetable canning and dry	42.794	89	5.397	0.861	6.242	0.351	12.850
62	Fluid milk manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
63	Creamery butter manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
64	Cheese manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
65	Dry- condensed- and evaporated dai	0.000	0	0.000	0.000	0.000	0.000	0.000
66	Ice cream and frozen dessert manuf	23.301	59	1.713	0.312	1.813	0.118	3.955
67	Animal- except poultry- slaughterin	0.000	0	0.000	0.000	0.000	0.000	0.000

Output, Value Added and Employment February 13, 2007

Base Year: 2004 IBC Irvine Impact.iap

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	Industry	Industry Output*	Employment	Employee Compensation*	Proprietor Income*	Other Property Income*	Indirect Business Tax*	Total Value Added*
68	Meat processed from carcasses	0.000	0	0.000	0.000	0.000	0.000	0.000
69	Rendering and meat byproduct proc	1.483	3	0.125	0.018	0.200	0.009	0.352
70	Poultry processing	0.000	0	0.000	0.000	0.000	0.000	0.000
71	Seafood product preparation and pa	0.000	0	0.000	0.000	0.000	0.000	0.000
72	Frozen cakes and other pastries man	0.000	0	0.000	0.000	0.000	0.000	0.000
73	Bread and bakery product- except f	5.067	39	1.301	0.110	0.749	0.032	2.192
74	Cookie and cracker manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
75	Mixes and dough made from purchas	171.716	464	19.039	1.606	20.088	1.042	41.776
76	Dry pasta manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
77	Tortilla manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
78	Roasted nuts and peanut butter man	0.000	0	0.000	0.000	0.000	0.000	0.000
79	Other snack food manufacturing	15.259	30	0.994	0.196	2.317	0.079	3.586
80	Coffee and tea manufacturing	5.188	11	0.329	0.028	0.007	0.021	0.384
81	Flavoring syrup and concentrate ma	0.000	0	0.000	0.000	0.000	0.000	0.000
82	Mayonnaise- dressing- and sauce m	10.500	27	1.446	0.174	1.250	0.038	2.908
83	Spice and extract manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
84	All other food manufacturing	12.478	52	1.468	0.143	0.331	0.053	1.994
85	Soft drink and ice manufacturing	27.218	43	2.615	2.310	2.333	0.309	7.567
86	Breweries	4.109	6	0.149	0.204	0.469	0.427	1.249
87	Wineries	0.000	0	0.000	0.000	0.000	0.000	0.000
88	Distilleries	0.000	0	0.000	0.000	0.000	0.000	0.000
89	Tobacco stemming and redrying	0.000	0	0.000	0.000	0.000	0.000	0.000
90	Cigarette manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
91	Other tobacco product manufacturi	0.000	0	0.000	0.000	0.000	0.000	0.000
92	Fiber- yarn- and thread mills	0.000	0	0.000	0.000	0.000	0.000	0.000
93	Broadwoven fabric mills	0.000	0	0.000	0.000	0.000	0.000	0.000
94	Narrow fabric mills and schiffli em	0.000	0	0.000	0.000	0.000	0.000	0.000
95	Nonwoven fabric mills	0.000	0	0.000	0.000	0.000	0.000	0.000
96	Knit fabric mills	0.000	0	0.000	0.000	0.000	0.000	0.000
97	Textile and fabric finishing mills	0.000	0	0.000	0.000	0.000	0.000	0.000
98	Fabric coating mills	0.000	0	0.000	0.000	0.000	0.000	0.000
99	Carpet and rug mills	250.654	667	29.295	1.022	38.851	2.284	71.452
100	Curtain and linen mills	4.900	30	0.921	0.017	0.614	0.020	1.572
101	Textile bag and canvas mills	8.182	65	2.783	0.060	0.339	0.040	3.222
102	Tire cord and tire fabric mills	0.000	0	0.000	0.000	0.000	0.000	0.000
103	Other miscellaneous textile product	49.014	365	15.015	0.339	1.489	0.309	17.151
104	Sheer hosiery mills	0.187	1	0.045	0.008	0.008	0.002	0.063
105	Other hosiery and sock mills	0.000	0	0.000	0.000	0.000	0.000	0.000
106	Other apparel knitting mills	0.000	0	0.000	0.000	0.000	0.000	0.000
107	Cut and sew apparel manufacturing	273.403	1,761	68.915	5.907	36.410	1.667	112.899
108	Accessories and other apparel manu	16.516	136	5.578	0.413	0.622	0.103	6.715
109	Leather and hide tanning and finish	0.000	0	0.000	0.000	0.000	0.000	0.000
110	Footwear manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
111	Other leather product manufacturin	0.000	0	0.000	0.000	0.000	0.000	0.000
112	Sawmills	0.000	0	0.000	0.000	0.000	0.000	0.000
113	Wood preservation	0.000	0	0.000	0.000	0.000	0.000	0.000
114	Reconstituted wood product manufa	0.000	0	0.000	0.000	0.000	0.000	0.000
115	Veneer and plywood manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
116	Engineered wood member and truss	0.000	0	0.000	0.000	0.000	0.000	0.000
117	Wood windows and door manufactu	11.502	59	2.508	0.312	2.778	0.063	5.662
118	Cut stock- resawing lumber- and pl	0.000	0	0.000	0.000	0.000	0.000	0.000
119	Other millwork- including flooring	4.398	27	0.916	0.119	0.191	0.022	1.248
120	Wood container and pallet manufac	0.000	0	0.000	0.000	0.000	0.000	0.000
121	Manufactured home- mobile home-	0.367	2	0.083	0.033	0.041	0.002	0.159
122	Prefabricated wood building manufa	0.000	0	0.000	0.000	0.000	0.000	0.000
123	Miscellaneous wood product manuf	2.863	26	0.634	0.066	0.567	0.014	1.281
124	Pulp mills	0.000	0	0.000	0.000	0.000	0.000	0.000
125	Paper and paperboard mills	0.000	0	0.000	0.000	0.000	0.000	0.000
126	Paperboard container manufacturin	42.193	143	9.577	0.171	0.927	0.431	11.107
127	Flexible packaging foil manufactur	0.262	1	0.019	0.000	0.002	0.001	0.022
128	Surface-coated paperboard manufac	1.219	4	0.229	0.007	-0.097	0.012	0.151
129	Coated and laminated paper and pa	15.555	47	2.755	0.044	1.047	0.135	3.980
130	Coated and uncoated paper bag man	0.000	0	0.000	0.000	0.000	0.000	0.000
131	Die-cut paper office supplies manuf	0.000	0	0.000	0.000	0.000	0.000	0.000
132	Envelope manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
133	Stationery and related product manu	0.218	1	0.045	0.001	0.008	0.002	0.056
134	Sanitary paper product manufacturi	0.000	0	0.000	0.000	0.000	0.000	0.000

Output, Value Added and Employment February 13, 2007

Base Year: 2004 IBC Irvine Impact.iap

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	Industry	Industry Output*	Employment	Employee Compensation*	Proprietor Income*	Other Property Income*	Indirect Business Tax*	Total Value Added*
135	All other converted paper product m	0.000	0	0.000	0.000	0.000	0.000	0.000
136	Manifold business forms printing	0.000	0	0.000	0.000	0.000	0.000	0.000
137	Books printing	2.671	21	0.771	0.183	0.843	0.027	1.823
138	Blankbook and looseleaf binder ma	2.385	22	0.501	0.115	0.047	0.019	0.682
139	Commercial printing	108.147	1,196	50.908	8.157	13.148	0.878	73.091
140	Tradebinding and related work	0.839	13	0.351	0.056	0.045	0.008	0.460
141	Prepress services	5.160	40	2.376	0.360	0.502	0.053	3.291
142	Petroleum refineries	0.000	0	0.000	0.000	0.000	0.000	0.000
143	Asphalt paving mixture and block	0.000	0	0.000	0.000	0.000	0.000	0.000
144	Asphalt shingle and coating materi	0.000	0	0.000	0.000	0.000	0.000	0.000
145	Petroleum lubricating oil and greas	19.499	28	2.507	0.220	-0.366	0.057	2.419
146	All other petroleum and coal produ	0.000	0	0.000	0.000	0.000	0.000	0.000
147	Petrochemical manufacturing	36.281	7	0.888	0.047	2.510	0.229	3.675
148	Industrial gas manufacturing	16.070	15	1.973	0.116	3.905	0.107	6.101
149	Synthetic dye and pigment manufac	0.000	0	0.000	0.000	0.000	0.000	0.000
150	Other basic inorganic chemical man	0.000	0	0.000	0.000	0.000	0.000	0.000
151	Other basic organic chemical manuf	12.605	15	0.781	0.047	0.262	0.047	1.137
152	Plastics material and resin manufac	0.000	0	0.000	0.000	0.000	0.000	0.000
153	Synthetic rubber manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
154	Cellulosic organic fiber manufactur	0.000	0	0.000	0.000	0.000	0.000	0.000
155	Noncellulosic organic fiber manufa	0.000	0	0.000	0.000	0.000	0.000	0.000
156	Nitrogenous fertilizer manufacturin	0.000	0	0.000	0.000	0.000	0.000	0.000
157	Phosphatic fertilizer manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
158	Fertilizer- mixing only- manufactur	1.626	4	0.231	0.012	0.079	0.011	0.333
159	Pesticide and other agricultural ch	0.000	0	0.000	0.000	0.000	0.000	0.000
160	Pharmaceutical and medicine manuf	2,556.940	2,730	294.138	64.597	328.973	18.355	706.063
161	Paint and coating manufacturing	50.312	87	6.512	0.394	3.927	0.302	11.134
162	Adhesive manufacturing	15.435	36	2.541	0.157	0.829	0.083	3.610
163	Soap and other detergent manufactu	0.000	0	0.000	0.000	0.000	0.000	0.000
164	Polish and other sanitation good ma	4.063	5	0.346	0.043	0.672	0.027	1.088
165	Surface active agent manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
166	Toilet preparation manufacturing	11.734	21	1.274	0.093	2.209	0.033	3.609
167	Printing ink manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
168	Explosives manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
169	Custom compounding of purchased	2.104	6	0.248	0.012	0.053	0.003	0.316
170	Photographic film and chemical ma	5.334	13	0.748	0.094	0.632	0.011	1.485
171	Other miscellaneous chemical prod	41.731	90	8.236	0.412	1.576	0.273	10.497
172	Plastics packaging materials- film a	0.000	0	0.000	0.000	0.000	0.000	0.000
173	Plastics pipe- fittings- and profile s	0.929	3	0.173	0.005	0.144	0.007	0.328
174	Laminated plastics plate- sheet- and	0.000	0	0.000	0.000	0.000	0.000	0.000
175	Plastics bottle manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
176	Resilient floor covering manufactur	0.000	0	0.000	0.000	0.000	0.000	0.000
177	Plastics plumbing fixtures and all ot	29.134	157	7.093	0.162	4.829	0.197	12.281
178	Foam product manufacturing	66.925	278	12.815	0.409	10.840	0.455	24.519
179	Tire manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
180	Rubber and plastics hose and beltin	0.000	0	0.000	0.000	0.000	0.000	0.000
181	Other rubber product manufacturin	12.412	69	2.739	0.076	1.715	0.077	4.607
182	Vitreous china plumbing fixture ma	0.000	0	0.000	0.000	0.000	0.000	0.000
183	Vitreous china and earthenware arti	0.000	0	0.000	0.000	0.000	0.000	0.000
184	Porcelain electrical supply manufac	0.000	0	0.000	0.000	0.000	0.000	0.000
185	Brick and structural clay tile manuf	0.000	0	0.000	0.000	0.000	0.000	0.000
186	Ceramic wall and floor tile manufac	0.000	0	0.000	0.000	0.000	0.000	0.000
187	Nonclay refractory manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
188	Clay refractory and other structural	0.000	0	0.000	0.000	0.000	0.000	0.000
189	Glass container manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
190	Glass and glass products- except gla	1.302	6	0.264	0.036	0.237	0.011	0.548
191	Cement manufacturing	0.018	0	0.002	0.001	0.004	0.000	0.006
192	Ready-mix concrete manufacturing	20.171	72	4.793	0.604	2.535	0.217	8.149
193	Concrete block and brick manufactu	0.000	0	0.000	0.000	0.000	0.000	0.000
194	Concrete pipe manufacturing	0.005	0	0.001	0.000	0.001	0.000	0.002
195	Other concrete product manufacturi	0.000	0	0.000	0.000	0.000	0.000	0.000
196	Lime manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
197	Gypsum product manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
198	Abrasive product manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
199	Cut stone and stone product manufa	0.000	0	0.000	0.000	0.000	0.000	0.000
200	Ground or treated minerals and ear	0.000	0	0.000	0.000	0.000	0.000	0.000
201	Mineral wool manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000

Output, Value Added and Employment

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Base Year: 2004 IBC Irvine Impact.iap

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	Industry	Industry Output*	Employment	Employee Compensation*	Proprietor Income*	Other Property Income*	Indirect Business Tax*	Total Value Added*
202	Miscellaneous nonmetallic mineral	0.000	0	0.000	0.000	0.000	0.000	0.000
203	Iron and steel mills	1.935	3	0.107	0.053	0.127	0.011	0.299
204	Ferroalloy and related product man	0.000	0	0.000	0.000	0.000	0.000	0.000
205	Iron- steel pipe and tube from purch	0.000	0	0.000	0.000	0.000	0.000	0.000
206	Rolled steel shape manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
207	Steel wire drawing	0.000	0	0.000	0.000	0.000	0.000	0.000
208	Alumina refining	17.059	26	1.337	0.137	0.738	0.215	2.428
209	Primary aluminum production	0.625	1	0.034	0.014	0.017	0.003	0.067
210	Secondary smelting and alloying o	0.000	0	0.000	0.000	0.000	0.000	0.000
211	Aluminum sheet- plate- and foil ma	0.000	0	0.000	0.000	0.000	0.000	0.000
212	Aluminum extruded product manufa	0.000	0	0.000	0.000	0.000	0.000	0.000
213	Other aluminum rolling and drawin	0.000	0	0.000	0.000	0.000	0.000	0.000
214	Primary smelting and refining of co	0.000	0	0.000	0.000	0.000	0.000	0.000
215	Primary nonferrous metal- except c	0.000	0	0.000	0.000	0.000	0.000	0.000
216	Copper rolling- drawing- and extru	0.000	0	0.000	0.000	0.000	0.000	0.000
217	Copper wire- except mechanical- d	0.000	0	0.000	0.000	0.000	0.000	0.000
218	Secondary processing of copper	0.000	0	0.000	0.000	0.000	0.000	0.000
219	Nonferrous metal- except copper a	0.000	0	0.000	0.000	0.000	0.000	0.000
220	Secondary processing of other nonfe	0.000	0	0.000	0.000	0.000	0.000	0.000
221	Ferrous metal foundaries	0.000	0	0.000	0.000	0.000	0.000	0.000
222	Aluminum foundries	0.204	1	0.055	0.018	0.001	0.002	0.076
223	Nonferrous foundries- except alum	0.000	0	0.000	0.000	0.000	0.000	0.000
224	Iron and steel forging	0.000	0	0.000	0.000	0.000	0.000	0.000
225	Nonferrous forging	13.215	55	3.538	0.061	1.780	0.075	5.455
226	Custom roll forming	0.000	0	0.000	0.000	0.000	0.000	0.000
227	All other forging and stamping	13.719	80	3.583	0.063	1.268	0.075	4.990
228	Cutlery and flatware- except precio	0.000	0	0.000	0.000	0.000	0.000	0.000
229	Hand and edge tool manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
230	Saw blade and handsaw manufactur	0.279	2	0.062	0.002	0.035	0.002	0.100
231	Kitchen utensil- pot- and pan manuf	0.000	0	0.000	0.000	0.000	0.000	0.000
232	Prefabricated metal buildings and	0.000	0	0.000	0.000	0.000	0.000	0.000
233	Fabricated structural metal manufac	1.625	8	0.418	0.008	0.210	0.011	0.646
234	Plate work manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
235	Metal window and door manufactur	0.000	0	0.000	0.000	0.000	0.000	0.000
236	Sheet metal work manufacturing	8.201	49	2.156	0.038	1.131	0.046	3.371
237	Ornamental and architectural meta	0.628	4	0.177	0.003	0.077	0.004	0.261
238	Power boiler and heat exchanger ma	0.000	0	0.000	0.000	0.000	0.000	0.000
239	Metal tank- heavy gauge- manufact	0.000	0	0.000	0.000	0.000	0.000	0.000
240	Metal can- box- and other containe	0.000	0	0.000	0.000	0.000	0.000	0.000
241	Hardware manufacturing	42.855	149	12.510	0.241	8.712	0.318	21.780
242	Spring and wire product manufactu	0.000	0	0.000	0.000	0.000	0.000	0.000
243	Machine shops	8.565	73	3.643	0.059	0.229	0.065	3.997
244	Turned product and screw- nut- and	27.734	148	9.099	0.164	4.145	0.175	13.583
245	Metal heat treating	0.000	0	0.000	0.000	0.000	0.000	0.000
246	Metal coating and nonprecious engr	0.932	6	0.237	0.004	0.099	0.005	0.345
247	Electroplating- anodizing- and colo	17.988	119	4.828	0.083	3.273	0.101	8.285
248	Metal valve manufacturing	115.024	397	31.514	0.509	24.494	0.773	57.290
249	Ball and roller bearing manufacturi	0.000	0	0.000	0.000	0.000	0.000	0.000
250	Small arms manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
251	Other ordnance and accessories man	0.000	0	0.000	0.000	0.000	0.000	0.000
252	Fabricated pipe and pipe fitting man	0.000	0	0.000	0.000	0.000	0.000	0.000
253	Industrial pattern manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
254	Enameled iron and metal sanitary	0.000	0	0.000	0.000	0.000	0.000	0.000
255	Miscellaneous fabricated metal pro	33.156	183	9.568	0.162	3.463	0.214	13.407
256	Ammunition manufacturing	1.392	6	0.404	0.013	0.080	0.034	0.531
257	Farm machinery and equipment man	0.000	0	0.000	0.000	0.000	0.000	0.000
258	Lawn and garden equipment manufa	0.000	0	0.000	0.000	0.000	0.000	0.000
259	Construction machinery manufactur	0.000	0	0.000	0.000	0.000	0.000	0.000
260	Mining machinery and equipment m	0.000	0	0.000	0.000	0.000	0.000	0.000
261	Oil and gas field machinery and eq	0.000	0	0.000	0.000	0.000	0.000	0.000
262	Sawmill and woodworking machine	0.000	0	0.000	0.000	0.000	0.000	0.000
263	Plastics and rubber industry machin	0.000	0	0.000	0.000	0.000	0.000	0.000
264	Paper industry machinery manufact	0.000	0	0.000	0.000	0.000	0.000	0.000
265	Textile machinery manufacturing	0.922	7	0.249	0.005	0.041	0.005	0.300
266	Printing machinery and equipment	0.000	0	0.000	0.000	0.000	0.000	0.000
267	Food product machinery manufactu	0.000	0	0.000	0.000	0.000	0.000	0.000
268	Semiconductor machinery manufact	0.000	0	0.000	0.000	0.000	0.000	0.000

Output, Value Added and Employment

February 13, 2007

Base Year: 2004 IBC Irvine Impact.iap

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	Industry	Industry Output*	Employment	Employee Compensation*	Proprietor Income*	Other Property Income*	Indirect Business Tax*	Total Value Added*
269	All other industrial machinery manu	15.814	91	3.875	0.144	0.167	0.035	4.220
270	Office machinery manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
271	Optical instrument and lens manufa	99.965	535	26.923	2.840	3.056	0.422	33.240
272	Photographic and photocopying eq	66.743	152	9.837	0.429	3.899	0.320	14.485
273	Other commercial and service indus	1.924	8	0.432	0.012	0.025	0.007	0.476
274	Automatic vending- commercial lau	0.000	0	0.000	0.000	0.000	0.000	0.000
275	Air purification equipment manufac	0.000	0	0.000	0.000	0.000	0.000	0.000
276	Industrial and commercial fan and	2.310	9	0.855	0.013	0.244	0.019	1.131
277	Heating equipment- except warm air	0.000	0	0.000	0.000	0.000	0.000	0.000
278	AC- refrigeration- and forced air he	0.000	0	0.000	0.000	0.000	0.000	0.000
279	Industrial mold manufacturing	9.049	81	4.055	0.140	0.135	0.052	4.383
280	Metal cutting machine tool manufac	0.000	0	0.000	0.000	0.000	0.000	0.000
281	Metal forming machine tool manufa	0.000	0	0.000	0.000	0.000	0.000	0.000
282	Special tool- die- jig- and fixture m	3.717	32	1.729	0.069	-0.042	0.022	1.777
283	Cutting tool and machine tool acce	20.506	174	6.642	0.349	0.343	0.105	7.438
284	Rolling mill and other metalworkin	0.000	0	0.000	0.000	0.000	0.000	0.000
285	Turbine and turbine generator set u	0.000	0	0.000	0.000	0.000	0.000	0.000
286	Other engine equipment manufactur	0.000	0	0.000	0.000	0.000	0.000	0.000
287	Speed changers and mechanical pow	0.000	0	0.000	0.000	0.000	0.000	0.000
288	Pump and pumping equipment manu	0.000	0	0.000	0.000	0.000	0.000	0.000
289	Air and gas compressor manufactur	0.000	0	0.000	0.000	0.000	0.000	0.000
290	Measuring and dispensing pump ma	0.000	0	0.000	0.000	0.000	0.000	0.000
291	Elevator and moving stairway manu	0.000	0	0.000	0.000	0.000	0.000	0.000
292	Conveyor and conveying equipment	0.000	0	0.000	0.000	0.000	0.000	0.000
293	Overhead cranes- hoists- and monor	0.000	0	0.000	0.000	0.000	0.000	0.000
294	Industrial truck- trailer- and stacke	0.000	0	0.000	0.000	0.000	0.000	0.000
295	Power-driven handtool manufacturi	0.000	0	0.000	0.000	0.000	0.000	0.000
296	Welding and soldering equipment m	23.606	106	5.128	0.205	0.853	0.118	6.304
297	Packaging machinery manufacturin	0.000	0	0.000	0.000	0.000	0.000	0.000
298	Industrial process furnace and ove	0.000	0	0.000	0.000	0.000	0.000	0.000
299	Fluid power cylinder and actuator	16.151	83	4.076	0.118	1.592	0.093	5.878
300	Fluid power pump and motor manuf	0.000	0	0.000	0.000	0.000	0.000	0.000
301	Scales- balances- and miscellaneous	3.539	16	0.950	0.041	0.280	0.023	1.294
302	Electronic computer manufacturing	689.369	629	83.149	1.187	-11.486	5.301	78.151
303	Computer storage device manufactu	556.589	862	91.876	1.785	3.908	3.283	100.852
304	Computer terminal manufacturing	17.053	51	6.817	0.040	-6.080	0.120	0.897
305	Other computer peripheral equipme	612.457	1,624	135.975	0.763	-44.440	3.628	95.926
306	Telephone apparatus manufacturing	58.534	72	7.550	0.072	1.050	0.301	8.973
307	Broadcast and wireless communicat	55.575	124	9.589	0.036	0.465	0.264	10.353
308	Other communications equipment m	24.792	77	6.595	0.036	0.201	0.151	6.983
309	Audio and video equipment manufa	15.821	24	1.832	0.007	0.030	0.096	1.966
310	Electron tube manufacturing	0.588	2	0.203	0.004	-0.036	0.004	0.175
311	Semiconductors and related device	233.579	496	58.533	0.678	13.184	2.129	74.524
312	All other electronic component man	204.573	1,011	50.513	0.407	-0.143	1.029	51.806
313	Electromedical apparatus manufact	222.506	609	49.107	0.351	1.237	1.069	51.764
314	Search- detection- and navigation i	375.982	1,192	139.132	0.714	3.720	2.170	145.735
315	Automatic environmental control m	40.459	161	9.770	0.053	0.537	0.221	10.581
316	Industrial process variable instrume	154.300	676	50.993	0.249	0.527	0.830	52.599
317	Totalizing fluid meters and countin	0.000	0	0.000	0.000	0.000	0.000	0.000
318	Electricity and signal testing instru	59.049	228	18.551	0.322	0.360	0.273	19.507
319	Analytical laboratory instrument m	70.174	219	24.659	0.202	-0.112	0.428	25.177
320	Irradiation apparatus manufacturin	0.000	0	0.000	0.000	0.000	0.000	0.000
321	Watch- clock- and other measuring	0.787	3	0.225	0.001	0.005	0.004	0.235
322	Software reproducing	0.000	0	0.000	0.000	0.000	0.000	0.000
323	Audio and video media reproductio	2.859	13	0.709	0.004	0.067	0.010	0.790
324	Magnetic and optical recording med	11.701	36	1.280	0.031	-0.248	0.028	1.090
325	Electric lamp bulb and part manufa	40.082	190	9.418	0.090	6.315	0.277	16.100
326	Lighting fixture manufacturing	10.456	45	2.854	0.042	1.119	0.098	4.112
327	Electric housewares and household	0.000	0	0.000	0.000	0.000	0.000	0.000
328	Household vacuum cleaner manufac	0.000	0	0.000	0.000	0.000	0.000	0.000
329	Household cooking appliance manuf	0.000	0	0.000	0.000	0.000	0.000	0.000
330	Household refrigerator and home fr	0.234	1	0.015	0.000	0.005	0.001	0.020
331	Household laundry equipment manu	0.000	0	0.000	0.000	0.000	0.000	0.000
332	Other major household appliance m	0.000	0	0.000	0.000	0.000	0.000	0.000
333	Electric power and specialty trans	209.435	886	60.408	0.946	16.996	1.832	80.182
334	Motor and generator manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
335	Switchgear and switchboard appara	32.916	127	8.074	0.118	8.050	0.269	16.511

Output, Value Added and Employment February 13, 2007

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	Industry	Industry Output*	Employment	Employee Compensation*	Proprietor Income*	Other Property Income*	Indirect Business Tax*	Total Value Added*
336	Relay and industrial control manufa	34.836	137	8.314	0.147	0.788	0.269	9.518
337	Storage battery manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
338	Primary battery manufacturing	0.070	0	0.013	0.000	0.024	0.001	0.038
339	Fiber optic cable manufacturing	29.469	81	4.214	0.064	6.131	0.244	10.653
340	Other communication and energy w	0.466	2	0.056	0.001	0.052	0.003	0.112
341	Wiring device manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
342	Carbon and graphite product manuf	23.891	99	6.263	0.120	7.516	0.191	14.090
343	Miscellaneous electrical equipment	16.802	84	5.039	0.055	-0.700	0.131	4.526
344	Automobile and light truck manufac	0.000	0	0.000	0.000	0.000	0.000	0.000
345	Heavy duty truck manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
346	Motor vehicle body manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
347	Truck trailer manufacturing	0.017	0	0.003	0.000	0.000	0.000	0.003
348	Motor home manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
349	Travel trailer and camper manufact	0.000	0	0.000	0.000	0.000	0.000	0.000
350	Motor vehicle parts manufacturing	150.047	482	24.934	0.236	4.480	0.472	30.121
351	Aircraft manufacturing	14.975	35	3.323	0.080	-0.115	0.072	3.359
352	Aircraft engine and engine parts ma	0.000	0	0.000	0.000	0.000	0.000	0.000
353	Other aircraft parts and equipment	0.000	0	0.000	0.000	0.000	0.000	0.000
354	Guided missile and space vehicle m	234.895	708	97.323	3.407	2.565	1.219	104.514
355	Propulsion units and parts for space	0.000	0	0.000	0.000	0.000	0.000	0.000
356	Railroad rolling stock manufacturin	0.000	0	0.000	0.000	0.000	0.000	0.000
357	Ship building and repairing	0.000	0	0.000	0.000	0.000	0.000	0.000
358	Boat building	0.000	0	0.000	0.000	0.000	0.000	0.000
359	Motorcycle- bicycle- and parts man	10.260	23	1.175	0.002	0.187	0.009	1.374
360	Military armored vehicles and tank	0.000	0	0.000	0.000	0.000	0.000	0.000
361	All other transportation equipment	19.720	36	2.751	0.005	3.151	0.106	6.013
362	Wood kitchen cabinet and countert	12.600	71	5.242	0.217	1.206	0.124	6.788
363	Upholstered household furniture ma	12.779	101	3.585	0.160	-0.040	0.036	3.741
364	Nonupholstered wood household fur	0.308	2	0.082	0.004	0.030	0.001	0.117
365	Metal household furniture manufact	84.180	475	19.532	0.843	13.568	0.271	34.213
366	Institutional furniture manufacturin	0.000	0	0.000	0.000	0.000	0.000	0.000
367	Other household and institutional fu	0.000	0	0.000	0.000	0.000	0.000	0.000
368	Wood office furniture manufacturin	0.000	0	0.000	0.000	0.000	0.000	0.000
369	Custom architectural woodwork an	0.000	0	0.000	0.000	0.000	0.000	0.000
370	Office furniture- except wood- man	98.832	476	18.442	1.473	12.685	0.248	32.849
371	Showcases- partitions- shelving- and	14.597	102	4.335	0.172	1.831	0.049	6.386
372	Mattress manufacturing	23.678	92	4.649	0.122	2.607	0.075	7.453
373	Blind and shade manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
374	Laboratory apparatus and furniture	5.758	29	1.318	0.661	-0.110	0.023	1.891
375	Surgical and medical instrument ma	231.439	820	54.996	19.558	42.832	1.055	118.441
376	Surgical appliance and supplies ma	248.864	955	66.188	11.420	42.855	1.183	121.646
377	Dental equipment and supplies man	66.387	294	21.770	3.123	6.338	0.347	31.577
378	Ophthalmic goods manufacturing	26.236	123	7.313	1.331	5.850	0.129	14.623
379	Dental laboratories	13.837	158	7.387	1.060	1.260	0.062	9.769
380	Jewelry and silverware manufacturi	2.649	15	0.576	0.092	0.055	0.012	0.734
381	Sporting and athletic goods manufa	52.737	282	12.903	2.395	0.636	0.635	16.569
382	Doll- toy- and game manufacturing	1.322	6	0.254	0.053	0.150	0.009	0.466
383	Office supplies- except paper- manu	2.916	20	0.794	0.102	0.435	0.018	1.349
384	Sign manufacturing	3.796	37	1.698	0.285	0.110	0.023	2.117
385	Gasket- packing- and sealing devic	0.870	6	0.297	0.048	0.017	0.003	0.365
386	Musical instrument manufacturing	3.179	26	1.316	0.327	-0.213	0.025	1.454
387	Broom- brush- and mop manufactur	4.077	23	1.216	0.198	0.404	0.027	1.844
388	Burial casket manufacturing	0.000	0	0.000	0.000	0.000	0.000	0.000
389	Buttons- pins- and all other miscel	25.562	203	9.453	1.643	0.145	0.167	11.409
390	Wholesale trade	3,971.613	19,920	1,379.071	113.567	607.734	614.472	2,714.844
391	Air transportation	94.599	478	19.882	3.872	6.808	3.307	33.869
392	Rail transportation	8.523	34	2.853	0.000	2.119	0.167	5.138
393	Water transportation	25.993	51	2.705	0.705	2.712	0.491	6.612
394	Truck transportation	32.163	269	7.472	3.801	3.331	0.345	14.948
395	Transit and ground passenger transp	61.505	1,197	25.387	1.146	9.756	1.490	37.778
396	Pipeline transportation	0.000	0	0.000	0.000	0.000	0.000	0.000
397	Scenic and sightseeing transportati	4.197	33	1.438	1.666	0.070	0.552	3.725
398	Postal service	49.433	723	38.400	0.000	2.104	0.000	40.504
399	Couriers and messengers	90.288	1,115	41.445	0.467	15.110	1.573	58.595
400	Warehousing and storage	0.878	10	0.568	0.005	0.059	0.005	0.638
401	Motor vehicle and parts dealers	265.390	2,115	109.573	14.802	10.449	39.835	174.659
402	Furniture and home furnishings stor	54.628	514	17.908	2.166	6.432	8.103	34.610

Output, Value Added and Employment

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	Industry	Industry Output*	Employment	Employee Compensation*	Proprietor Income*	Other Property Income*	Indirect Business Tax*	Total Value Added*
403	Electronics and appliance stores	111.799	1,049	63.129	3.093	2.323	16.690	85.235
404	Building material and garden supply	38.039	387	13.911	0.918	3.303	5.675	23.807
405	Food and beverage stores	86.855	1,163	34.408	5.228	6.406	10.361	56.404
406	Health and personal care stores	50.316	637	22.613	1.555	1.035	7.707	32.910
407	Gasoline stations	33.959	204	4.635	5.967	6.639	4.931	22.171
408	Clothing and clothing accessories st	81.600	898	23.387	2.685	14.100	11.955	52.127
409	Sporting goods- hobby- book and mu	26.763	537	9.879	1.555	1.667	3.976	17.076
410	General merchandise stores	77.186	1,327	31.697	1.152	2.603	11.467	46.919
411	Miscellaneous store retailers	52.897	1,017	21.319	5.353	5.324	7.695	39.691
412	Nonstore retailers	142.520	2,239	22.693	7.528	52.586	16.106	98.913
413	Newpaper publishers	11.499	86	4.729	0.559	1.093	0.097	6.478
414	Periodical publishers	141.168	613	39.442	2.379	13.150	0.960	55.931
415	Book publishers	101.428	351	22.282	2.738	10.386	0.779	36.184
416	Database- directory- and other publi	43.042	117	8.442	0.868	11.228	0.367	20.904
417	Software publishers	817.201	1,759	229.918	45.294	167.620	8.247	451.080
418	Motion picture and video industries	48.683	358	9.422	0.477	2.020	0.370	12.289
419	Sound recording industries	2.073	4	0.327	0.015	1.102	0.008	1.452
420	Radio and television broadcasting	9.655	48	3.705	0.283	0.333	0.050	4.372
421	Cable networks and program distrib	43.389	40	2.767	0.155	14.861	0.938	18.720
422	Telecommunications	1,652.373	4,346	300.886	37.639	392.458	120.584	851.567
423	Information services	178.246	568	48.280	7.135	18.888	1.856	76.160
424	Data processing services	151.758	732	49.696	6.620	17.122	1.017	74.455
425	Nondepository credit intermediation	2,521.313	12,546	1,016.436	61.581	510.851	122.854	1,711.721
426	Securities- commodity contracts- in	961.922	8,365	340.574	183.244	-42.439	13.160	494.539
427	Insurance carriers	2,031.184	7,550	593.295	55.877	162.997	108.746	920.915
428	Insurance agencies- brokerages- and	436.517	3,233	173.582	14.103	142.742	2.348	332.775
429	Funds- trusts- and other financial ve	135.275	419	13.061	20.894	1.065	1.423	36.442
430	Monetary authorities and depository	657.837	2,536	147.736	10.908	335.512	8.730	502.887
431	Real estate	5,451.829	25,826	428.346	516.716	2,235.000	636.203	3,816.265
432	Automotive equipment rental and le	19.743	104	2.253	2.966	3.590	0.508	9.317
433	Video tape and disc rental	5.083	87	0.788	0.932	0.399	0.204	2.322
434	Machinery and equipment rental and	192.667	505	19.666	24.496	50.272	3.362	97.796
435	General and consumer goods rental	61.631	824	18.055	21.106	-2.865	0.775	37.071
436	Lessors of nonfinancial intangible as	299.901	102	9.244	15.900	191.753	20.320	237.216
437	Legal services	805.334	5,779	347.579	80.139	107.523	18.249	553.490
438	Accounting and bookkeeping servic	164.960	1,777	70.809	16.093	8.480	0.816	96.197
439	Architectural and engineering servic	1,170.713	9,757	536.829	137.676	31.751	6.134	712.390
440	Specialized design services	68.515	517	20.398	4.846	15.794	0.938	41.976
441	Custom computer programming serv	756.768	9,692	578.513	197.457	-199.198	4.861	581.633
442	Computer systems design services	176.724	2,165	135.534	48.862	-47.042	4.721	142.075
443	Other computer related services- inc	135.526	828	37.447	10.601	67.096	1.528	116.672
444	Management consulting services	630.518	5,520	262.339	62.979	35.616	2.823	363.756
445	Environmental and other technical c	223.384	1,427	70.376	17.812	33.737	0.844	122.769
446	Scientific research and development	270.147	2,284	136.408	44.468	-13.919	1.407	168.363
447	Advertising and related services	374.670	3,494	119.001	25.797	26.675	2.871	174.343
448	Photographic services	8.602	126	2.140	0.448	2.260	0.283	5.131
449	Veterinary services	49.363	736	18.299	3.969	-0.329	1.286	23.225
450	All other miscellaneous professional	215.156	416	15.338	3.785	73.049	1.998	94.170
451	Management of companies and enter	1,201.834	7,058	527.638	12.487	185.960	11.382	737.467
452	Office administrative services	335.571	2,026	89.903	21.527	76.863	3.273	191.567
453	Facilities support services	2.452	35	1.175	0.343	0.227	0.008	1.754
454	Employment services	535.534	18,613	373.003	94.496	-9.586	2.687	460.600
455	Business support services	110.969	1,375	45.047	10.906	13.509	2.687	72.148
456	Travel arrangement and reservation	35.547	314	8.025	2.084	4.407	0.586	15.103
457	Investigation and security services	100.007	2,417	53.168	13.154	6.104	1.759	74.184
458	Services to buildings and dwellings	204.238	4,024	69.582	15.828	17.529	3.820	106.760
459	Other support services	33.950	298	8.218	1.818	8.353	0.442	18.831
460	Waste management and remediation	45.709	263	14.100	0.114	7.791	1.889	23.894
461	Elementary and secondary schools	10.657	329	7.182	0.309	-1.298	0.000	6.193
462	Colleges- universities- and junior co	52.181	898	26.976	1.943	-0.042	0.000	28.878
463	Other educational services	114.169	2,007	46.851	1.745	22.881	3.843	75.319
464	Home health care services	7.645	107	3.684	1.095	0.668	0.033	5.480
465	Offices of physicians- dentists- and	278.651	2,724	131.110	39.616	28.835	1.783	201.344
466	Other ambulatory health care servic	117.804	750	35.930	10.598	17.707	0.967	65.202
467	Hospitals	101.166	921	49.895	0.908	4.294	0.731	55.827
468	Nursing and residential care faciliti	38.462	817	22.585	1.887	-0.777	0.608	24.303
469	Child day care services	37.372	869	13.445	0.982	10.755	0.288	25.470

Output, Value Added and Employment February 13, 2007

Base Year: 2004 IBC Irvine Impact.iap

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	Industry	Industry Output*	Employment	Employee Compensation*	Proprietor Income*	Other Property Income*	Indirect Business Tax*	Total Value Added*
470	Social assistance- except child day c	11.347	322	6.555	0.442	-0.588	0.049	6.458
471	Performing arts companies	2.288	122	0.722	0.247	-0.129	0.075	0.915
472	Spectator sports	15.448	300	7.308	2.835	-0.572	1.457	11.028
473	Independent artists- writers- and pe	56.159	801	11.286	7.161	3.341	0.490	22.278
474	Promoters of performing arts and sp	10.936	367	2.828	1.094	3.920	0.500	8.342
475	Museums- historical sites- zoos- an	1.439	16	0.502	0.744	-0.464	0.028	0.811
476	Fitness and recreational sports cente	26.782	645	14.528	1.268	-1.265	1.896	16.427
477	Bowling centers	2.977	49	0.919	0.087	0.493	0.298	1.797
478	Other amusement- gambling- and rec	121.812	1,523	37.970	3.515	27.378	10.008	78.871
479	Hotels and motels- including casino	96.135	1,078	32.624	2.397	19.171	9.583	63.775
480	Other accommodations	0.442	5	0.103	0.004	0.077	0.017	0.201
481	Food services and drinking places	564.887	10,960	189.184	12.965	53.605	31.995	287.749
482	Car washes	15.691	325	3.813	1.363	3.451	0.979	9.605
483	Automotive repair and maintenance-	121.686	1,308	35.803	12.720	10.534	10.657	69.714
484	Electronic equipment repair and ma	162.996	1,002	37.297	15.171	40.254	5.965	98.687
485	Commercial machinery repair and	17.461	111	4.225	1.513	4.501	0.631	10.869
486	Household goods repair and mainte	18.489	94	2.076	0.823	7.505	0.699	11.102
487	Personal care services	33.237	723	8.890	3.450	6.863	1.270	20.473
488	Death care services	1.297	17	0.488	0.181	0.055	0.106	0.830
489	Drycleaning and laundry services	17.282	393	6.655	2.545	1.065	1.145	11.411
490	Other personal services	132.266	677	13.561	5.884	35.796	6.463	61.704
491	Religious organizations	58.001	467	11.885	0.122	18.955	0.000	30.962
492	Grantmaking and giving and social	36.227	945	34.176	0.331	-21.816	0.082	12.773
493	Civic- social- professional and simi	28.458	906	33.673	0.342	-23.349	0.158	10.823
494	Private households	33.912	4,057	33.912	0.000	0.000	0.000	33.912
495	Federal electric utilities	0.000	0	0.000	0.000	0.000	0.000	0.000
496	Other Federal Government enterpris	0.228	6	0.287	0.000	-0.105	0.000	0.182
497	State and local government passenge	37.861	594	45.315	0.000	-40.756	0.000	4.560
498	State and local government electric u	12.654	24	2.859	0.000	5.989	0.047	8.895
499	Other State and local government en	120.430	458	39.774	0.000	25.176	0.029	64.979
500	Noncomparable imports	0.000	0	0.000	0.000	0.000	0.000	0.000
501	Scrap	0.000	0	0.000	0.000	0.000	0.000	0.000
502	Used and secondhand goods	0.000	0	0.000	0.000	0.000	0.000	0.000
503	State & Local Education	355.627	7,256	292.938	0.000	62.689	0.000	355.627
504	State & Local Non-Education	393.757	4,556	370.302	0.000	23.455	0.000	393.757
505	Federal Military	28.895	584	26.097	0.000	2.798	0.000	28.895
506	Federal Non-Military	69.801	424	61.922	0.000	7.879	0.000	69.801
507	Rest of the world adjustment to fina	0.000	0	0.000	0.000	0.000	0.000	0.000
508	Inventory valuation adjustment	-1.323	0	0.000	0.000	-1.323	0.000	-1.323
509	Owner-occupied dwellings	616.136	0	0.000	0.000	434.566	70.993	505.559
	Totals	45,061.643	279,892	13,206.904	2,626.965	7,282.962	2,187.262	25,304.093

*Millions of dollars

Group Impact Description

February 14, 2007

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Base Year: IBC Irvine Impact.iap

GroupName:Group Level: **Manufacturing 1.000**

Name	Sector	Basis	Event Value	Employment	LPC	Year	Def.	Level	Margins (if used) Sector	Value	LPC	Def.
oil	27	Ind	-7.000000	0.0	1.0000	2004	1.0000	1.000				
power generating	30	Ind	-62.700001	0.0	1.0000	2004	1.0000	1.000				
manufacturing and industrial buildings	37	Ind	-6.470000	0.0	1.0000	2004	1.0000	1.000				
commercial and institutional buildings	38	Ind	-64.279999	0.0	1.0000	2004	1.0000	1.000				
maintenance and repair	43	Ind	-26.190001	0.0	1.0000	2004	1.0000	1.000				
friut and veg	61	Ind	-5.707000	0.0	1.0000	2004	1.0000	1.000				
ice cream	66	Ind	-6.215600	0.0	1.0000	2004	1.0000	1.000				
mixes and dough	75	Ind	-45.799999	0.0	1.0000	2004	1.0000	1.000				
coffee and tea	80	Ind	-1.380000	0.0	1.0000	2004	1.0000	1.000				
mayo	82	Ind	-2.800000	0.0	1.0000	2004	1.0000	1.000				
all other food	84	Ind	-3.300000	0.0	1.0000	2004	1.0000	1.000				
soft drink	85	Ind	-7.260000	0.0	1.0000	2004	1.0000	1.000				
breweries	86	Ind	-1.096000	0.0	1.0000	2004	1.0000	1.000				
carpet	99	Ind	-66.860001	0.0	1.0000	2004	1.0000	1.000				
curtain	100	Ind	-1.307000	0.0	1.0000	2004	1.0000	1.000				
other textile	103	Ind	-3.910000	0.0	1.0000	2004	1.0000	1.000				
cut and sew	107	Ind	-64.489998	0.0	1.0000	2004	1.0000	1.000				
accessories	108	Ind	-4.405000	0.0	1.0000	2004	1.0000	1.000				
wood windows	117	Ind	-3.068000	0.0	1.0000	2004	1.0000	1.000				
other mill	119	Ind	-1.170000	0.0	1.0000	2004	1.0000	1.000				
paperboard	126	Ind	-11.255000	0.0	1.0000	2004	1.0000	1.000				
coated paper	129	Ind	-4.149000	0.0	1.0000	2004	1.0000	1.000				
commercail printing	139	Ind	-22.760000	0.0	1.0000	2004	1.0000	1.000				
prepress services	141	Ind	-1.376000	0.0	1.0000	2004	1.0000	1.000				
petrochemical	147	Ind	-5.837000	0.0	1.0000	2004	1.0000	1.000				
pharmaceutical	160	Ind	-366.414001	0.0	1.0000	2004	1.0000	1.000				
paint	161	Ind	-13.420000	0.0	1.0000	2004	1.0000	1.000				
adhesive	162	Ind	-4.117000	0.0	1.0000	2004	1.0000	1.000				
polish	164	Ind	-1.080000	0.0	1.0000	2004	1.0000	1.000				
toilet prep	166	Ind	-2.130000	0.0	1.0000	2004	1.0000	1.000				
other chem	171	Ind	-11.130000	0.0	1.0000	2004	1.0000	1.000				
plastics	177	Ind	-6.810000	0.0	1.0000	2004	1.0000	1.000				
foam	178	Ind	-17.850000	0.0	1.0000	2004	1.0000	1.000				
other rubber	181	Ind	-3.310000	0.0	1.0000	2004	1.0000	1.000				
ready mix concrete	192	Ind	-5.380000	0.0	1.0000	2004	1.0000	1.000				
alumina	208	Ind	-2.699000	0.0	1.0000	2004	1.0000	1.000				
all other forging	227	Ind	-3.659000	0.0	1.0000	2004	1.0000	1.000				
sheet metal	236	Ind	-2.187000	0.0	1.0000	2004	1.0000	1.000				
machine shops	243	Ind	-1.619000	0.0	1.0000	2004	1.0000	1.000				
turned product	244	Ind	-7.300000	0.0	1.0000	2004	1.0000	1.000				
electroplating	247	Ind	-4.716800	0.0	1.0000	2004	1.0000	1.000				
metal valve	248	Ind	-30.680000	0.0	1.0000	2004	1.0000	1.000				
miscellaneous	255	Ind	-8.840000	0.0	1.0000	2004	1.0000	1.000				
all other	269	Ind	-4.218000	0.0	1.0000	2004	1.0000	1.000				
optical equip	271	Ind	-25.639999	0.0	1.0000	2004	1.0000	1.000				
photgraphic	272	Ind	-17.549999	0.0	1.0000	2004	1.0000	1.000				
cutting tool	283	Ind	-4.972000	0.0	1.0000	2004	1.0000	1.000				
welding	296	Ind	-6.094000	0.0	1.0000	2004	1.0000	1.000				
electronic computer	302	Ind	-163.800003	0.0	1.0000	2004	1.0000	1.000				
computer storage	303	Ind	-133.600006	0.0	1.0000	2004	1.0000	1.000				
other computer	305	Ind	-59.939999	0.0	1.0000	2004	1.0000	1.000				
braodcast	307	Ind	-7.410000	0.0	1.0000	2004	1.0000	1.000				
other communications	308	Ind	-2.200000	0.0	1.0000	2004	1.0000	1.000				
audio	309	Ind	-4.220000	0.0	1.0000	2004	1.0000	1.000				
all other electronic	312	Ind	-33.889999	0.0	1.0000	2004	1.0000	1.000				
electro medical	313	Ind	-10.490000	0.0	1.0000	2004	1.0000	1.000				
search	314	Ind	-99.685997	0.0	1.0000	2004	1.0000	1.000				
automatic	315	Ind	-5.396000	0.0	1.0000	2004	1.0000	1.000				
industrial process	316	Ind	-39.099998	0.0	1.0000	2004	1.0000	1.000				
electricity	318	Ind	-15.218600	0.0	1.0000	2004	1.0000	1.000				
analytical	319	Ind	-2.047000	0.0	1.0000	2004	1.0000	1.000				
magnetic and optical	324	Ind	-3.120000	0.0	1.0000	2004	1.0000	1.000				
light fixture	326	Ind	-2.728000	0.0	1.0000	2004	1.0000	1.000				
electric power	333	Ind	-55.866001	0.0	1.0000	2004	1.0000	1.000				
switchgear	335	Ind	-8.780000	0.0	1.0000	2004	1.0000	1.000				

Group Impact Description

February 14, 2007

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Base Year: IBC Irvine Impact.iap

GroupName:Group Level: **Manufacturing 1.000**

relay	336	Ind	-1.530000	0.0	1.0000	2004	1.0000	1.000
fiber optic	339	Ind	-7.860000	0.0	1.0000	2004	1.0000	1.000
carbon	342	Ind	-6.373000	0.0	1.0000	2004	1.0000	1.000
misc	343	Ind	-2.520000	0.0	1.0000	2004	1.0000	1.000
motor vehicle	350	Ind	-10.490000	0.0	1.0000	2004	1.0000	1.000
guided missile	354	Ind	-37.169998	0.0	1.0000	2004	1.0000	1.000
motorcyle	359	Ind	-2.736900	0.0	1.0000	2004	1.0000	1.000
kitchen cab	362	Ind	-2.950000	0.0	1.0000	2004	1.0000	1.000
office furniture	370	Ind	-16.899000	0.0	1.0000	2004	1.0000	1.000
mattress	372	Ind	-6.316000	0.0	1.0000	2004	1.0000	1.000
lab apparatus	374	Ind	-1.023000	0.0	1.0000	2004	1.0000	1.000
surgical	375	Ind	-32.979900	0.0	1.0000	2004	1.0000	1.000
surgical	376	Ind	-58.747002	0.0	1.0000	2004	1.0000	1.000
dental	377	Ind	-17.708599	0.0	1.0000	2004	1.0000	1.000
sproting	318	Ind	-13.370000	0.0	1.0000	2004	1.0000	1.000
buttons	389	Ind	-2.190000	0.0	1.0000	2004	1.0000	1.000

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International Economics and International Economic Policy, 4th Edition, McGraw-Hill, 2004.

International Economics and International Economic Policy, 3rd Edition, McGraw-Hill, 2000.

International Economics and International Economic Policy, 2nd Edition, McGraw-Hill, 1995.

International Economics and International Economic Policy, 1st Edition, McGraw-Hill, 1990.

Policy Papers prepared for Government and Non-Profit Organizations:

Economic Analysis of a Proposed Hanford Station Planned Commercial Development Project in Hanford, California, May 2004.

Economic Analysis of a Proposed Wal-Mart in Yuba City, California, April 2004.

Economic Analysis of a Proposed Wal-Mart in Redding, California, 2003.

"The (Economic) Benefits of California's Beaches," prepared for the California State Resources Agency, 2002, http://dbw.ca.gov/beachreport.htm.

"The Economic and Fiscal Impact of Beach Recreation in San Clemente," presented as part of Hearings on Congressional Appropriations for California Coastal Projects, US House of Representatives, April 2002. Also completed similar projects for Cities of Carpinteria, Encinitas, and Solana Beach.

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2001, available at http://online.sfsu.edu/~pgking/newpage22.htm. This report was widely cited in the San Francisco press including front page articles by the *Chronicle* and *Examiner*.

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"Adverse Selection and Competitive Health Care," presented at the *American Economic Association* Meetings, New Orleans, December 1986.

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ALLERGAN

2525 Dupont Drive, P.O. Box 19534, Irvine, California, USA 92623-9534 Telephone: (714) 246-4500 Website: www.allergan.com



September 1, 2006

Stuart Michener
Sr. Project Manager
The Planning Center
1580 Metro Drive
Costa Mesa, CA 92626

Re: Industrial Adjacency Assessment for Martin Street Condominiums (*2301 Main Street*)

Dear Mr. Michener:

On behalf of Allergan, Inc. I would like to thank The Planning Center for contacting us about the opportunity to be involved in the above referenced process. This issue is very important to us. It has the potential for very significant impact on our ability to continue to do business here in the Irvine Business Complex. We would be pleased to assist in any way we can to assure the completion of a thorough, complete, and accurate Industrial Adjacency Assessment for the above proposed residential project.

As discussed on the telephone, however, it is difficult to determine how Allergan can best assist the City in this process. We must understand the elements of the assessment, the standards to be applied to those elements, the types of conclusions that will be drawn from assessment, and who will carry the burden of the assessment. As such, I will need to have the project clearly defined and some questions answered before us here at Allergan can proceed with assisting you.

1. ***What Standards Do You Propose to Apply for Determining the Appropriateness Of Allowing Residential Development Next to Allergan Contrary to Existing Zoning and Historic Use and Who Carries the Burden in the Assessment?***

We must confess to some very significant concern on the issue of the standard being applied and who has the burden to convince the City of what is appropriate or inappropriate. While the Council has repeatedly said it would make preservation of existing businesses within the IBC a key priority in the proposed draft Vision Plan, we see the actions of the City as being directly contrary to that goal. The IAA conducted with respect to the 2323 Main Project repeatedly stated that it was analyzing whether there would be potential adverse effects of

Zoning Ordinance process. We are not familiar with any environmental analysis that has been carried out with respect to this new process and would like to review any that has been performed. There may be some good alternatives, recommendations or considerations in such analysis that have not already been considered in this specific process for the Martin Street Condominiums.

Please, therefore, provide us with a complete statement of the environmental analysis conducted to date and the source documents regarding the same.[1]

4. ***What Plan Has Been Instituted to Protect Businesses Such as Allergan From the Economic Cost of Repeated Assessments and From Disclosure of its Confidential Materials?***

We must share two further concerns. First, we are concerned Allergan will be faced with multiple neighbors who wish to jump on the residential development bandwagon, and thus, Allergan will be compelled to repeatedly engage in this Industrial Adjacency Assessment. Since this project presents the first opportunity for Allergan to engage in the process, we ask that procedures be established that allow for this assessment to establish a presumed buffer protecting Allergan from further assessments absent some material showing of different circumstances. At this time we suggest to you an appropriate buffer must be at least eight hundred feet and preferably one thousand feet, both measured from our property line.

Secondly, we must ask that procedures be instituted that will provide Allergan with the necessary assurances its confidential information will not become open to the public. While we wish to be a good neighbor, we do not want our confidential industrial and business materials to be open for inspection by anyone and everyone. Thus, we must have a procedure in place that will protect that information before we can disclose all of the information regarding issues that relate to this proposed assessment.

5. ***What is Your Anticipated Procedure From This Point Forward?***

Finally we address the issue of the procedural structure for proceeding. Once you have answered the above questions and provided adequate assurances on the above issues, we hope the process will proceed as follows:

---

[1] At this point we feel it is incumbent upon us to inform you that we here at Allergan, and our representatives, object to the use of the processes and standards in the Draft Vision Plan/Overlay Ordinance since the City is proceeding without necessary environmental review in a manner inconsistent with its General Plan and Zoning Ordinance. We believe, and once again ask, the City must stop processing residential development in the IBC pending completion of comprehensive environmental review and adoption of regulations allowing for such development in an environmentally sensitive and business friendly manner.

THE PLANNING CENTER

Governmental Services
Planning & Urban Design
Environmental Studies
Landscape Architecture

1580 Metro Drive
Costa Mesa, CA 92626
Phone: 714.966.9220
Fax: 714.966.9221
Email:costamesa@planningcenter.com

September 27, 2006

Mr. Ray Diradoorian
Executive Vice President of Global Technical Operations
Allergan, Inc.
2525 Dupont Drive
P.O. Box 19534
Irvine, CA 92623-9534

Subject: Industrial Adjacency Assessment, Martin Street Residential Project

Dear Mr. Diradoorian:

Thank you for taking the time to discuss the above-referenced Industrial Adjacency Assessment (IAA) and for presenting your concerns via letter dated September 1, 2006. Because many of your stated concerns go to the heart of the IAA process, as currently defined in the City's Draft Overlay Zoning Code, I have forwarded your letter to the City of Irvine's Community Development Department for their review and consideration. Thank you again for your time and input.

Sincerely,

THE PLANNING CENTER

Stuart Michener
Senior Project Manager

cc: Tim Gehrich, Principal Planner, City of Irvine
Hernan DeSantos, Associate Planner, City of Irvine

SHAW Properties

ASSET MANAGEMENT / BUILDING SERVICES

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COMMUNITY DEVELOPMENT DEPT.

April 2, 2002

Mr. Steve Weiss, AICP
Manager, Urban Planning Services
City of Irvine
One Civic Plaza
Irvine, CA 92623-9575

Re: Essex Portfolio LP Zone Change Application

Dear Mr. Weiss:

Shaw Properties through its investment company owns an industrial building at 17275 Derian Avenue, Irvine. We also own and manage other industrial buildings throughout the City of Irvine. Shaw Properties has been developing industrial buildings in Southern California for over 50 years. We are strongly opposed to the City of Irvine permitting a zone change at 2552 Kelvin Avenue to allow for the development of a 138-unit apartment complex.

One of the benefits of owning industrial property within the City of Irvine is that in addition to Zoning there are Conditions, Covenants and Restrictions that further protect industrial property owners and their tenants. Unlike many cities these governing guidelines eliminate spot zoning which is exactly what is occurring in this instance.

Whenever Shaw Properties acquires an industrial site in other cities adjacent to residential communities the development conditions imposed are more stringent than conditions imposed where no residential property abuts. Conditions such as increasing building set backs from residential property lines, restrictions controlling outside yard activity and limiting hours of truck operation are all very common. These additional restrictions are designed to protect homeowners from operating disturbances that generally come from industrial operations. I find it hard to believe that the development of multi family housing in this location won't be an invitation in the future for complaints from the residents about surrounding industrial operations. This would lead to negative impact on the value of surrounding property and the imposition of operating restrictions on tenants and owner operators.

The mixture of industrial and multi family residential property is not compatible. We would hope you would disapprove the zone change under consideration.

Very truly yours,

Charles E. Crookall
Partner

160 Newport Center Drive, Suite 250 • Newport Beach, California 92660
Telephone 949/640-4800 • FAX 949/759-5619 • www.shawproperties.com

C-04-001294

ST. JOHN

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COMMUNITY DEVELOPMENT DEPT.

April 1, 2002

Mr. Steve Weiss, AICP
Manager, Urban Planning Services
City of Irvine
One Civic Plaza
Irvine, CA 92623-9575

Re: Essex Portfolio Application

Dear Mr. Weiss & Planning Commisioners,

The proposed idea of increasing residential apartments on the property of Kelvin Avenue has brought the following concerns to my attention:

The parking has already been an issue with St. John and we have had to put chains up after hours to keep apartment tenants from parking on our property ensuring our employees have a place to park upon arrival to work. If the proposed plan goes into affect we would have to increase our manpower just to insure that the parking lot will remain clear for our employees. This would have to be at our expense and would add to an existing and extreme burden.

Sincerely,

Sue Novak
Vice President – Loss Prevention

C-04-001295

17421 Derian Avenue • Irvine, CA 92614 • Tel. (949) 251-4008 • Fax (949) 251-4021

ST. JOHN

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JUN 4 2002
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COMMUNITY DEVELOPMENT DEPT.

May 30, 2002

Mr. Jay Greenwood
Project Manager, Essex Property Trust
1700 16th Street – Third Floor
Newport Beach, CA 92663

Ref: Essex Apartments proposal
Subject: Offer to work together

Mr. Greenwood,

I am the Vice President of Real Estate for St. John Knits, and have been involved in the review of your proposed Essex Apartments project here on Derian Street in Irvine. As you know, we have serious concerns with the proposal for residential units next to our 24-hour business operations because it is incompatible for numerous reasons (as stated in the Planning Commission's resolution of denial of residential and their Findings the last time it was before the City in September, 1995).

We believe that the 1995 denial can be interpreted to have initiated the provisions of Zoning footnote "N", which basically says that if residential is denied then the area can resort to "multi–use" zoning. Therefore, we believe that there are numerous permitted and conditionally permitted uses other than residential that are at your disposal, and we would like to work with you to develop a plan that is compatible with the surrounding businesses. Note that we are looking for reasonable solutions, acceptable to both of us, that would not reduce the value of your property.

We realize that in the short term, residential may seem to be the most valuable use. However, historically, industrial and office have carried a higher value on the land, and we believe that this may again be the case after the current frenzy for residential dies down.

Thus, we are to get together and identify a non-residential land use that is a higher and better use for your property, as well as a process whereby we would be willing to join with you and support your application to the City.

Please feel free to contact me at 949-251-4010 or my consultant (Rich Salter) at 949-551-9543.

Sincerely,

Dan DeMille

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March 29, 2002

Mr. Steve Weiss, AICP
Manger, Urban Planning Services
City of Irvine
One Civic Plaza
Irvine, CA 92623-9575

Re: Essex Portfolio Application

Dear Mr. Weiss & Planning Commissioners,

I send this letter on behalf of St. John Knits and some of the surrounding property owners that will be affected by the zone change you are reviewing along Kelvin Avenue.

We are disturbed that the City has not followed through and re-zoned this property back to its original intended use of light industrial. We as property owners and users strongly disagree with the proposal before you and feel further residential uses are very incompatible with industrial manufacturing. I will be at the meeting on April 4th to expand on the following issues:

- Several years ago we showed up at the Planning Commission as a group to oppose a plan on this same property. The Planning commission turned down the proposal for several reasons and stated they would ask the City Council to consider a re-zone of the property back to Industrial uses with it's next General Plan Amendment process. Please see attached letter from myself to the council dated October 13, 2000 (Tab 1) and Mr. Mike Derderian's letter to Mr. Sammy Rake, Senior Planner for the City (Tab 2). Also, I have attached a response from the then Mayor Christina Shea, dated November 3, 2000 (Tab 3). In Mayor Shea's letter she does say "the City has the right to deny or modify the project to avoid conflict with surrounding land use." I believe the City will find conflicts exist with the current Charter Apartments and will be additionally exasperated with additional residential uses.
- As you may be aware, there was a substantial toxic spill on the adjacent Great Lakes property. Great Lakes actually purchased the property you are reviewing for zone change as they felt a potential liability of having residential use next to this clean-up site. The property has since been sold, but the problems persist. I reference Sheri Vander Dusseu's (Director of Community Development) concerns as stated in her attached letter of May 17, 2001 (Tab 4). This is not a clean site environmentally. I have also enclosed Mr. Derderian's letter of May 20, 2001 (Tab 5) on these same environmental issues.
- Sewer capacity on Derian Avenue. We were notified in February of 2001 that the sewer capacity in and around our building on Derian had a very severe capacity problem. Orange County Sanitation was sent out and we were told to contact the

C-04-001297

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City of Irvine and ask the City to initiate a fix. Apparently, it is a well known fact that the capacity problem is there and that a fix is needed. The City of Irvine, Orange County Sanitation and the Irvine Ranch Water District all are aware and have some responsibility. Please see my attached letter dated April 5, 2001 (Tab 6) sent to all parties and guess what? I received no calls back in response to these very serious concerns.

Please realize that there are no parks, convenience stores, sidewalks, hospitals, doctors, dentists, etc. nearby to support residential uses. Please also understand that manufacturing can happen 24 hours a day with noise, trucks and smells that accompany these uses. We strongly recommend the City look at our concerns, realize the incompatibility and deny this project and initiate a re-zone to a compatible safe use.

Sincerely,

Dan DeMille
Vice President of Real Estate

DD/dmm

Cc: Bob Gray
Mike Derderian
Ruben Sanchez

ST. JOHN

1

October 13, 2000

City Council City of Irvine
One Civic Center Plaza
Irvine, CA 92606-5208

Honorable City Council Members,

I write this letter as a follow up to a zoning concern that our company, St. John Knits and other property owners in the area brought to the attention of the City of Irvine four or five years ago.

The property of concern is an empty 3 acre (plus or minus) lot next to the Charter Apartments on Kelvin Avenue that also neighbors an office complex that was built 10 or 12 years ago but has remained empty as there was toxic or chemical waste on the site which required clean up and remediation for safe occupancy.

As property owners, we presented a case before the Planning Commission (chaired then by Commissioner Dave Christenson) and presented a strong case for denying a condo project on the site as well as a strong case for why residential is not a good mix with industrial uses. At the conclusion of our efforts, the Planning Commission turned down the applicant's request and stated that they would in addition send a note to the City Council to encourage a rezone of the property back to industrial use only.

The property has changed hands a couple of times and with apartments becoming economically more feasible we are worried that a project will again be coming before the City Council requesting residential use in an area that is not safe or compatible with manufacturing and industrial neighbors. The Planning Commission as a whole did at the time suggest that the experiment of introducing small pockets of residential in manufacturing zoned areas was not successful. I would request that the Council initiate whatever it takes to insure that non-compatible residential uses will not be put on this property. I would also ask that we be notified and be given a voice in any decisions that come before the Council on this property.

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I can be reached at (949) 251-4010 and would appreciate any input as to what we can do to get the ball rolling.

Sincerely,

Dan DeMille
Vice President of Real Estate
St. John Knits

DD/dmm

Cc: Mike Derderian - Royalty Carpets
Bob Gray - C.E.O. St. John Knits
Brent Cooper - Planner – City of Irvine

ROYALTY

VIA FACSIMILE 949.724.6420
CERTIFIED MAIL w/ Return Receipt

November 6, 2000

Mr. Sammy Rake, Senior Planner
City of Irvine
Department of Community Development
P.O. Box 19575
Irvine, CA 92623-9575

Re: Project No: 47198-CPU Location: 2552 Kelvin Avenue

Dear Mr. Rake:

Several years ago representatives of Royalty Carpet Mills, Inc., met with members of the Irvine City Council to strenuously oppose the construction of additional residential rental units in this Industrial Complex. The council agreed to the position that was advocated by Royalty's representatives. It appears that this ill-advised plan has resurfaced. This letter is intended to convey Royalty's continuing opposition to the ill-conceived proposal presently before the Irvine City Council.

Presently, the vehicular traffic on Kelvin and Derian Avenues is intolerable. To even remotely consider the addition of 138 residential units will make conducting business in this area a serious problem. At minimum, 276 more vehicles will be added daily to the already congested streets. Please keep in mind that both Royalty Carpet Mills, Inc., and St.John Knits have trucking traveling in and out of their respective facilities on a 24-hour basis. Residents and guests from the existing apartment complex are constantly walking or riding their bicycles up and down Kelvin Avenue and Derian Avenue at almost every hour of the day. The streets and the industrial/residential use were never originally designed for foot traffic, automobile traffic and/or commercial vehicle use to the magnitude presently permitted. To expand on the development of additional residential units is to court disaster.

I respectfully remind you and your planning department that this area of Irvine was originally developed for industrial purposes with strictly enforced covenants, conditions and restrictions which have been followed from inception. I question the value of the CC&R's if the council

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can arbitrarily make changes to accommodate residential developers at the expense of long time industrial residents. It appears that the council is granting preferential treatment to the residential developers, which in my opinion is a denial of equal protection of the law.

To add insult to injury the developers are requesting a variance to allow parking in front of the landscape area along Kelvin Avenue. Over the years, I have appealed to the council to allow the industrial residents and their many employees some latitude in street parking. Each time I made a request, it was flatly turned down. During those times there was a but fraction of the vehicular traffic we now face daily. I question what these residential developers had to offer that I didn't. I am appalled and upset that the city council would even remotely consider such a potentially dangerous and unsightly thing. By permitting this type of inconsistent mixed use the city council is slowly but surely forcing the long-term industrial residents and their employees out without compensating them for the taking. The granting of residential development and parking variances amounts to inverse condemnation being practiced.

Royalty Carpet Mills, Inc., of which I am the sole shareholder, has been an industrial tenant in this complex for over 25 years. Royalty presently employs 400 employees in this complex; all of whom are affected by this unreasonable request that exposes the City of Irvine to lawsuits in the event someone is injured due to the incompatible mix of industrial and residential use and expanded residential parking. In sum, the City Council is creating a dangerous and hazardous condition by completely ignoring the original industrial purpose of the complex and the warnings contained herein. Finally, I believe it would be prudent to check with the Irvine Police Department to ascertain the volume of responsive calls that they make on and annual basis to the Charter Apartments.

Cordially,

Mike Derderian
President

St. John Knits
&
Royalty Carpet Mills

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APR 02 2003
CITY OF IRVINE
COMMUNITY DEVELOPMENT DEPT.

To: **Mayor Agran and Members of the City Council**

From: Rich Salter and Dan DeMille, for St. John Knits and Royalty Carpet

Date: March 31, 2003

Subject: **Essex Apartments additional data**

We recently met with Councilmember Mears and Essex representatives, and Essex handed out a document addressed to you containing their additional data regarding the Planning Commission denial of their apartments. We have now analyzed that data and wish to provide a response regarding the issues raised in the Essex document. We have also provided more information (i.e., photos of truck traffic and actual truck counts from two businesses on Derian/Kelvin) in support of the Planning Commission's denial of the project.

Though we have had multiple meetings with Essex, there seems to be no movement whatsoever on their position to max-out the 3-acre site with 132 apartments. We have made it clear that we are pro-development of that property: we simply want it to be compatible with our 24-hour manufacturing operations that have been in operation in that same location for the past 30 years. The Planning Commission three times over the past 12 years has supported our position: the PC has consistently denied residential development there and recommended that it be rezoned to IBC Multi-Use.

While we are supportive of residential in other areas of IBC, residential on this site is incompatible with the businesses on the street due to:

- Hazardous materials used and stored nearby
- Groundwater contamination on the property line with the adjacent site
- Noise from the 24-hour manufacturing operations
- Dangers to pedestrians from the trucks serving the manufacturers
- Lack of sidewalks on the streets = Safety problem for residents

Our concern is simple: residents' safety will be at risk, and our ability to continue to operate 24-7 will be jeopardized.

We respectfully request that you uphold the Planning Commission's unanimous denials of residential on this site and their recommendation that it be rezoned so that a compatible use can be brought forward, such as those we suggested to Essex in our letter of March 3 (see Attachment 1).

Best regards,

R. J. Salter, Jr. Dan DeMille

Rich Salter and Dan DeMille
for St. John Knits and Royalty Carpet Mills

Attachments:

Attachment 1: Letter to Essex supporting compatible development
Attachment 2: Letter from Shaw Properties opposing apartments
Attachment 3: Draft of Essex' hazmat attachment to apartment lease
Attachment 3 (cont): Draft of Essex' hazmat safety plan
Attachment 4: Letters re problems with Charter Apt. residents
Attachment 5: Truck counts for St. Johns and Royalty Carpet on Kelvin/Derian
Attachment 6: Truck photos on Kelvin/Derian

Response to Essex' 3/3/03 letter

Essex begins their letter by correctly pointing out that the Planning Commission denied their request for a CUP for the 132 apartments. What they left out was that the Commission heard testimony and concerns from not just two neighboring businesses, but also two other businesses who could not attend but submitted letters of opposition to the apartments: Charles Crookall of Shaw Properties, owner of industrial building at 17275 Derian Ave., and Robert Cohen, owner of the building at the corner of Kelvin & Jamboree. We have attached these letters as Attachment 2. Also in Attachment 2 are two letters we introduced in previous public hearings addressing the current problems with Charter Apartments residents. Therefore, all the business operations (except Charter Apts.) on the street were represented at the public hearing and were unanimous in their opposition to residential on that site due to its being incompatible with their operations.

A representative of the Kennedy Commission also testified regarding the lack of affordable housing being provided, and significant Commission discussion took place regarding the lack of affordable housing and the market rate rents to be charged by the project. They questioned both St. John Knits President Bruce Fetter and Royalty Carpet's President/Owner Mike Derderian in depth regarding any possible benefits of their employees living next door in the proposed apartments. Mr. Fetter and Mr. Derderian thoroughly explained that their employees could not afford to live in these apartments at the rates proposed by Essex, and they could find a much better living environment at comparable (market rate) rents very close-by in Westpark or Tustin Ranch.

Essex also states that they were not given an opportunity to respond to the testimony of the business owners/operators at the PC meeting. This is very puzzling, since the businesses (i.e. the project opponents) all testified first, and then Essex (the applicant) testified last. Therefore, Essex heard all of our testimony and had the floor to respond to any and all of the issues raised. In fact, the five reasons for denial of the project were not new and Essex was aware of them from numerous sources:

1) The reasons for denial are the same as they have been in previous denials over the past 12 years. Residential is incompatible with the businesses on the street due to:
   - Hazardous materials used and stored nearby
   - Groundwater contamination on the property line with the adjacent site
   - Noise from the 24-hour manufacturing operations
   - Dangers to pedestrians from the trucks serving the manufacturers
   - Lack of sidewalks on the streets = Safety problem for residents

Essex admittedly learned of these denials and reasons during their due-diligence to purchase the property.

2) The same reasons for denial were raised at previous Planning Commission hearings in which Essex took part (i.e., Essex' request for setback variance).

3) The same reasons for denial were voiced by us in private meetings with Essex.

4) The same reasons for denial were listed in our comments to the negative declaration (that was revised and circulated twice!), and those comments were printed in the staff report to the PC.

Therefore, clearly Essex must have understood the issues, and they had plenty of time to prepare and respond to the PC. Their assertion to the contrary seems to be a thinly veiled attempt to appear to the CC that they have "new" data in order to justify providing another pile of paper to sway the CC. Their data does not seem to be new or relevant to the PC's reasons for denial, and we will address that below.

However, now that Essex has raised the issue of order of testimony in the public hearing, we would like to request that when the City Council hears Essex' appeal of the denial that you hear Essex' testimony first, then give the public a chance to testify and respond. We believe that it is customary and necessary for the applicant to first present his proposed development and then give the public an opportunity to testify after they have heard the project description from the applicant. Since we have already gone first once, we respectfully request that Essex go first this next time so that we can respond to points raised by the applicant. Note that we have no new points for denial (as they have all already been raised numerous times during the past 12 years!), but we would like to have an opportunity to respond to new points raised by the applicant this time.

Air quality (bottom of Essex' page 1 and page 2)

Contrary to Essex' statement that questions were raised re the project contributing to violation of air quality standards, we cannot recall that being a concern. Therefore, the highly technical analysis presented by Essex on page 2 regarding the emissions to be generated by the apartment complex seems to us to be answering the wrong question! The issue we raised was the proximity of the proposed residents to hazardous materials used and stored by the manufacturers, not whether the residents would increase air pollution! To suggest that the issue is whether the apartments would create another "CO (carbon monoxide) hotspot" is really silly.

Air quality (top of Essex' page 3)

The first full paragraph at the top of Essex' page 3 begins to touch on our concern of hazardous materials. However, the analysis misses the point: our concern is when there is a spill or upset, not the normal day-to-day condition that they monitored. Thus, while Essex monitored the air on one day and their single "snap-shot" sample found no contamination, our real-world concern is that a "single event" spill or upset at the manufacturing operations could be hazardous to residents living right across the street. Another concern is that even if there is no actual spill, after residents are alerted to the presence of hazmat, they may perceive it as causing health problems that are not really related to hazmat (i.e., their fears put questions in their minds).

Note: Essex' solution to keep residents safe through a future hazmat spill or upset seems to be a "Shelter-in-Place" plan that is listed as a "mitigation measure" on the project. For a quick read of the proposed plan see Attachment 3. This plan is simply not a workable solution to the real-world situation that a hazmat spill would present, since a toxic cloud move quickly to the apartments. Their plan relies on the apartment manager to "knock on doors", "deliver a shelter-in-place notification letter", take unsupervised minors to the leasing office, keep on file a list of residents who require additional assistance, instruct residents to "shelter in an inside room away from exposed windows, doors... if possible," etc. This is not nearly timely or foolproof enough to make Finding B that is required by the Zoning Code that "The proposed conditional use will not be detrimental to the public health, safety, or welfare..."

By the way, the Planning Commission, in stating its reason for denying the CUP, said that they preferred to err on the side of safety, and they said that this health and safety Finding could not be made (for all the reasons stated, not only hazmat, but trucks and no sidewalks, noise, etc. as well).

Our view is that the City has the opportunity (and responsibility) to make its developments safe from the get-go by requiring good planning for compatible uses, and in fact that is the very reason why residential is a conditional use on this site. Allowing residential is clearly incompatible with the manufacturing operations in this particular location, and this would surely pose safety problems for the residents. Calling a notification letter to residents and a shelter-in-place plan mitigation measures is a misnomer, as they do not overcome the hazmat problem, they are simply band-aide attempts to try to compensate for poor planning in the first place!

Hazards (middle of Essex' page 3)

Essex again refers to the three "mitigation measures" for the neighboring manufacturing operations use and storage of hazardous materials. We again submit that these so-called mitigation measures do not overcome the safety problem for residents, but they merely admit and highlight that the serious situation exists. Furthermore, mitigation measure #8 (notification letter to surrounding businesses) actually attempts to shift the problem to be created by Essex to the existing businesses. This is certainly not fair, especially since Essex is a newcomer to the "neighborhood" having recently purchased the 3-acre site. The businesses have been good corporate citizens and employers in the City who have owned and operated their facilities on this street for over 30 years! In addition to the safety issues for residents, we are extremely concerned that putting residents in this location will seriously impact our ability to continue our manufacturing operations in the City. We can ill-afford to be faced with the complaints and lawsuits that 132 families would bring.

At the bottom of page 3, Essex refers to the condition that limits the depth of excavations on the site to four feet or less, and requires observation of all excavations by a geotechnical engineer. This points out a question that we have raised to the Planning Commission: if the groundwater contamination problem is serious enough to not allow grading then why is it good planning to build residential units on top of it? The groundwater level in this area is relatively close to the surface even after years of drought... is it not conceivable that the groundwater level will rise even more when the drought is broken in a future El Nino year? The idea of "sealing it in" and not disturbing what is under the surface may be OK for some uses, but we really question if it is safe for sensitive receptors such as children, elderly, and 24-7 long-term residents. Are there not other sites in the City that make more sense for residential (i.e. not on top of or next door to a contaminated site)?

In the middle of page 4, Essex refers to their Exhibit B that includes a map of nearby hazmat locations, with St. John Knits and Royalty Carpet among the 15 locations. While Essex makes the point that the hazardous materials currently onsite are classified as "Medium Hazard Occupancy," there is no guaranty that the manufacturing operations will not need to change to "High Hazard" or "Special Hazard" materials in the future, and we want to preserve our right to change materials. Limiting the types of materials used by the manufacturers by placing sensitive receptors (residential) in this area will take away our rights as current operators of manufacturing uses for which we already have use permits. It is impossible to predict the types of materials we may need to use in the future, and it is

impossible to say that residents will be safe in the future by taking a single snap-shot of what hazardous materials are there today. Similarly, Essex' reference to their Exhibit C and the statement that none of the violations for hazmat have yet required the facilities to be shutdown for violations is not a good predictor of what could happen in the future. Again, a snapshot view now is not indicative of the future single-event spill or upset that we are concerned about.

Hydrology (Essex' pages 5-7)

This is not one of the issues related to the Planning Commission's reasons for denial of the project, so we do not think it should be considered in the appeal. It seems to be a non-issue to us, since of course BMPs for water quality would be applied to this and all projects in the City.

Noise (Essex' pages 7-10)

In the middle of page 7, Essex correctly points out that comments were received regarding noise; however, Essex knows that the first two sources they address have never been a concern from us (i.e. airport noise and noise from the groundwater vapor extraction system). The concern we raised was the noise from our adjacent 24-hour manufacturing operations.

Regarding this existing manufacturing noise, Essex refers to their noise study in their Exhibit A that measured noise for only one hour on November 20, 2002, and for 20 minutes on December 10, 2002. How can one hour and twenty minutes of noise measurements be representative of the 24-hour, 7-days/week noise from the manufacturing operations? And how can it hope to capture the single event noises that we know are there? It can do neither!

Furthermore, all these types of noise studies report average noise levels, whereas a large part of our concern is the single event noise, and how this noise would be perceived by residents when they are trying to sleep at night or enjoy some relaxation time at home on weekends. We believe that residents expect and deserve a quiet night's rest, and they will be upset if woken up in the middle of the night or early morning hours. Further, notifying or making residents sign a disclosure that they know the noise sources are nearby does not guaranty that they will be happy about it later, or that they will not complain to City Hall or to the neighboring businesses or launch lawsuits for these problems. In fact, highlighting these noise sources to residents by disclosures, waivers, etc, may actually make them more attuned to listening for them.

Near the top of page 8, Essex says that CEQA requires the City to analyze the project against existing conditions, not speculation of future conditions. However, it is common sense to recognize that the manufacturing operations may generate different levels of noise each day, week, or month since their operations fluctuate as business conditions warrant. That is, more trucks bring in more materials when orders are up, more machines work more hours when times are good, etc. Therefore, the City Council should consider the nature of the existing businesses and preserve their right to increase the activities on their property (within their already-approved uses) which may result in more noise in the future.

Finally, Essex' recommendation at the top of page 10 that the City augment mitigation #11 by requiring mechanical ventilation (i.e. air conditioning so that windows do not open) and noise barriers 5.5 feet high (i.e. sound walls) along the western side of the project will do little to lessen the impact of single event noises such as a truck banging down the street in the middle of the night or a boiler letting off steam at 5:30am on Saturday morning, because at these times (when all is still and quiet and people are trying to sleep) single-event noises are perceived as being relatively even louder than they actually are.

Public Services (Essex' page 10)

Near the top of page 10, Essex comments that IUSD will provide schools for this project, but what about parks? It is hard for us to imagine that you are going to contain everyone on this 3-acre site and not occasionally have kids throwing the ball in the street, etc. This street without sidewalks is simply not a safe area for kids to be playing, joggers to be running, etc. and there is no park within easy walking distance.

In this same section, Essex asserts that their project would not require additional service personnel (e.g., police, etc.). However, our previous experience with the nearby Charter Apartments suggests this is not true, as there have already been problems with Charter residents using St. John's parking lots and complaining about noise, and there are bound to be even more problems with Essex Apartments residents since they will be even closer to the manufacturing sites. Attachment 4 contains letters attesting to these problems that were submitted during previous public hearings by St. John's Facilities Manager and Loss Prevention Vice President.

Public Service Systems (Essex' page 10)

As you know the sewer system in this area is not currently adequate to handle the existing manufacturers needs, and sewage sometimes overflows onto the street.

Essex says that Orange County Sanitation District (OCSD) will transfer the sewer system to IRWD, and then IRWD will fund all improvements to it. However, for the past 12 months since we have been involved with this project, it seems like some action is always planned to take place "this month" or "next month" but it does not seem to ever happen. Since Essex says that IRWD will act on March 24, we would expect to hear a status report from Essex on this matter at the April 8 CC meeting.

Note that we have written letters, attended meetings, etc. for the past several years to try to get the sewer system problem resolved, so we are skeptical when someone says that all will be taken care of in short order. Obviously, it is not wise to add 132 additional users onto a system that is already over-capacity.

Traffic and Circulation (Essex' pages 10-11)

Essex correctly states that the presence of trucks due to the manufacturing uses was raised as a safety concern, as they pose a hazard to pedestrians, especially given the lack of sidewalks. Essex refers to their traffic study in their Exhibit F, and they conclude that since there is not a history of traffic collisions and since the pedestrian and truck counts are not too high, they conclude that their project will not increase pedestrian accidents on the street. We totally disagree!

In order to better quantify the truck issue, we pulled actual truck counts from St. Johns and Royalty Carpet Mills for the months of October and November 2002. These are shown in Attachment 5. As you can see, the number of trucks from these two operations alone (not counting any of the other businesses on the street) averaged 135 trucks per day during those months. Though they are actually not spaced evenly over the 24-hour period, this amounts to about one large truck every 10 minutes, and that is 24 hours per day, including nights and weekends. Now, just imagine those large trucks rumbling down the street and turning around in front of your house every 10 minutes day and night.... Surely you can visualize our concern!

Essex' traffic study is flawed in several areas, and here are some examples:

1) Page 3 states that the percentage of trucks in the vehicle mix is much less than the 15 to 30 percent that characterizes an industrial roadway. The relevant point is: it is a much larger number of trucks than in a typical residential neighborhood!

2) Page 4 seems to say that since they observed 61 pedestrians crossing the streets and no truck/pedestrian accidents have occurred, they can conclude that there will be no pedestrian safety issues with the addition of 132 families, even given the lack of sidewalks. By their own previous admission (page 3), most of these 61

pedestrians were crossing the street to go between St. Johns' or Royalty Carpets' own facilities, so of course these employees would be on the look-out for trucks, unlike children from the apartments! These observations and the history of truck/pedestrian accidents are certainly not a good predictor of future accidents after 132 families are added to the street. If one were to use their logic, we might as well get rid of the sidewalks around town and use the wider right-of-way for a mix of autos and pedestrians, since they seem to be contending that separation of peds and auto traffic yields no safety benefit!

3) The traffic study (on page 5) incorrectly states that neither St. Johns nor Royalty Carpet anticipate 24-hour use. In fact, both of these businesses presently operate 24-hours each day.

Overall, Essex' traffic study (page 6) completely misses the point that we made at the public hearings: it is not the sheer volume of traffic on the 2-lane street, but rather the nature of the truck traffic (24-hours including night-time and weekends) mixing with residents' cars and with the residents and their guests themselves (and no sidewalks) that combines to produce the safety problem. To illustrate this point, we have assembled photographs of trucks on the street, and these are shown in Attachment 6. You can see from these photos that when trucks are parked on the street or backing in/out of the driveways, there is very little space left for cars to pass, and there are no sidewalks to separate pedestrians from the trucks.

Trucks must back in and out of the manufacturers' driveways and often block the entire street when performing these backing/turning movements. Can you imagine how easily it would be for a truck driver to miss seeing a pedestrian in the street behind his truck (at night)? Keep in mind that the truck driver has the mind-set that he is in an industrial area and he is not conditioned to be thinking that there are going to be residents walking in the street. Or imagine a resident rushing to get to work on time in the am peak, having to wait in his car (fuming all the while) until a truck clears the roadway so he can pass.

Contrary to the assertion in their traffic study that it has been suggested that a history of truck/pedestrian accidents already exists, we have never made that claim. However, we do fear that adding 132 families to the site will indeed increase the risk of truck/pedestrian accidents (especially given the lack of sidewalks). Therefore, we completely disagree with their conclusion that the project will not increase pedestrian accidents. Looking at the photographs and truck numbers from St. Johns and Royalty Carpets, it is just plain common sense to expect problems if 132 families are added to that mix.

In conclusion, we submit that locating residents next to our 24-hour manufacturing operations is the very definition of incompatible land uses… if this is not incompatible then what is?! Please uphold the Planning Commission's unanimous denial of this CUP. Deny the appeal using the same Findings as the PC and allow the staff to initiate the rezone of this site to IBC Multi-Use so that compatible uses can be brought forth.

The Salter Group
23 Sandstone ~ Irvine, CA 92604-3612 ~ USA
Phone (949) 551-9543 ~ Fax (949) 551-9543 ~ E-mail: Rsalter23@aol.com

To: **Mr. Jay Greenwood, Essex Properties**

From: Rich Salter and Dan DeMille, for St. John Knits and Royalty Carpet

Date: March 3, 2003

Subject: **Compatible uses for the Essex site**

As we have discussed in the past, residential is not compatible with our 24-hour manufacturing operations on Kelvin/Derian. However, we are not opposed to your developing something compatible on the site, as long as it is compatible with our 24-hour manufacturing uses that we have been operating there for over 30 years.

We have proposed and the City's Planning Commission has agreed (by unanimous decisions in both 1995 and 2002) that the site should be rezoned to IBC Multi-Use, which allows a much broader set of permitted and conditionally permitted uses. The City of Irvine's Zoning, section 3-3-1, Land Use Matrix, lists 74 permitted or conditionally permitted uses in the IBC Multi-Use zone, compared with only 26 in the Residential zone.

Of the 74 permitted or conditionally permitted uses in the Multi Use zone, we would especially direct your attention to the following uses which we feel exemplify those that would be compatible with our 24-hour manufacturing operations:

1. Manufacturing, heavy or light
2. Mini warehouse
3. Office, administrative, business, professional, or headquarters
4. Research and Development
5. Utility building and facility
6. Warehousing, storage and distribution

Rather than simply stating again that we oppose residential here because it is incompatible, we want to emphasize that we are supportive of compatible development. Thus, we offer these specific uses in the spirit of moving this issue forward, and we hope you will consider these alternatives.

Attachment 1: Letter to Essex supporting compatible development

ROBERT COHEN
2029 Century Park East, Suite 1950
Los Angeles, CA 90067
Tel: 310 556-0660
Fax: 310 556-0656

October 14, 2002

Planning Commission
City of Irvine
One Civic Center Plaza
Irvine, CA 92623

Via Fax: (949) 251-4021

RE: 47198-CPU

Dear Commissioners,

I am in receipt of the Public Notice for Essex Property Trusts application for a C.U.P. to permit a 132-unit apartment complex on the corner of Kelvin and Derian Avenues.

I am the owner of the property on the Northwest corner of Kelvin and Jamboree Boulevard. I want to put you on notice that we are vigorously opposed to adding additional residential units in a manufacturing and industrial area. This is a small street with heavy manufacturing use and has proved to be not at all compatible with residential use.

Our current long-term tenant is in the very sensitive telecommunications business. They require a low profile existence and do not need the potential influence of mischief and vandalism that additional residential uses can bring.

Sincerely,

Robert Cohen
Real Estate Investor

RC:cmg

ST. JOHN

April 1, 2002

City of Irvine
One Civic Plaza
Irvine, CA 92623-9575

Re: Essex Portfolio Application

I am the Facilities Manager at St. John Knits and have worked here for over 25 years. When the Charter Apartments were built, we started having several problems in our parking lots. In order to keep people from working on their cars, dumping trash, overflow parking and in general, simply loitering, we had to put chains and locks on all the entrances to our property.

Additionally, we even had a situation where one of the Charter residents placed one of our employees under citizen's arrest for using a leaf blower. We operate 24 hours a day and generate noise. I receive complaints monthly from the current residents.

Sincerely,

Bob Simpson
Facilities Manager
St. John Knits

Attachment 4: Letters re problems with Charter Apt. residents

DESIGNED BY MARIE GRAY

2722 MICHELSON DR. • IRVINE, CA 92612 • (714) 263-8080 FAX (714) 223-3390

ST. JOHN

April 1, 2002

Mr. Steve Weiss, AICP
Manager, Urban Planning Services
City of Irvine
One Civic Plaza
Irvine, CA 92623-9575

Re: Essex Portfolio Application

Dear Mr. Weiss & Planning Commisioners,

The proposed idea of increasing residential apartments on the property of Kelvin Avenue has brought the following concerns to my attention:

The parking has already been an issue with St. John and we have had to put chains up after hours to keep apartment tenants from parking on our property ensuring our employees have a place to park upon arrival to work. If the proposed plan goes into affect we would have to increase our manpower just to insure that the parking lot will remain clear for our employees. This would have to be at our expense and would add to an existing and extreme burden.

Sincerely,

Sue Novak

Sue Novak
Vice President – Loss Prevention

17421 Derian Avenue • Irvine, CA 92614 • Tel. (949) 251-4008 • Fax (949) 251-4021

St. John Knits (SJK) Truck Traffic at Derian 1 and Derian 2

Derian 1

October	SJK Seal Log	141
	Non-SJK Veh Log	25
November	SJK Seal Log	191
	Non-SJK Veh Log	42

Derian 2

October	SJK Seal Log	607
	Non-SJK Veh Log	258
November	SJK Seal Log	343
	Non-SJK Veh Log	196

Total Trucks 1,803
42 SJK Workdays during October-November 2002
Average trucks/day at SJK 43

Royalty Carpet Truck Traffic on Derian/Kelvin

Greige Goods Shipment

October	1296
November	1190

Finished Goods Shipment

October	408
November	404

Delivery Trucks

October (@ average 12/day)	252
November (@ average 12/day)	240

Total Trucks 3,790
41 Royalty Workdays during October-November 2002
Average trucks/day at Royalty 92

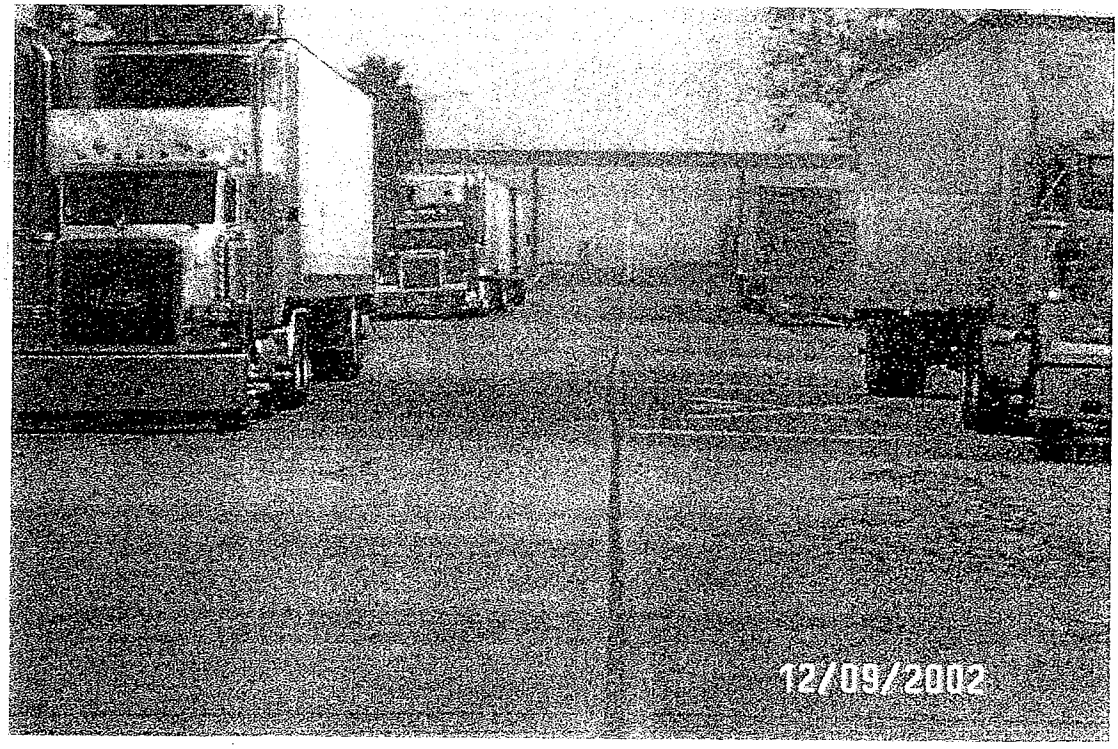
Total SJK and Royalty trucks/day: 135

Attachment 5: Truck counts for St. Johns and Royalty Carpet on Kelvin/Derian

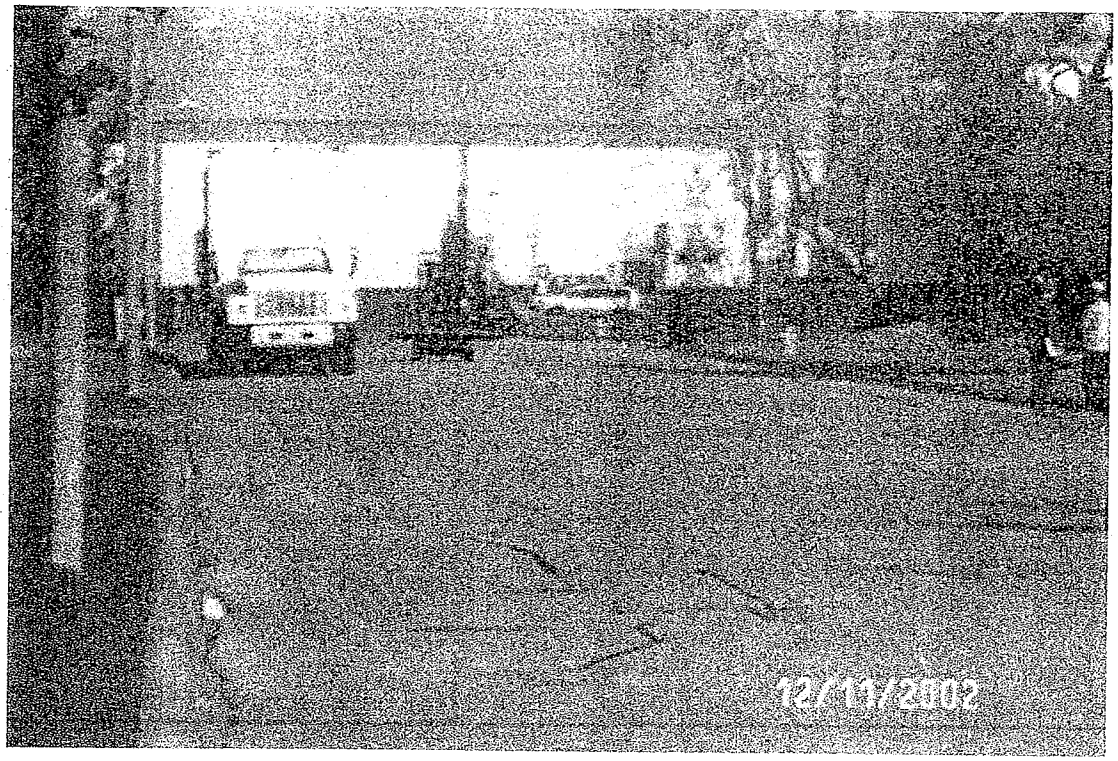
Attachment 6: Truck photos on Kelvin/Derian



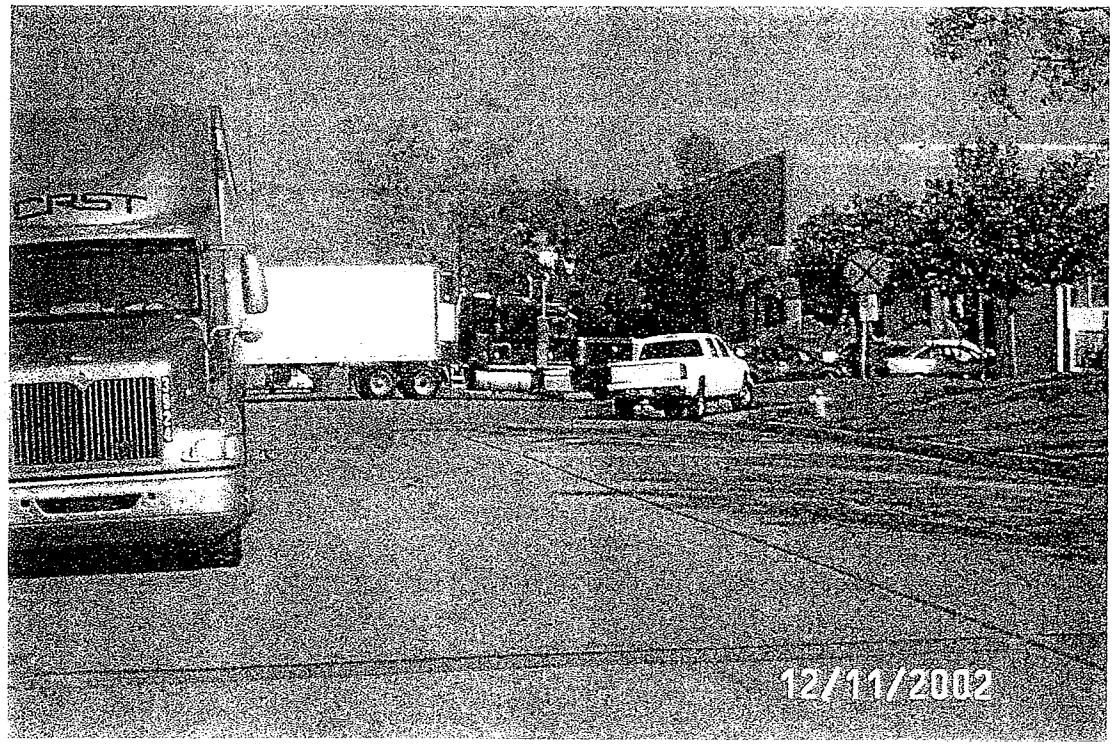
Derian Avenue 11:45am



Derian Avenue 7:50am



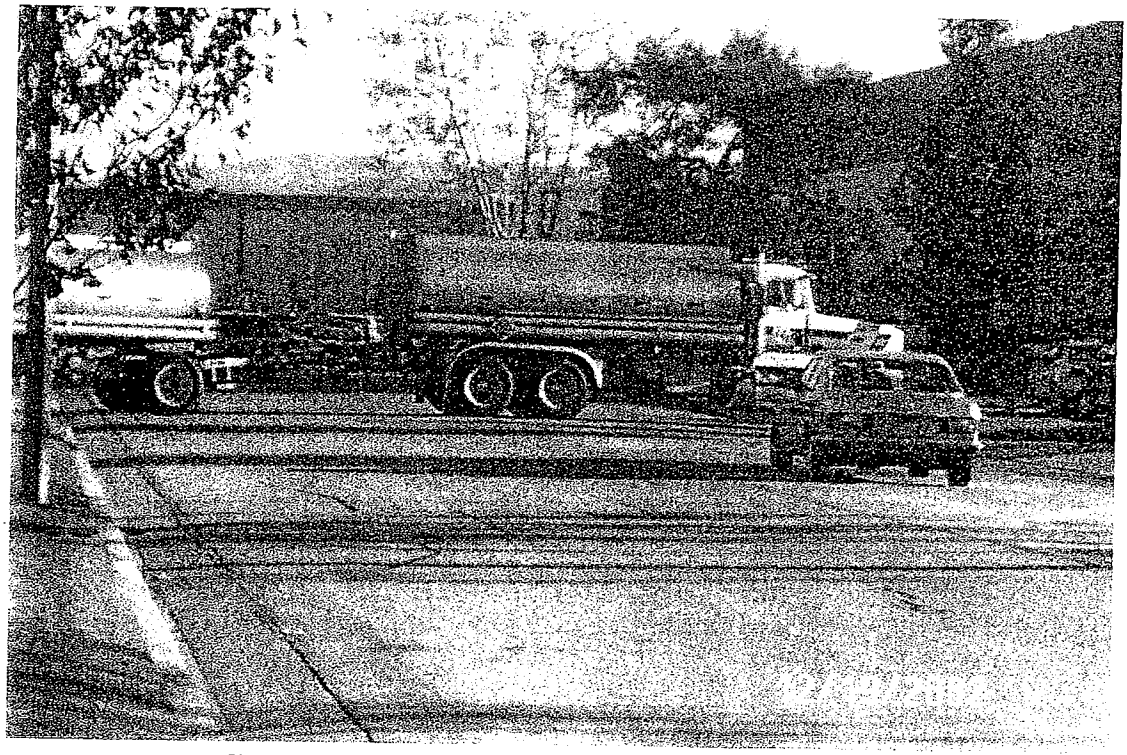
Derian Avenue 12:28pm



Derian Avenue 12:38pm



Derian Avenue 7:14am



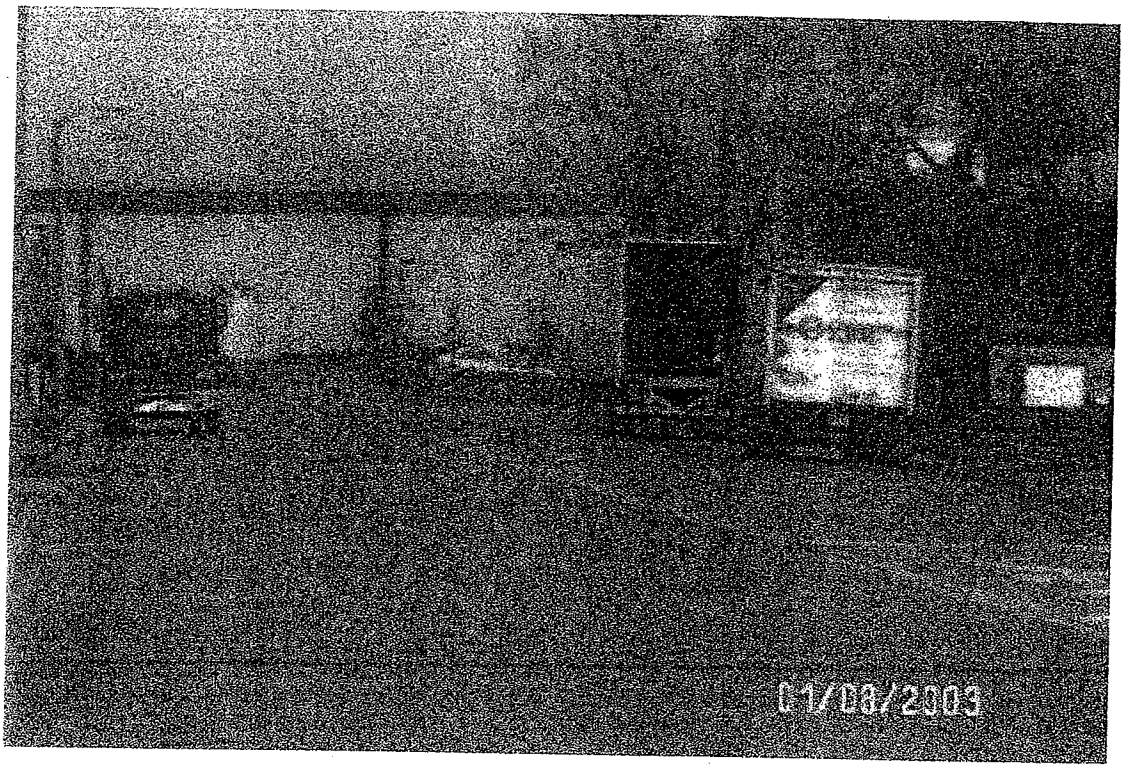
Derian Avenue 8:16am



Derian Avenue 6:45am



Derian Avenue 11:17am



Derian Avenue 11:34am

ST. JOHN

RECEIVED
AUG 13 2002
CITY OF IRVINE
COMMUNITY DEVELOPMENT DEPT.

August 9, 2002

Steven Weiss, AICP
Manager, Urban Planning Services, Civic Solutions, Inc.
City of Irvine
Community Development Department
One Civic Center Plaza
P.O. Box 19575
Irvine, CA 92623-9575

Subject: Essex Apartment Project
Ref: Negative Declaration for 2552 Kelvin Avenue

Dear Mr. Weiss,

We have received the Negative Declaration and related documents (Initial Study, Notice of Intent, and Supplemental Comments) that you sent on July 23, 2002 and thank you for the opportunity to provide comments.

As you know, when this project went to the Planning Commission for the setback issue on April 18, 2002, St. John Knits and Royalty Carpet Mills (as business owners in the immediate area of the project) raised numerous serious concerns about the project. Furthermore, we have met with City staff and relayed our concerns, and we have corresponded with the applicant to offer to work with him to identify a non-residential use that is compatible with the surrounding businesses.

We will again identify our concerns herein (attached), and we trust the appropriateness of the negative declaration will be reconsidered in response to these comments. The comments are concerns of the surrounding property owners and we look forward to the September 19th public meeting.

Respectfully submitted,

Dan DeMille
Vice President of Real Estate
St. John Knits

CC: Mike Derderian
Charles Crookall

Copied to: Ms. Mary Ann Gaido, Chair of Planning Commission
Ms. Sheri Vander Dussen, Director of Community Development
Ms. Katie Owsten, Associate Planner

17421 Derian Avenue • Irvine, CA 92614 • Tel. (949) 251-4008 • Fax (949) 251-4021

C-04-002377

Our comments as follows:

ASSESSMENT AND MITIGATIONS

1. *The Initial Study dated 7/22/02, page 2,* states that "On the basis of this initial evaluation: 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."

   We strongly disagree with this assessment, because there will indeed be significant effects that have not been addressed in this Study. The proposed residential use is totally incompatible with the surrounding business operations, just as it was the last time a residential project for this site came before the Planning Commission (PC) and was unanimously denied in 1995. None of the reasons for denial at that time have changed, and the required Findings can still not be made. See attached Resolution of Denial, PC Resolution No. 95-1846, and our summary points in the Conclusion section below.

2. *Initial Study, page 4, III. Air Quality,* says that there is "less than significant impact" to "Would the project expose sensitive receptors to substantial pollution concentrations." This is incorrect, as the Planning Commission has already found that this site is not suited for residential development due to its close proximity to hazardous material users and generators, which could endanger the health, safety, and welfare of the future residents. See attached PC Resolution No. 95-1846, page 2.

   The Supplemental Comments, page 2, Air Quality (d) completely ignores the issue of business operations in the area using and generating hazardous materials. The business uses in this area have not changed significantly since 1995, and the proposed project has done nothing to protect the residents from industrial accidents that release toxic chemicals into the air. As stated in the PC Findings (see attached PC Resolution No. 95-1846, page 2, paragraph C):

   - Precautions taken by businesses to safely use and store hazardous materials may fail.
   - Mandated emergency plans do not anticipate the placement of sensitive receptors, such as residential uses, in close proximity to industrial uses.
   - Shelter-in-place mitigation plans intended to protect residential uses from industrial accidents are less practical due to the logistical problems with notifying 138 separate condominium owners. [While we recognize that apartments rather than condominiums are being proposed this time, we do not believe that shelter-in-place plans can be made to be effective (i.e., how can you guaranty that all the residents, including children, will hear the warning and go into their units before it is sealed up and then stay inside until the danger has passed?).]
   - Air Monitors located on the roof of residential use are also ineffective, because only a few of the dozens of potentially hazardous chemicals can be adequately monitored for accidental release.

3. *Initial Study, page 5, VII. Hazards and Hazardous Materials (b),* says that there is "less than significant impact with mitigation incorporation" to "Would the project 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?" This is incorrect as the Planning Commission has already found that this site is not suited for residential development due to its close proximity to hazardous material users and generators, which could endanger the health, safety, and welfare of the future residents. See attached PC Resolution No. 95-1846, page 2.

   The Supplemental Comments, page 5, VII. Hazards and Hazardous Materials (b and d), Surrounding Uses, places mitigation measures 1-6 on the project. However, Measures 1-3 have nothing to do with the accidental release of hazardous chemicals by surrounding businesses, and measures 4-6 are sorely inadequate to deal with the situation:

   - Measure No. 4 simply requires the preparation of a Hazardous Substances and Emergency Safety Plan and training program for employees and on-site management. This is totally inadequate, and we do not believe that it can be made adequate, as it does not address the real problem: it is simply not practically possible to protect the residents (including children) in that area from accidental release of hazardous chemicals. Again, see the PC Findings in attached PC Resolution No. 95-1846, page 2, paragraph C, and the points we listed above under Air Quality.

   - Measure No. 5 simply requires that a notification letter be sent to businesses within 300 feet of the project notifying them of future residential use and giving them the contact information for the on-site management company. This, in fact, is the start of precisely the problem that the surrounding business owners have been trying to point out and avoid! It implicitly acknowledges that there will be problems with the incompatible residential use in this area where businesses are storing and using hazardous chemicals. Further, it seems to imply that the burden of notification of accidental release to the residents is being shifted to those businesses!

     It is certainly not good planning policy to shift the burdens of the new residential project to the long-time business owners in the area. Furthermore, even if the City did want to pursue this backward policy and retroactively impose requirements on the businesses (rather than the applicant) who have warned all along of the incompatibility of residential in this area, the 300 feet limit would capture only a small fraction of the businesses who store and use hazardous chemicals in the project vicinity. Therefore, this mitigation measure is totally ineffective in protecting the future residents.

   - Measure No. 6 is clearly an admission that residential is an incompatible use for this area. This measure imposes that the City approve a "hazardous substances and emergency safety plan" disclosure form that would be included as part of the rental agreement for each occupant. The need for this disclosure further exemplifies what poor planning it would be to stick residential units in this area where hazardous chemicals are stored and used... especially when residential has already been denied and Footnote N in the Zoning now allows non-residential uses on the site.

The implication of this measure seems to say "We are going to throw our best planning practice of separating incompatible land uses out the window" in favor of a policy that says "We know there are safety issues, but we are now going to allow incompatible uses side-by-side so long as we disclose the safety problems to the new residents... i.e., buyer beware!" This is certainly not the good planning policy that the City of Irvine is noted for, especially when the alternative is to simply recognize that residential has already been denied on this site and Footnote N now applies to allow other non-residential uses. Of course, if you do not want to rely on that previous denial, the PC can and should deny the project again and explicitly state this time that Footnote N is now invoked to allow other non-residential uses.

4. *Initial Study, page 5, VII. Hazards and Hazardous Materials (d),* says that there is "less than significant impact with mitigation incorporation" to "Would the project be located on a site which is included on a list of hazardous materials sites... and as a result would it create a significant hazard to the public or the environment?" This is incorrect, as the soils contamination that is acknowledged to exist on the northwest corner of this site and on the adjacent Great Lakes Chemical site could still pose a risk to future residents. Even though there is a remediation program underway, our concern is that the water table may rise and the course of the flow of the contamination may change with changing weather and groundwater conditions (note that the existing groundwater level is only 9.5 feet below the surface). That is, if our current drought condition changes as predicted by the coming of another El Nino rainy season, how can we be certain that the groundwater table will not rise or the flow of the contamination will not change?

   We understand that the developers will not be able to grade or dig down to the groundwater level since that may cause problems with the existing cleanup effort (i.e., create a lower pressure area to which the contamination may flow). However, is it good planning to allow apartments to be built over known ground water contamination, rather than requiring that it be cleaned-up first? Will the residents really feel that the City of Irvine has protected their health, safety, and general welfare when they are reading and signing their disclosure form about the contamination remediation system in operation there (ref. Mitigation Measure No. 6)? This is simply poor planning and we want you to stop it by denying this project.

5. *Initial Study, page 6, VIII. Hydrology and Water Quality (a),* says that there is "less than significant impact with mitigation incorporation" to "Would the project violate any water quality standards or waste discharge requirements?" *The Supplemental Comments, page 6, VIII. Hydrology and Water Quality (a),* states that the sewer system is currently operating at capacity. This is incorrect, as we have previously described to City staff that the sewer system is inadequate and sewage is already overflowing onto the street at times. Further, Mitigation Measure No. 7 does not require any improvement to the sewer system for any other owners in the area; rather, it merely requires a letter stating that there is adequate sewer capacity to serve the project. Clearly, the capacity of the sewer system for the Derian/Kelvin landowners must be looked at in its entirely, as it is the same pipe serving all of us. The sewer capacity must be made adequate for all users, and this can not be done by merely allocating some of its capacity to the new project, or by stating that there will be adequate capacity for that one project.

6. *Initial Study, page 6, IX. Land Use and Planning (b),* says that there is "no impact" to "Would the project conflict with any land use plan, policy...?" *The Supplemental Comments, page 7, IX. Land Use and Planning (a-c),* states that concerns raised by owners of neighboring industrial and manufacturing properties over the compatibility of the project with nearby industrial uses have been addressed in the sections on Hazards and Hazardous Materials, Noise, Transportation, and Traffic. However, as noted in other sections of our response herein, we disagree that these issues of incompatibility have been adequately addressed.

7. *Initial Study, page 6, XI. Noise (a),* says that there is "less than significant impact with mitigation incorporation" to "Would the project result in 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?" This is incorrect, as the Planning Commission has already found that this site is not suited for residential development due to its close proximity to noise intensive industrial facilities which operate 24 hours per day, 7 days per week. See attached PC Resolution No. 95-1846, pages 2-3.

   The Supplemental Comments, page 8, XI. Noise (a, e), states that Mitigation Measure No. 8 (an additional noise study) will ensure that there will be no negative noise impacts to the residents. We disagree, since the noise generated by surrounding businesses varies widely from day to day, and the surrounding manufacturing practices may change after the noise study is conducted, thus resulting in more noise than the study indicates. For example, if St. John Knits or Royalty Carpet Mills purchase larger machines in the future, and if these machines make more noise than the ones in operation when the noise study was conducted, the mitigation measures incorporated into the project may not be sufficient. After all the studies and mitigation measures are in, the bottom line is still going to be that a quiet night's rest is going to be expected by all residents, and no amount of advance disclosure will prevent a resident from losing sleep once he/she becomes attuned to noise or the changes in the noise level throughout the night. This will result in unhappy and unhealthy residents who will complain to the City and the surrounding businesses as well.

8. *Initial Study, page 7, XIII. Public Services*, says that there is "no impact" on Schools, Parks, or other Public Facilities. *The Supplemental Comments, page 9, XIII. Public Services*, states the proposed project does not have significant impact on either the provision of or the demand on school facilities, and it does not impact other governmental services. We have seen no support for these statements. Note that the surrounding business owners have already testified in public hearings that there have been altercations between Charter Apartments residents and surrounding businesses, and we suspect that similar altercations from Essex Apartments residents will require increased police support for this project.

9. *Initial Study, page 7, XIV. Recreation (a),* says that there is "no impact" to "Would the project increase the use of existing neighborhood and regional parks..." *The Supplemental Comments, page 9, XIV. Recreation,* states that park fees will be paid in lieu of dedicating land for community parks. However, it does not describe where and when the community parks will be provided in IBC. Will they be located close to Kelvin/Derian streets, and will they be in place in the near future so that this generation of residents and business employees alike can get some use of them?

10. *Initial Study, page 7, XV. Transportation/Traffic (d),* says that there is "no impact" to "Would the project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?" We disagree, since this site is located right on the 90 degree knuckle at Derian/Kelvin streets, and the truck ingress/egress to/from surrounding businesses poses a clear hazard to the incompatible residential use. As the business owners have already testified, truck drivers are not likely to be looking for residents walking, biking, etc. The PC has already agreed with this concern, and in its Resolution of Denial states that:

- The design of the subdivision or the type of improvements is likely to cause serious public health problems due to the proximity of the project to industrial facilities which are serviced by large trucks 24 hours per day, 7 days per week, which could endanger the health, safety, and welfare of future residents of the proposed subdivision.

- The operation of the residential use in the proposed location creates a traffic safety hazard in as much as there are no sidewalks on the streets in the vicinity of the project, thereby forcing the potential residents to walk in the streets.

- The project has not been shown to be able to protect the potential residents from health and safety risks from existing and potential trucking operations, and therefore, the design appears likely to create serious public health and safety risks to the future residents of the subdivision.

The Supplemental Comments, page 10, XV. Transportation/Circulation (a-d), says that a sidewalk will be installed at the project frontage and will connect with the sidewalk at the adjacent residential use. This will not provide a satisfactory walking environment for residents, as the sidewalk will not continue along Derian, and the residents will inevitably walk in the street. This is certainly not in keeping with the intent of the City's General Development Standards and Land Use Regulations, section 3-37-32, paragraph I, which states that "Additional sidewalks and other pedestrian access facilities shall be required as needed to facilitate pedestrian circulation between places of employment, restaurants, parks, and institutional, retail, and residnetial uses." That is, additional sidewalks will be required to enable a resident to actually go somewhere. Indeed, how would the limited sidewalk along the project frontage facilitate a resident of the Essex Apartments walking to a restaurant, park, or retail establishment?

Further, the *Supplemental Comments, page 10,* goes on to state that "All parking will be located on site, and the access to and from the project will follow City standards to provide safe ingress and egress from the site. This is not correct, as the moving vans will have to park in the street to load/unload furniture when a tenant moves in/out of their apartment. This is already an existing problem with the Charter Apartments on Kelvin. A moving van parking area should be provided on site at the Essex Apartments, and it should be added to the Charter Apartments at the soonest opportunity.

11. *Initial Study, page 8, XVI. Utilities and Service Systems (e),* says that there is "less than significant impact with mitigation incorporation" to "Would the project 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?" *The Supplemental Comments, page 10, XVI. Utilities and Service Systems,* states that the Orange County Sanitation District has provided a CONDITIONAL will-serve letter. However, as we discussed previously, above, we do not believe that Mitigation Measure No. 7 is sufficient to mitigate the existing problems with the sewer capacity.

12. *Initial Study, page 9, XVII. Mandatory Findings of Significance (b),* says that there is "less than significant impact" to "Does the project have impacts that are individually limited but cumulatively considerable... when viewed in connection with the effects of ... probably future projects? It further says that the impacts are "less than significant with mitigation incorporation" to "Does the project have environmental effects which will cause substantial adverse effects on human beings either directly or indirectly?" We disagree with both of these answers, for all the reasons stated elsewhere in this response, and both should be answered with "potentially significant impact."

CONCLUSION

We strongly disagree with the Finding in the *draft Negative Declaration dated 7/22/02* that states "Revisions to the project made, or agreed to by the applicant, would avoid or mitigate the effects of the project to a point where clearly no significant effects would occur, and there is not substantial evidence that the project will have a significant effect on the environment."

To the contrary, the previous Findings for denial of the project (from the Planning Commissions denial of residential on the site on September 7, 1995) continue to exist. See attached copy of PC Resolution No. 95-1846, and key points are summarized here:

- All Findings required by SubArticle 3.6 of the City of Irvine Subdivision Manual CANNOT be made.

- The site of the proposed residential subdivision is not physically suited for the proposed type of development because the site is located in close proximity to hazardous material users and generators, which could endanger the health, safety and welfare of the future residents of the proposed subdivision.

- The site of the proposed subdivision is not physically suited for the proposed density of development because the site is located in close proximity to hazardous material users and generators, which could endanger the health, safety and welfare of the future residents of the proposed subdivision.

- The design of the subdivision or the type of improvements is likely to create serious public health problems due to the proximity of the project to toxic chemical generators and uses, and to known sites with toxic contamination.

- The design of the proposed residential subdivision or the type of improvements is likely to create serious public health problems due to the proximity of the project to noise-intensive industrial facilities which operate 24 hours per day, 7 days per week.

- The design of the subdivision or the type of improvements is likely to create serious public health problems due to the proximity of the project to industrial facilities which are serviced by large trucks 24 hours per day, 7 days per week.

In addition, the sewer capacity in this area is not adequate for the existing businesses, let alone for any new residential development.

Thus, the negative mitigated declaration is not the appropriate environmental document for this project; rather, the project should again be denied for residential use so that its zoning reverts to multi-use as per Footnote N of the IBC Zoning.

ST. JOHN

September 26, 2002

RECEIVED
SEP 26 2002
CITY
COMMUNITY DEVELOPMENT DEPT.

Ms. Katie Owston, Associate Planner
City of Irvine
Community Development Department
One Civic Center Plaza
PO Box 19575
Irvine, CA 92623-9575

RECEIVED
SEP 26 2002
CITY OF IRVINE
COMMUNITY DEVELOPMENT DEPT.

Subject: Essex Apartments project
Ref.: Negative declaration for 2552 Kelvin Avenue

Dear Ms. Owston:

We have received the re-circulated Negative Declaration and related documents (Initial Study, Notice of Intent, and Supplemental Comments), and again thank you for the opportunity to provide comments.

As you know, when this project went to the Planning Commission for the setback issue on April 18, 2002, St. John Knits and Royalty Carpet Mills (as business owners in the immediate area of the project) raised numerous serious concerns about the project. Furthermore, we have met with City staff and relayed our concerns, and we have corresponded with the applicant to offer to work with him to identify a non-residential use that is compatible with the surrounding businesses.

We will identify our additional concerns herein, and we trust that the appropriateness of the negative declaration will be reconsidered in response to these comments. Note that the concerns raised in this letter are in addition to those we submitted to the original negative declaration last month (i.e. those initial concerns are still valid).

Respectfully submitted,

Dan DeMille,
Vice President of Real Estate

Cc: Mike Derderian
Royalty Carpet Mills

Cc: Charles Crookall
Shaw Properties

Cc: Ms. Mary Ann Gaido, Chair of Planning Commission

17421 Derian Avenue • Irvine, CA 92614 • Tel. (949) 251-4008 • Fax (949) 251-4021

C-04-002422

ASSESSMENT AND MITIGATIONS

1. *The Initial Study dated 7/22/02, page 2, s*tates that "On the basis of this initial evaluation: 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."

   We strongly disagree with this assessment, because there will indeed be significant effects that have not been addressed in this Study. The proposed residential use is totally incompatible with the surrounding business operations, just as it was the last time a residential project for this site came before the Planning Commission (PC) and was unanimously denied in 1995. None of the reasons for denial at that time have changed, and the required Findings can still not be made. See Resolution of Denial, PC Resolution No. 95-1846, and our summary points in the Conclusion section below.

   Substantial issues have been raised by our initial comments and by our additional comments herein; therefore, the determination should be changed to "I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required."

2. *Initial Study, page 4, III. Air Quality*, says that there is "less than significant impact" to "Would the project expose sensitive receptors to substantial pollution concentrations." This is incorrect, as the Planning Commission has already found that this site is not suited for residential development due to its close proximity to hazardous material users and generators, which could endanger the health, safety, and welfare of the future residents. See attachePC Resolution No. 95-1846, page 2.

Ambient Air Quality

An evaluation was performed by Targhee, Inc. [2001b] to determine if air quality at the project location was impacted by the operation of the remediation systems at the adjacent GLCC property. Air quality was evaluated through the collection of several ambient air samples. The following presents questions or concerns relating to the ambient air quality evaluation [Targhee, 2001b].

- The basis of the ambient air evaluation was the collection of ambient air samples downwind of the GLCC treatment system. How was the wind direction and velocity verified during the sampling event?

- It was stated that the ambient air samples were collected within a seven-minute time frame. These sample collection durations do not seem adequate for evaluation of longer-term ambient air conditions at the site.

- The reporting limits used by the testing laboratory were generally on the order of 5 milligrams per cubic meter of air (mg/m3). These reporting limits are not

low enough to evaluate potential long-term health risks, as EPA ambient air preliminary remedial goals (PRGs) for the constituents of concern at the GLCC site are orders of magnitude below the laboratory reporting limits. For example the EPA. ambient air PRG for 1,2-DCP is 0.099 micrograms per cubic meter (ug/m3).

The Supplemental Comments, page 2, Air Quality (d) completely ignores the issue of business operations in the area using and generating hazardous materials. The business uses in this area have not changed significantly since 1995, and the proposed project has done nothing to protect the residents from industrial accidents that release toxic chemicals into the air. As stated in the PC Findings (see PC Resolution No. 95-1846, page 2, paragraph C):

- Precautions taken by businesses to safely use and store hazardous materials may fail.
- Mandated emergency plans do not anticipate the placement of sensitive receptors, such as residential uses, in close proximity to industrial uses.
- Shelter-in-place mitigation plans intended to protect residential uses from industrial accidents are less practical due to the logistical problems with notifying 138 separate condominium owners. [While we recognize that apartments rather than condominiums are being proposed this time, we do not believe that shelter-in-place plans can be made to be effective (i.e., how can you guaranty that all the residents, including children, will hear the warning and go into their units before it is sealed up and then stay inside until the danger has passed?).]
- Air Monitors located on the roof of residential use are also ineffective, because only a few of the dozens of potentially hazardous chemicals can be adequately monitored for accidental release.

3. *Initial Study, page 5, VII. Hazards and Hazardous Materials (b),* says that there is "less than significant impact with mitigation incorporation" to "Would the project 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?" This is incorrect as the Planning Commission has already found that this site is not suited for residential development due to its close proximity to hazardous material users and generators, which could endanger the health, safety, and welfare of the future residents. See PC Resolution No. 95-1846, page 2.

The Supplemental Comments, page 5, VII. Hazards and Hazardous Materials (b and d), Surrounding Uses, places mitigation measures 1-6 on the project. However, Measures 1-3 have nothing to do with the accidental release of hazardous chemicals by surrounding businesses, and measures 4-6 are sorely inadequate to deal with the situation:

- Measure No. 4 simply requires the preparation of a Hazardous Substances and Emergency Safety Plan and training program for employees and on-site management. This is totally inadequate, and we do not believe that it can be made adequate, as it does not address the real problem: it is simply not practically possible to protect the residents (including children) in that area from accidental release of hazardous chemicals. Again, see the PC Findings in attached PC Resolution No. 95-1846, page 2, paragraph C, and the points we listed above under Air Quality.

- Measure No. 5 simply requires that a notification letter be sent to businesses within 300 feet of the project notifying them of future residential use and giving them the contact information for the on-site management company. This, in fact, is the start of precisely the problem that the surrounding business owners have been trying to point out and avoid! It implicitly acknowledges that there will be problems with the incompatible residential use in this area where businesses are storing and using hazardous chemicals. Further, it seems to imply that the burden of notification of accidental release to the residents is being shifted to those businesses!

  It is certainly not good planning policy to shift the burdens of the new residential project to the long-time business owners in the area. Furthermore, even if the City did want to pursue this backward policy and retroactively impose requirements on the businesses (rather than the applicant) who have warned all along of the incompatibility of residential in this area, the 300 feet limit would capture only a small fraction of the businesses who store and use hazardous chemicals in the project vicinity. Therefore, this mitigation measure is totally ineffective in protecting the future residents.

- Measure No. 6 is clearly an admission that residential is an incompatible use for this area. This measure imposes that the City approve a "hazardous substances and emergency safety plan" disclosure form that would be included as part of the rental agreement for each occupant. The need for this disclosure further exemplifies what poor planning it would be to stick residential units in this area where hazardous chemicals are stored and used... especially when residential has already been denied and Footnote N in the Zoning now allows non-residential uses on the site.

  The implication of this measure seems to say "We are going to throw our best planning practice of separating incompatible land uses out the window" in favor of a policy that says "We know there are safety issues, but we are now going to allow incompatible uses side-by-side so long as we disclose the safety problems to the new residents... i.e., buyer beware!" This is certainly not the good planning policy that the City of Irvine is noted for, especially when the alternative is to simply recognize that residential has already been denied on this site and Footnote N now applies to allow other non-residential uses. Of course, if you do not want to rely on that previous denial, the PC can and should deny the project again and explicitly state this time that Footnote N is now invoked to allow other non-residential uses.

4. *Initial Study, page 5, VII. Hazards and Hazardous Materials (d),* says that there is "less than significant impact with mitigation incorporation" to "Would the project be located on a site which is included on a list of hazardous materials sites... and as a result would it create a significant hazard to the public or the environment?" This is incorrect, as the soils contamination that is acknowledged to exist on the northwest corner of this site and on the adjacent Great Lakes Chemical site could still pose a risk to future residents. Even though there is a remediation program underway, our concern is that the water table may rise and the course of the flow of the contamination may change with changing weather and groundwater conditions (note that the existing groundwater level is only 9.5 feet below the surface). That is, if our current drought condition changes as predicted by the coming of another El Nina rainy season, how can we be certain that the groundwater table will not rise or the flow of the contamination will not change?

Groundwater Conditions

The Great Lakes Chemical Corporation (GLCC) site borders the proposed project location to the northwest. Groundwater in the vicinity of the GLCC site has been impacted by various pesticides and chlorinated compounds including 1,2-dichloroethane (1,2-DCA), 1-2-dichloropropane (1,2-DCP), ethylene dibromide (EDB) and methylene chloride. The Second Quarter 2002 groundwater monitoring report for the GLCC site [Leymaster, 2002] shows the presence of impacted groundwater bordering the proposed project property to the northwest, west, and south. Historically impacted groundwater has been identified in the northwest corner of the proposed project location. Depth to groundwater at the proposed project location has varied between 10 to 20 feet below ground surface (bgs).

A geotechnical report [Chang, 2000] prepared for the proposed project evaluated groundwater conditions and provided dewatering recommendations. To address the potential of a future increase in groundwater elevation, Chang [2000] recommended the installation of drainlines within the prepared subgrade of the proposed structures and gravel collection chambers beneath each elevator pit which should be connected to sumps where the accumulated groundwater can be pumped out. Given the potential for encountering groundwater beneath the proposed project structures, several concerns or questions are raised.

- If dewatering is required, has the potential for drawing impacted groundwater beneath the project location been evaluated? If the potential exists, have measures been proposed for treating and/or disposing of impacted groundwater that has been extracted?

- If impacted groundwater could be drawn into elevator pits or beneath the foundation, would residents be put at an increased health risk? Have the potential human health risks been evaluated?

Risk Assessment

Soil sampling conducted by Targhee [2001] identified impacts to soils in the northwest corner of the proposed project site. Constituents detected in soils include 1,2-dichloropropane (1,2-DCP) and 1,2,3-trichloropropane (1,2,3-TCP). It is likely that the source of these soil impacts is the GLCC site. The maximum detected concentrations of 1,2-DCP and 1,2,3-TCP in soils at the proposed project site are 510 and 26 micrograms per kilogram (ug/kg), respectively. The maximum concentration of 1,2-DCP (510 ug/kg) is greater than the EPA residential PRG of 350 ug/kg, but is below the EPA industrial PRG of 770 ug/kg. The maximum detected concentration of 1,2,3-TCP (26 ug/kg) is greater than both the EPA residential PRG of 1.4 ug/kg and the industrial PRG of 3.1 ug/kg. These data would indicate that a more detailed evaluation of potential human health risk is warranted even for a proposed industrial site use.

Two separate human health risk assessments were performed by Targhee, Inc. [2001, 2001a]. One risk assessment focused on the potential impacts of the soil contamination identified in the northwest corner of the proposed project location. The second risk assessment utilized the highest contaminant concentrations historically detected in the one groundwater monitoring well installed on the project site. The second risk assessment was reportedly prepared to address

concerns relating to failure of the GLCC treatment system. Comments on the risk assessments include:

- For the Tier 2 soil evaluation, the most recent Johnson & Ettinger (J&E) model version provided by the USEPA is SL-ADV, version 2.3 dated March 2001. Targhee, Inc used a much older version of the model (version 1.2, dated September 1998). The most recent J&E spreadsheet model should have been used for the analysis.

- For the groundwater to indoor air screening evaluation, the model used by Targhee, Inc is not known. The most recent J&E model version provided by the USEPA is GW-SCREEN, version 2.3 dated March 2001.

- Site-specific soil physical properties for input into the J&E model should be justified if the default parameters are not used. For example, the USEPA default values and the parameter values used by Targhee are summarized in the table below:

Parameter	USEPA Default Value	Targhee Value
Vadose zone effective total fluid saturation (cm^3/cm^3)	0.592	0.639
Vadose zone soil intrinsic permeability (cm^2)	1.50E-09	7.50E-11
Vadose zone soil effective vapor permeability (cm^2)	9.02E-10	4.50E-11
Air-filled porosity in capillary zone (cm^3/cm^3)	0.006	0.181
Water-filled porosity in capillary zone (cm^3/cm^3)	0.424	0.249

A laboratory report should be provided to substantiate the values used by Targhee, Inc.

- Maximum soil concentrations for 1,2-DCP (510 ppb) and 1,2,3-TCP (26 ppb) should have been used in the model instead of their respective 95% UCLs, as is typically required by Cal-EPA DTSC for an unrestricted land-use scenario.

- Typically, a noncancer hazard for a child resident is evaluated, since children are the most sensitive receptors under a residential land-use scenario. Targhee, Inc evaluated only adult residents for noncancer hazard.

- To evaluate possible failure of the treatment system at the GLCC site, Targhee performed a risk assessment utilizing pre-remediation groundwater concentrations that were historically detected beneath the proposed project location. Treatment system failure could also include a vapor phase release at the point of treatment. It does not appear that the potential risk from this exposure pathway has been evaluated.

We understand that the developers will not be able to grade or dig down to the groundwater level since that may cause problems with the existing cleanup effort (i.e., create a lower pressure area to which the contamination may flow). However, is it good planning to allow apartments to be built over known ground water contamination, rather than requiring that it be cleaned-up first? Will the residents really feel that the City of Irvine has protected their health, safety, and general welfare when they are reading and signing their disclosure form about the contamination remediation system in operation there (ref. Mitigation Measure No. 6)? This is simply poor planning and we want you to stop it by denying this project.

5. *Initial Study, page 6, IX. Land Use and Planning (b),* says that there is "no impact" to "Would the project conflict with any land use plan, policy...?" *The Supplemental Comments, page 7, IX. Land Use and Planning (a-c),* states that concerns raised by owners of neighboring industrial and manufacturing properties over the compatibility of the project with nearby industrial uses have been addressed in the sections on Hazards and Hazardous Materials, Noise, Transportation, and Traffic. However, as noted in other sections of our response herein, we disagree that these issues of incompatibility have been adequately addressed.

6. *Initial Study, page 6, XI. Noise (a),* says that there is "less than significant impact with mitigation incorporation" to "Would the project result in 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?" This is incorrect, as the Planning Commission has already found that this site is not suited for residential development due to its close proximity to noise intensive industrial facilities which operate 24 hours per day, 7 days per week. See PC Resolution No. 95-1846, pages 2-3.

   The Supplemental Comments, page 8, XI. Noise (a, e), states that Mitigation Measure No. 8 (an additional noise study) will ensure that there will be no negative noise impacts to the residents. We disagree, since the noise generated by surrounding businesses varies widely from day to day, and the surrounding manufacturing practices may change after the noise study is conducted, thus resulting in more noise than the study indicates. For example, if St. John Knits or Royalty Carpet Mills purchase larger machines in the future, and if these machines make more noise than the ones in operation when the noise study was conducted, the mitigation measures incorporated into the project may not be sufficient. After all the studies and mitigation measures are in, the bottom line is still going to be that a quiet night's rest is going to be expected by all residents, and no amount of advance disclosure will prevent a resident from losing sleep once he/she becomes attuned to noise or the changes in the noise level throughout the night. This will result in unhappy and unhealthy residents who will complain to the City and the surrounding businesses as well.

   The Noise Study prepared for this project (ref. Noise Analysis and Preliminary Mitigation Recommendations for the Proposed 2552 Kelvin Avenue Apartments, Prepared by Messier Grieve Associates, June 19, 2001) is totally inadequate. This study addresses only the noise from the airport and the mechanical equipment on the adjacent Great Lakes Chemical site, and it simply dismisses any noise from the Kelvin Avenue direction. One of our biggest concerns is that the business uses (carpet mills, weaving looms, etc.) that can operate 24-hours a day will disturb the sleep of apartment residents. The equipment used by the businesses in the Kelvin/Derail area could change in the future, more working shifts could be added, so that this noise source could drastically impact future residents if apartments are

allowed to be built there.

Noise Analysis

GeoSyntec performed a review of a noise analysis and preliminary mitigation recommendations report prepared for the proposed project [Mestre Greve, 2001]. This noise evaluation included the collection of sound measurements at the northwest corner of the project location on 20 March 2001 between 9:30 and 10:00 am. Concerns related to the sound measurements include the following:

- The sound measurement location was in the northwest corner of the project site. Manufacturing facilities located to the north, northeast, and east of the proposed project location are anticipated to be significant sources of industrial noise. How did the sound measurement location account for potential impacts from these neighboring manufacturing facilities?

- Sound measurements were collected over a 1/2 hour duration in the morning hours on a single day. Is this measurement period representative of average or worst-case noise periods at the proposed project location?

Thus, the determination for Noise should be changed to "Potentially Significant Impact."

7. *Initial Study, page 9, XVII. Mandatory Findings of Significance (b),* says that there is "less than significant impact" to "Does the project have impacts that are individually limited but cumulatively considerable... when viewed in connection with the effects of ... probably future projects? It further says that the impacts are "less than significant with mitigation incorporation" to "Does the project have environmental effects which will cause substantial adverse effects on human beings either directly or indirectly?" We disagree with both of these answers, for all the reasons stated elsewhere in this response, and both should be answered with "potentially significant impact."

CONCLUSION

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generators, which could endanger the health, safety and welfare of the future residents of the proposed subdivision.

- The site of the proposed subdivision is not physically suited for the proposed density of development because the site is located in close proximity to hazardous material users and generators, which could endanger the health, safety and welfare of the future residents of the proposed subdivision.

- The design of the subdivision or the type of improvements is likely to create serious public health problems due to the proximity of the project to toxic chemical generators and uses, and to known sites with toxic contamination.

- The design of the proposed residential subdivision or the type of improvements is likely to create serious public health problems due to the proximity of the project to noise-intensive industrial facilities which operate 24 hours per day, 7 days per week.

- The design of the subdivision or the type of improvements is likely to create serious public health problems due to the proximity of the project to industrial facilities which are serviced by large trucks 24 hours per day, 7 days per week.

Environmental Summary
In summary, numerous potential issues have been identified relating to the technical evaluations of ambient air, noise, human health risk, and groundwater conditions.

The proposed project is adjacent to the GLCC site, a site with identified soil and groundwater contamination that is under regulatory oversight. Contaminated soil has been identified in the northwest corner of the proposed project site at concentrations exceeding residential standards. Based on the information reviewed, it is not clear whether or not a regulatory agency such as the DTSC or OCHCA has evaluated the significance of the soil impacts at the proposed project or the potential interactions between the residential project and the adjacent GLCC remediation.

In addition, the sewer capacity in this area is not adequate for the existing businesses, let alone for any new residential development.

Thus, the negative mitigated declaration is not the appropriate environmental document for this project; rather, the project should again be denied for residential use so that its zoning reverts to multi-use as per Footnote N of the IBC Zoning.

EXCERPTS OF PUBLIC HEARING TESTIMONY RE INCONSISTENCY OF RESIDENTIAL DEVELOPMENT NEAR INDUSTRIAL/MANUFACTURING USES IN THE IBC (APRIL 12, 2005 - FEBRUARY 1, 2007)

CITY COUNCIL MEETING, APRIL 12, 2005

Item #13.1: IBC Residential/ Mixed Use Development Strategy

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Boston
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Los Angeles
New York
Orange County
San Francisco
Silicon Valley
Tokyo
Walnut Creek
Washington

Mary Ann Desmond, DEFT, Inc. Co-owner and Resident of Irvine:

- DEFT is a manufacturing company that makes coatings, paint, wood finishes and specialty industrial coatings. DEFT has 100 employees, including 40 chemists and 40 highly trained production shipping employees.
- DEFT is concerned with the effect of residential development on the health and safety of the future residents near manufacturing facilities and on the company's ability to grow its business in Irvine.
- Residents will be affected by the constant noise levels created by DEFT's 24-hour a day operations and truck traffic to and from the facility on average of 100 trucks per week.
- Residents may also be affected by odors, hazardous materials and toxic air contaminants.
- Development needs to comply with the standards for buffer areas recommended by the South Coast Air Quality Management District.

Rich Salter, Consultant to IBC Manufacturer's Group[1] and Resident of Irvine:

- Irvine needs to protect existing businesses.
- Mr. Salter also stated that Commissioner Cosgrove "did a good job of [emphasizing the] changing strategy from encouraging residential everywhere in the IBC and focusing it on incentivizing it at this mixed-use cores along Jamboree and the major streets to keep it away from some of the interior manufacturing streets where there's a lot of the truck traffic and things."
- It is important to establish a minimum lot size for parcels that are changing from other uses to residential. More than the suggested three or five acres are needed to create developments of mixed uses with pedestrian areas that reduce traffic.

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[1] Includes: Royalty Carpet Mills, DEFT, Parker Hannifin, Allergan, MPC Industries.

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CITY COUNCIL MEETING, JULY 11, 2005

Item #4.1: IBC Vision Plan and Overlay Zone Strategy

Bill Connors, Attorney for City of Newport Beach:

- An EIR must be done at the earliest feasible point in a project's approval, but the City is discussing actions before doing an EIR for the IBC residential development. The City can not determine IBC impact fees without knowing what infrastructure is going to be required, which cannot be known until an EIR is prepared.
- The 1992 IBC EIR prohibited any further residential development, but developers are trying to rezone the IBC into something other than what the 1992 IBC EIR studied.
- Mr. Conners stated that 14,000 more residential units than studied in the 1992 IBC EIR have been approved or are in the pipeline. A new EIR should have been done before this additional residential development.
- Mr. Conners argued that the City needs to stop piecemeal rezoning of the IBC and conduct a master EIR.

Robert C. Hawkins, Attorney for DEFT and other IBC Industries:

- The City has excluded current businesses from the Vision Plan and Overlay Zone process and has talked only with developers.
- A program-level EIR should be prepared.
- The evidence shows that a 1000-foot buffer is reasonable.

Eric Morris, DEFT employee and Resident of Irvine:

- Traffic in the IBC is a big problem.
- The addition of 14,000 new residential units will lower the value of existing properties.

Rich Salter, Consultant to IBC Manufacturer's Group and Resident of Irvine:

- The Council should conduct an EIR for the Vision Plan and Overlay Zone.
- A 1000 foot industrial buffer is rational.
- More IBC residential projects should not be approved until the Vision Plan and Overlay Zone planning effort is completed.

Mary Ann Desmond, DEFT Co-owner and Resident of Irvine:

- When DEFT moved into the IBC 30 years ago, the IBC was only for industries and businesses, and no residential was allowed.

- The IBC industrial and manufacturing businesses use hazardous and toxic materials; therefore, residential development is incompatible near those existing uses.
- A 1000-foot buffer is necessary for industrial and manufacturing businesses to grow.
- There should be a moratorium on IBC residential development until an EIR can be completed.

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Tony Desmond, DEFT Co-owner:

- The City should be concerned with exposure of residents to contaminants.
- The City's actions show a bias toward developers.
- There should be a moratorium on IBC residential development until an EIR can be completed.
- Mr. Desmond used to work for industrial company in Berkeley that was driven out when residential development encroached and the separation between the industry and residential was only 200-300 feet.

Tom Boylan, DEFT employee and Resident of Irvine:

- The City has moved the IBC from a planned community to spot rezoning.
- The City needs to do an updated EIR and ensure that it has the infrastructure to handle the residential growth.
- 1000-foot buffers between industrial and residential are necessary.

Mahir Barkho, DEFT Plant Engineer:

- Mr. Barkho is concerned about the effect of hazardous materials used by DEFT on residents.
- A minimum buffer of 1000 feet should be applied because science has shown that distance is a major factor in degree of harm, especially when residents are exposed to the chemicals 24 hours a day.
- Without 1000-foot buffers, DEFT will be subject to litigation when residents learn they live next to a chemical factory and tort liability if an accident occurs.

Don Kemble, DEFT General Counsel:

- Even though the City claims that it wants to protect existing businesses, putting incompatible uses next to each other does not protect existing business.

Ray Marzullo, Parker-Hannifin Corporation, Air and Fuel Division:

- Parker-Hannifin assembles aircraft fuel components.

- The company is concerned that the City is doing piecemeal rezoning of the IBC.
- If residential is placed next to industry will drive out industry.
- Mr. Marzullo requested that the City: (1) perform comprehensive EIR for mixed-use overlay zone strategy; (2) require a minimum of a 1000-foot buffer; (3) place a moratorium on new residential development projects until the comprehensive EIR is completed.

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Ray Diradoorian, Allergan Executive Vice President:

- Allergan is a biomedical research facility and chemical manufacturer. Allergan employs 2000 people in the IBC, and 400 of those employees live in Irvine.
- Allergan supports residential development in areas of IBC where it is not adjacent to incompatible uses, such as itself.
- Allergan believes a 1,000 foot buffer from residential development is needed but has compromised and decreased its request to 800 feet, which is about a parcel away.
- Allergan has had to buy two adjacent pieces of property to prevent residential encroachment.
- An EIR for the residential development of the whole IBC should be done before additional development is allowed within the IBC.
- The City adopted draft overlay zoning and a vision plan without appropriate CEQA compliance. Allergan will file litigation under CEQA if the City intends to permit residential development in the buffer area.

Mike Derderian, Royalty Carpet Mills:

- Industry needs a decent-sized buffer to prevent residential development from putting industry out of business.

Paul Queyrel, MPC Industries President:

- MPC Industries manufactures aircraft skin sheet and body panels for Boeing and other aircraft frame manufacturers.
- MPC's facility was specially built uses cranes and machines over 100 feet long.
- The facility is noisy and creates ground vibrations starting at 4 a.m. It also uses hazardous materials and huge amounts of electrical power, emits odors, and numerous semi trucks traffic the site every week.
- A 1000 foot buffer is reasonable.

Patty Krebs, Industrial Environmental Organization:

- A 1000-foot buffer is needed because otherwise industries will be subjected to a higher level of scrutiny, controls will be put on business, such as requiring them to cut back their operating hours, etc.
- It is important to retain industry in urban centers and attract new companies.

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CITY COUNCIL MEETING, JULY 25, 2005

Item # 8.2: IBC Residential Mixed-Use Vision Plan and Overlay Zone Strategy

John Toner, Representing Verizon Wireless:

- John Toner has run the Verizon Irvine Data Center facility on Main Street in the IBC for twelve years.
- Verizon Wireless has 2,500 people employed in the City of Irvine.
- The Irvine Data Center is the backbone of Verizon's wireless operation and network for the western United States and is so important that Verizon has invested tens of millions of dollars in it and have plans to invest millions more.
- The Data Center is essential for providing emergency communications and, as such, it operates 24 hours a day, 365 days a year, and has done so at Main Street in the IBC for 16 years.
- These continuous operations are supported by extensive back up systems which include fulltime air conditioning; backup power and generators.
- Verizon anticipates that it will expand the generators by a significant amount.
- According to Mr. Toner, the equipment generates noise is "not the kind of noise you would want to hear in your home in the middle of the night or on your patio."
- Verizon fears that new residents near the facility will find the noise levels unacceptable.
- While Irvine's current noise standards limits noise levels to 50 decibels at night, Verizon produces noise levels at the current Industrial and Commercial limit of 70 decibels.
- Mr. Toner requested the Council do the following: (1) perform adjacency analysis for any new residential project within 1,000 feet of existing IBC uses; (2) condition new residential projects; (3) at a minimum, residential projects should not be permitted within 200 feet of the property line of an existing IBC use; (4) adjacency study must include input from and participation by existing IBC users; (5) the adjacency study should be an

initial consideration while any contemplated EIRs being finalized; (6) protect current businesses by grandfathering the current standards of the IBC.

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William Conners, Attorney for City of Newport Beach:

- Mr. Conners raised serious and substantial concerns about continued piecemeal rezoning of the IBC from business to residential without the benefit of an adequate master EIR.
- CEQA has been abandoned because it requires an EIR before rezoning.
- It is illegal to have guidelines that have no standards.
- The City should to come up with standards that are not vague and requested that the City conduct an EIR before setting standards.
- A full EIR must be completed to address the infrastructure, the costs and expenditures, and mitigation measures up front.

Roger Taylor:

- Mr. Taylor spent 30 years in the paint industry before he retired in 2000. Mr. Taylor was the Vice President of manufacturing for a company in Oakland and Emeryville.
- Mr. Taylor was the Executive Director for Amoron Industrial Coatings in Brea, California and was the Managing Director of a company called Protorise in British Midlands. His last job was as the Managing Director of Color Trend Paint Tinting Systems in Masstock, the Netherlands, and also the plant in Pleasanton, California. Thus, he has significant experience in dealing with residential neighbors and regulatory agencies.
- Residential units should not be close to chemical and other industrial concerns. It is not beneficial for the City or the residents and is unfair to the businesses which were welcomed into an industrial area of Irvine.
- The current request for a 1,000 foot buffer seemed reasonable.
- If residential units are placed next to these kinds of industries, it may force the industrial companies to move.

Carol Yocum, Former Planning Commissioner in Emeryville and Irvine:

- Ms. Yocum stated that she would not accept site-by-site EIRs that do not address the larger implications of the plan to rezone the IBC.
- When a site analysis is conducted it only looks at one point in time. However, businesses grow and its processes and compounds change. If it is only measured at one point in time without a standard, this will limit a business' potential growth.

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John Hayden, Irvine Resident and Employee of Business in the IBC:

- Mr. Hayden asked the City to consider the traffic impact of the residences in the IBC since the street capacity in the area is already full.
- Traffic problem will only get worse after the Tustin airbase and the district shopping center open.
- Mr. Hayden urged the City to consider the 1,000 foot buffer

Bob Fore, Resident and Director of Engineering at Parker-Hannifin:

- Mr. Fore is the director of engineering for Parker-Hannifin air and fuel division located on Von Karman Avenue. Parker-Hannifin has been located in the IBC for 25 years.
- Parker air and fuel division employees approximately 400 people. Parker-Hannifin builds and designs a variety of high technology aerospace products and supplies networks to other businesses in the local area. Parker-Hannifin employs people at all levels, including over 50 assemblers and testers and well over 100 degreed engineers.
- Mr. Fore stated that the proposed multi-story 104 unit apartment complex adjacent to the Parker-Hannifin site would be incompatible with the Parker-Hannifin facility.
- The incompatibility is due, in part, to the frequent conducting of high noise testing, sometimes 24 hours a day, to support the aerospace industry. The noise is the equivalent to engines running on an aircraft.
- Mr. Fore stated that he was 100% sure that an apartment building constructed adjacent to the Parker-Hannifin facility would result in extremely strained relations. Ultimately, Mr. Fore believes that Parker-Hannifin will decide to relocate is the apartment building is constructed.

Patricia Miyake, Engineer for Parker-Hannifin:

- Ms. Miyake has been an engineer for Parker-Hannifin aerospace for 22 years.
- Ms. Miyake also lives in Irvine and is a working mother. The short commute allows her to maintain employment while still being involved with her children in community activities.

Rich Salter, Consultant to IBC Manufacturer's Group and Resident of Irvine:

- A change should be made in the nonresidential buffer around designated key businesses to 1,000 feet. The 1,000 foot buffer is necessary as a result of, among other things, hazardous materials, noise, trucks, odors, 24 hour lights produced by the businesses in the IBC.
- The safety of residents is paramount, as is the manufacturers' ability to continue to operate.

- The industrial adjacency analysis should be completed prior to the approval of the application.
- If residential uses are approved next to hazardous materials, 24 hour-a-day noise, odors and trucking it is the very definition of incompatible land use.
- The City should "stop the piecemealing process, stop the spot zoning and do a full EIR for the area" because cumulative impacts on piecemealed EIRs cannot possibly analyze the "whole area because it doesn't analyze the cap, it doesn't set a cap for residential and doesn't analyze that cap."

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Ray Diradoorian, Allergan Executive Vice President:

- Mr. Diradoorian argued that the City should not conduct concurrent adjacency studies because it places risk on both parties' part in terms of the compatibility. The City should do that analysis prior to processing any application.
- Mr. Diradoorian asserted that the developers should not perform the industrial adjacency analysis because they are not experts in the particular industry at issue and it would force the industry to participate in numerous adjacency studies for every residential project approved near its location.
- He asserted that the IAA study now is very static but that the industry changes more rapidly. Thus, the current IAA will be limiting the future growth of an industry and its flexibility on its site.

Paul Queyrel, President of MPC Industries:

- MPC has been located in Irvine over 30 years. MPC supplies Boeing Company, Douglas and Lockheed with all fuselage material for all commercial jets made in the United States. All of that material is processed through the facility in Irvine. MPS ships products in the approximate length of a swimming pool and about half the width.
- Mr. Queyrel stated that a "reasonable buffer" must be more than two hundred feet away. That is insufficient if a business operates 24 hours a day.
- Mr. Queyrel asserted that the amount of time the industry has been in the IBC is irrelevant because that company has made an investment that needs to be honored.

Mike Derderian, Royalty Carpet Mills:

- Mr. Derderian expresses disappointment that long-time commercial residents in the City have to come before the Council and plead with the City to try and stay in business.
- His business employs people and pays taxes in the approximate amount of $6 to $7 million a year and employs approximately 600 people in Irvine.

- Mr. Derderian argued that a full EIR must be conducted on the EIR. At his company, ear plugs are required because of the amount of noise generated is significant.
- He also stated that the traffic in the IBC is a "nightmare." Although he only lives seven miles from his office, it takes him 30 to 40 minutes to get home.

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Ray Marzullo, Parker-Hannifin Corporation, Air and Fuel Division:

- Mr. Marzullo argued that Parker-Hannifin has made its home in Irvine.
- Parker-Hannifin assembles tests, pneumatic and fuel components for the aircraft industry. It employs over 100 degreed engineers onsite and 1700 people in Irvine. Of the 1700 people, approximately 120 live in Irvine. The air and fuel division employ approximately 415 people of which 28 live in Irvine.
- Parker-Hannifin operates 24 hours a day. They flow jet fuel upwards to 200 gallons per minute. They have an above ground tank farm stirring approximately 30,000 gallons of jet fuel. They have approximately eight air compressors generating 600 psi and generate upwards of 115 decibels of noise.
- When Parker-Hannifin air and fuel division relocated to Von Karman site in 2001, it invested over $17 million in the renovation and relocation.
- Mr. Marzullo argued that the Industrial Adjacency Analysis seems vague and the motion is not specific on what the IAA will entail. The IAA makes no mention or preparation of an EIR.
- Mr. Marzullo suggests that a comprehensive EIR should be performed prior to any future residential development: "Let's not put the cart before the horse. Once again, I recommend the moratorium on new residential development."

Tom Boylan, Employee of DEFT, Inc. :

- DEFT is a chemical manufacturing business that blends and stirs flammable liquids and other hazardous and toxic chemicals.
- According to Mr. Boylan, DEFT is handling "hexavalent chromium" and stores flammable toxic and hazardous materials. DEFT also has a tank wagon delivered with storage tanks and material.
- The information provides justifies a 1000 foot buffer.
- There is a fear of an occurrence of "fires, explosions and toxic releases."

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Mahir Berkho, Plant Engineer for DEFT, Inc.:

- Mr. Berkho has been the plant engineer for DEFT for 20 years. Mr. Berkho has a bachelor degree in Science Engineering and Masters Degree in Environmental engineering.
- Mr. Berkho stated that there was a hazardous materials incident on February 7 to which the county fire authority and Irvine police responded. A hazardous material perimeter was established and businesses evacuated and Von Karman closed.
- Thus, it is incompatible to bring residents next to chemical factories. A buffer of a minimum of 1000 foot is required.
- Mr. Berkho stated that agency studies confirm that a 1000 foot buffer is necessary to protect residents from cumulative exposure to chromium and similar toxics.

Mary Ann Desmond, Co-Owner of DEFT, Inc.:

- According to Ms. Desmond, DEFT and other agencies have shared with the City technical data that various governmental agencies support a 1000 foot buffer between industry and residents. This buffer is necessary for the safety and health of residents and prosperity of the industrial uses.
- Ms. Desmond stated that industrial uses depend upon "a core protected, contiguous, cohesive area to have industrial businesses operate within and grow."
- Since residents want quality of life, if they complain that an industry is a public nuisance, the law gives agencies the authority to require mitigation measures and the mandates could include a limitation of business activities.

William Desmond, Co-Owner of DEFT, Inc.:

- According to Mr. Desmond, contaminants from El Toro migrated into residential areas and there is arsenic and at least four other solvents at the Tustin air base which will likely will migrate.
- The developers in the IBC measure only five of 60 hazardous materials but need to measure them all.

Robert C. Hawkins, Attorney for DEFT and other IBC Industries:

- Mr. Hawkins stated that project-specific EIRs are not sufficient but that a programmatic EIR is necessary.
- Mr. Hawkins sought a temporary moratorium on new development during the time the program EIR is ordered and the EIR is certified so that the project can be allowed to work. The programmatic EIR should develop standards and apply them to all projects.

- Mr. Hawkins argues that there should be a "standards analysis" and not simply guidelines. The standards should have council mandates and a planning commission.
- Mr. Hawkins argues that the 1000 foot buffer is key.

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Patty Krebs, Industrial Environmental Association:

- Ms. Krebs argued that in another case involving an industrial facility next to residential development, the residents moved in and then litigated over cooling towers. This resulted in expensive modifications to the facility.
- Ms. Krebs detailed numerous issues that have arisen in other contexts that have developed residential uses near industry:
  - Residential developed about 1000 feet away from an engine manufacturer. The turbine testing, however, created a decibel level of 75 and the residential standard is 45. Weekly complaints are being filed with the City over the noise.
  - Residential built next to a biomedical facility. Residents forced the company to reduce their operating hours.
  - Warehousing and distribution facility. Residential on two sides. Though residents signed disclosure agreements, they object to any further operations and expansion of the facility.
  - Hi-Tech bio-tech center; residential came in; residents sued over bio-tech company occupancy permit. Bio-tech facility being converted to condos.
  - Residents sought moving of a power substation to avoid potential interference with community swimming pool.
- Ms. Krebs suggested that the City needs to identify core industrial areas and draw a boundary around it and keep that intact and use a 1000 foot buffer.

Bill Acuna, Represents Hospitality Properties trust and the Crown Plaza Hotel:

- The Crown Plaza is a thirteen story hotel operating 24 hours a day, 365 days a year. Several thousand cars, taxis, buses and personal cars transporting guests; semi tractor trucks delivering goods come and go from the hotel.
- At the hotel, there is loud music and deejays into the evening which often occurs outside the hotel. Additionally, a diesel generator is tested at least once a week.
- The hotel there are heavy commercial air conditioning units, pumps and outdoor grease traps that need cleaning on a regular basis creating noise and generating extremely unpleasant odors.
- According to Mr. Acuna, the Crown Plaza needs at least a 200 foot buffer.

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Wendy Peterson, General Counsel of patent law firm located in Irvine:

- The firm employs 400 people in Irvine and moved from Newport Beach to be strategically located in the IBC business area.
- The Crown Plaza and its IP clients need certainty that residential development will not be approved adjacent to them and that these clients will not be distracted by lawsuits or complaints from neighboring residents.
- Ms. Peterson supports Mr. Salter's proposal.

Item # 9.2: General Plan Amendment and Zone Change for Avalon Jamboree Village

William Conners, Attorney for the City of Newport Beach:

- Newport Beach's issues involve the addition of many more residential units without a programmatic EIR.
- Newport Beach suggested that the general plan change and zoning stay the same until a programmatic or master EIR is conducted.
- Traffic and the impact on parks is a primary concern.
- The City cannot use the 1992 EIR to justify adding additional residential units.

William Desmond, Co-Owner of DEFT, Inc.:

- Mr. Desmond stated that traffic will increase if the project is approved.

Robert C. Hawkins, Attorney for DEFT and other IBC Industries:

- The EIR shows 12 hazardous materials sites in the vicinity of the project, one of which is within a couple hundred feed of the proposed site.
- The Council is piecemealing projects without analyzing the whole project which is the overlay district.
- Mr. Hawkins advocated against he waiver of the five percent moderate housing.

Mahir Barkho, DEFT Plant Engineer:

- It is important for the potential health threat posed by chemicals used by businesses in the IBC to look at the cumulative exposure from other hazards in the area.

Item # 9.3: General Plan Amendment and Zone Change for 2323 Main

William Desmond, Co-Owner of DEFT, Inc.:

- The site has a hazardous waste site within 1,000 feet.

- The program should be reengineered because it has a subterranean garage with a high water table.

William Conners, Attorney for the City of Newport Beach:

- The project needs to be looked at by the City as re-zoning from industrial commercial to residential.
- The City is admitting that the overall re-zoning requires it to look at CEQA but the City has only done a subsequent EIR.
- The subsequent EIR is tied to the 1992 EIR which suggests that he 1992 EIR is still valid which is not the case.
- Newport Beach is concerned about traffic because it will spill over into Newport Beach.
- Newport Beach is also concerned about parks because there is no requirement for parks for many of these projects.
- CEQA requires an EIR to be prepared before planning proceeds so that environmental considerations can influence the planning decision.

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Tom Boyland:

- Concerned that there has to be unbiased IAA and cannot be a company hired by the developers.

Mahir Barkho, DEFT Plant Engineer:

- Mayor Krom described Mr. Barkho as a specialist on compounds.
- Mr. Barkho raised two concerns. The first concern is the cumulative exposure from combined emissions from chemical plants within the 1,000 foot buffer, which includes DEFT and Delphi. A combined health risk assessment that addresses the potential hazards to adjacent residents is necessary to protect the residents' health and safety.
- The second concern is the sampling of ground water wells at 2323 Main. The laboratory used a insufficient number of laboratory control standards to properly validate the analysis and prove its reliability and accuracy. Additionally, the laboratory controlled standards used did not include the most common pollutants.
- Mr. Barkho provided the City with a report by Enviro Pro about the test of the ground water.

Mary Ann Desmond, Co-Owner of DEFT:

- Ms. Desmond emphasized the necessity of considering the safety of the residents.
- DEFT is concerned about its ability to grow.

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Robert C. Hawkins, Attorney for DEFT and other IBC Industries:

- The IAA does not work for key businesses with substantial amounts of hazardous materials on-site.
- Conducting analysis on individual projects leaves out the environmental analysis of the entire project.
- There are two businesses within 1,000 feet of 2323 Main that use Category 1 hazardous materials.
- The environmental document does not analyze the effect of the subterranean garage on the water table.
- Mr. Hawkins other concern is with traffic. The current traffic situation is failing so additional residential units will only increase traffic.

Don Campbell, General Counsel of DEFT, Inc.:

- Traffic is a big concern because it would likely more than double at the corner of Main Street and Von Karman if this project is allowed.
- It is necessary for the City to determine whether 2323 Main and others located near toxic locations are safe for residents.

Eric Morris, DEFT employee and Resident of Irvine:

- His background is in metallurgy and a Ph.D. in chemistry.
- Many of the chemicals being discussed that are used by industry in the IBC are very dangerous.
- DEFT's use is dangerous because the chemicals can become airborne.

Rich Salter, Consultant to IBC Manufacturer's Group and Resident of Irvine:

- The IAA creates disputes on every project in stead of having a fixed buffer.
- The air must be tested for emissions at many different points

William Desmond, Co-Owner of DEFT, Inc.:

- Some of the chemicals stored are highly explosive.
- Commercial use is different from residential use because residential is 24 hours a day.

CITY COUNCIL MEETING, AUGUST 22, 2006

Item #3.2: 2323 Main Industrial Adjacency Analysis

Mary Ann Desmond, Co-Owner of DEFT, Inc.:

- Ms. Desmond again raiser her objections to the 2323 Main Street Residential Project which is less than 1,000 feet from DEFT.

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- Ms. Desmond proposed a reverse case scenario in which DEFT purchased land within 1,000 feet of a residential project and asked for approval to build a factory. She believes that the City would never approve that scenario so does not understand why it is working the other way around.
- Ms. Desmond pointed out that if 2323 Main Street is approved, it raises immediate incompatible uses that were not addressed in the IAA. For example, when DEFT decides to build additional facilities, it will be required to send out notification to all residences within 1,000 feet which only adds to negative perceptions of DEFT.
- Ms. Desmond fears that if the residents complain, the agencies will impose additional regulations or deny or limit DEFT's growth.
- Ultimately, Ms. Desmond believes that allowing residences within 1,000 feet will force DEFT to leave the IBC, which is incompatible with the vision plan and statements that the City is committed to existing industrial businesses and the existing job base.

William Desmond, Co-Owner of DEFT, Inc.:

- DEFT is a small family-owned business and is the world's largest producer of stealth coatings.
- Mr. Desmond stated that DEFT cannot afford to move it business out of the IBC.
- Mr. Desmond also pointed out that in order to widen Von Karman, it would interfere with the Washington Mutual site. The residential site will cause serious traffic issues.
- Mr. Desmond stated that it is not appropriate for industrial businesses to be sacrificed for temporary developers.

Rich Salter, Consultant to IBC Manufacturer's Group and Resident of Irvine:

- Mr. Salter raised a concern regarding the process of the agency study in which the June version deleted Items 2 and 3.
- Item 2 relates to the notification by the city to owners located within 500 feet of the proposed residential, requesting comments on land use compatibility issues.
- Mr. Salter believed that the process would include the industrial adjacent property owners in the process to help the applicant determine what chemicals or noise or future expansion made odors, light and glare, etc. which has now been excluded.
- Thus, Mr. Salter does not believe it is an adequate adjacency analysis because it is not inclusionary.
- Mr. Salter raised the issue that the EIR scoping session should be inclusionary and include all industry within 1,000 feet.

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Robert C. Hawkins, Attorney for DEFT and other IBC Industries:

- With respect to the adjacency study, Mr. Hawkins stated that it does not accomplish the goals it set out to accomplish.
- Mr. Hawkins pointed out that there are two category 1 sites within 1,000 feet of 2323 Main. Although one of those sites is closed, the environmental analysis must go by the sites that existed during the publication of the notice of preparation.
- Mr. Hawkins also stated that the information in the analysis regarding groundwater is inadequate.
- Mr. Hawkins requested additional time so that everyone could fully analyze the adjacency study.

Councilmember Shea:

- Shea stated that she would oppose this project because it is too close to DEFT. In the event DEFT expands, it will be even closer to residential development.
- Councilmember Shea also agrees with Ms. Desmond that the City would never allow DEFT to move within 1,000 feet of existing homes so why should the City approve residences so close.
- Councilmember Shea also stated that existing business should be protected, which is the first priority of the vision plan.
- She also advocated the use of 1,000 foot buffers around industrial uses.
- Councilmember Shea also raised the issue of the dangers of hazardous products -- not just with respect to emissions, but with respect to an unforeseen event such as a fire. During the last fire at DEFT, the police closed off several blocks of the IBC.

PLANNING COMMISSION MEETING, FEBRUARY 1, 2007

Item #4: Scoping for EIR for Jamboree Village (IBC) Vision Plan and Residential Mixed-Use Overlay Zoning Code

Rich Salter, Consultant to IBC Manufacturer's Group and Resident of Irvine:

- Many of the companies in the IBC feel as though they were not provided an opportunity to comment on proposals, such as the new village name, Jamboree Village
- The change in name to Jamboree Village was done without asking the businesses that have been in the IBC for decades.
- Mr. Salter also stated that since the proposal is for 20,000 dwelling units, it makes sense to conduct a full EIR.

- Mr. Salter also advocated for a full traffic study within the EIR since a mitigation program has not been described.
- Mr. Salter expressed appreciation for keeping the IAA part of the pre-application process.
- Mr. Salter also stated that the 200-foot buffer is inadequate and should be 1,000 feet.
- Mr. Salter raised the issue of the economic impact of adding additional residential units and advocated that this be part of the EIR.
- Additionally, replacing manufacturing jobs with housing or even retail jobs has an economic impact on the City.
- Mr. Salter also raised the issue that the IBC is being redeveloped and there is no requirement on developers to dedicate open space.
- He also indicated that a residential cap is necessary.

Aaron Harp, Assistant City Attorney for Newport Beach:

- Mr. Harp requested that the Commission designate the type of EIR being conducted because the designations are important for CEQA and the type of analysis required.
- Newport Beach's view is that a program level review should precede environmental review of individual project level EIRs.
- Mr. Harp also stated that it is a significant omission that the NOP does not indicate whether one or more town centers will be included in the project because higher densities are permitted in town centers
- Mr. Harp requested that the Vision Plan be processed as a general plan amendment or it would result in inconsistency between industrial business complex, residential mixed-use overlay zone and the current general plan.
- Mr. Harp emphasized that the Draft Environmental Report Impact Analysis ("DEIR") must include cumulative impacts analysis and include a review of pending projects.
- It is Newport Beach's opinion that the DEIR must also include an accurate description of existing traffic conditions and should address the likely intensification of residential development.
- Mr. Harp also stated that residential projects within the IBC did not adequately mitigate their impacts to parks and recreation facilities.

Karen Blankenzee, Representing RHC Communities:

- RHC develops affordable house, self-storage and light industrial products.
- Ms. Blankenzee stated that the overlay zone should not be used as an after-the-fact justification of those residential units already approved and those in the pipeline. Instead the overlay zone must allow continued

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business use development and expansion in the areas which are to be set aside for continuing business activity.

- Ms. Blankenzee argued that alternative transportation modes must be considered and the City should consider traffic calming devices, reduction of speed limits and landscape medians.
- Ms. Blankenzee recommended shuttle services outside the IBC, additional freeway onramps and off-ramps.
- She also recommended a cap on the number of dwelling units.

John Toner, Representing Verizon Wireless:

- Verizon Wireless employs nearly 2500 people in Irvine. Mr. Toner has, for the last 12 years, run the Irvine data center located on Main Street in the IBC.
- The data center is the backbone of Verizon's wireless network for all states west of the Mississippi and essential for all parts of Verizon's business operations.
- Verizon has invested tens of millions of dollars already and plans to invest millions more.
- This network is essential to providing communications for police, firefighters, disaster recovery personnel, business and government employees and other individuals.
- Verizon operates 24 hours a day and have been doing so without interruption for over 16 years.
- These operations require continuously operating air-conditioning and massive amounts of power.
- This noise is not the type of noise that residents will want to hear near their homes, especially since they exceed residential standards limits.
- Verizon is very concerned about additional residential uses in the IBC.
- Mr. Toner made the following recommendations:
  - Any EIR must reflect and provide for the protection of existing businesses and require residential developers to be responsible for mitigating any impacts resulting from residential and industrial uses in the IBC;
  - Existing business must be able to continue to rely on industrial zoning to permit expansion and upgrading;
  - New residential projects should require adjacency analysis if within 1,000 feet of existing IBC uses;
  - This analysis should be done at the earliest stage possible in the application process;
  - Residential projects should not be permitted within 200 feet of the property line of current IBC uses.

Bingham McCutchen LLP
bingham.com

Monica Burick, General Counsel of Atomic Communications, Inc.:

- Atomic Communications is a regional data center located in the IBC on Von Karman and adjacent to a proposed residential redevelopment of a six-story condo process which is in the beginning stages of the IAA.
- Atomic Communications operates similarly to Verizon and requires constant operations.
- Atomic Communications has several large generators that are tested regularly and used when there is a power outage or when Edison requests them to use the generators when power is limited.
- Atomic Communications favors buffers and is concerned with plans to have residences within feet of its generators.
- Ms. Burick requested guidance on the individual projects and encouraged the Commission to delay progress until resolution of the pending issues.
- The Company has put in millions of dollars into its operations and cannot move to another region
- In response to Commissioner Sheldon's suggestion that a muffler be put on the diesel generator, Ms. Burick suggested that the company already implements many sound attenuation measures but that it is still very loud.

Robert Hawkins, Attorney representing DEFT, Inc.:

- DEFT produces and manufactures wood finishes for the consumer market and specialized industrial coatings for aerospace and military customers.
- In its manufacturing, DEFT uses many hazardous materials including flammable liquids and cancer causing agents.
- The Planning Commission should pay attention to existing businesses when looking to redevelop the IBC.
- Mr. Hawkins explained that the businesses request to submit an application to be designated as an industrial business puts the onus on existing businesses. Only if a business is so designated are they permitted to participate in the IAA.
- DEFT went through a very truncated version of the IAA which Mr. Hawkins suggested was not through enough.
- Mr. Hawkins suggested that the current EIR address the trip budgets in the 1992 EIR.
- Mr. Hawkins also requested that the overlay ordinance make a statement regarding the preservation of existing industrial use.
- Additionally, while there are three districts created -- urban, mixed0use and business -- none of the key industrial businesses are in the business district.

- Buffers must be increased to 1,000 feet to be adequate because of hazardous materials, air quality and potential fire hazards.
- DEFT believes that the IAA should be done on existing businesses within 2,500 feet.

White Paper

on

HISTORY OF REGULATIONS REGARDING THE REDEVELOPMENT OF THE IBC

February 15, 2007

Prepared by
Bingham McCutchen, LLP
on behalf of
Allergan, Inc.

Introduction

The Irvine Business Complex ("IBC") is a 2,800 acre area located in the western part of the City of Irvine ("City"), bordered by the cities of Tustin to the north, Santa Ana and Costa Mesa to the west and Newport Beach to the south. The IBC has undergone an evolution in the past 50 years from an agricultural area, to an industrial complex, to an industrial and commercial complex, and then to its current state comprising of a mix of industrial, commercial, and residential uses. The following provides an overview of the changes to this area, from the "Irvine Industrial Complex," to the "Irvine Business Complex," to what is now suggested should be called "Jamboree Village."

Irvine Industrial Complex

Before 1982, the IBC was known as the "Irvine Industrial Complex West"[1] because the area was almost entirely developed with industrial uses.[2] When development activity began to transition to "higher intensity commercial and office uses" in the early 80s, the City prepared an Environmental Impact Report (IIC-West EIR) to study the effects of the "expansion of existing uses, conversion to more intensive uses, and redevelopment" of the IBC.[3]

The IIC-West EIR studied the City's proposed amendments to the Irvine General Plan Land Use Element "to relax restrictive controls which limit[ed] general offices, retail sales and services to small areas within the Complex... in response to increased demand for such uses in the IIC-West area."[4] Before this amendment, the Land Use Element designated "four land use categories within the IIC-West...: 'General Commercial', 'General Industrial', 'Manufacturing and Research' and 'High Density Residential'."[5] The amendment "redesignate[d] the entire Complex 'Business and Industrial."[6] The amendment also adopted policies that encouraged "[a] mix of complementary land uses... to minimize traffic impact," and provided that "[r]esidential uses shall be clustered in a few locations with minimal environmental impacts from surrounding uses."[7]

The IIC-West EIR also proposed amendments to the zoning regulations to "implement a 'mixed use' zoning concept."[8] The new zoning code designated over 90 percent of the IBC as a mixed use district and created three intensity zones - high, medium, and low - within the district.[9] The intensity was controlled by using a point system that required development to stay under an

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[1] The "West" in this name merely identifies the area as being in the western part of the City; the "Irvine Industrial Complex West" is same area as the IBC.
[2] Irvine Industrial Complex-West EIR (81-ER-0048) ("IIC-West EIR"), 3.
[3] *Id.*
[4] *Id.* at 6.
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.* at 8.
[9] *Id.*

established intensity ceiling within each intensity zone.[10] The point system, however, was not applicable to residential development.[11]

At the time of the Irvine Industrial Complex rezoning, the only site in the IBC that had been designated residential was at 18883 Von Karman (now the site of the existing "Metropolitan Condos" and approved "Lofts at Von Karman").[12]

The IIC-West EIR and Zoning Amendment (respectively, certified by ordinance and approved by resolution of the City Council) renamed the Irvine Industrial Complex the "Irvine Business Complex."[13]

Irvine Business Complex

The following is excerpted from pages 5-6 of the Project Description for the Irvine Business Complex Phase I Rezoning Program EIR[14]:

> [5] Between 1982 and 1985, substantial development activity occurred in the IBC which deviated from the pattern and distribution of development known in 1982. In 1985, a Supplemental EIR was certified which incorporated the new land use information and identified specific [6] funding mechanisms to implement the circulation improvements necessary to accommodate changed development patterns as identified in the 1985 EIR.
>
> After completing a detailed analysis of existing ordinance provisions and determining that approved development exceeds infrastructure capacity, the City Council instituted an emergency measure called an Interim Urgency Ordinance in 1988 and 1989, which limited development within the complex to a level more commensurate with the transportation system.
>
> In 1988, the City initiated a rezoning effort to address many issues that inadvertently resulted from, or were not resolved during previous efforts. A list of goals and objectives for the project was prepared and submitted to the City Council. The concept of creating an 'Urban Village' in the IBC stemmed from these goals and objectives to promote a more effective mix of land uses in an integrated urban pattern.
>
> In late 1989, the City adopted the Conservation Open Space General Plan Amendment (GPA-16) which established a maximum development intensity of 48.35 million square feet of Business-Industrial uses and 3,571 units of residential development [in the IBC].

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[10] *Id.*
[11] *Id.* at 29.
[12] *Id.* at Fig. 5.
[13] *Id.* at 8.
[14] The Project Description is attached hereto as Exhibit A. This document is taken from Appendix A of the Final IBC Rezone Program EIR, certified October 1992 ("1992 IBC EIR").

> ... Following extensive public discussions and review, the City determined that there are essentially two sets of issues related to the IBC. First, those issues that require immediate attention and resolution. These are issues related to the excess approvals, and the inconsistencies between the Zoning Ordinance, the General Plan and the Circulation Improvements. Second, issues that are related to the long-range development of the IBC and require more extensive planning and environmental considerations."

The City prepared a Program EIR to "address the impacts of the Phase I of the IBC Rezoning."[15] "The purpose of the [Rezone Project was] to rectify the present General Plan/Zoning entitlement cap (48.25 million square feet) with estimated actual existing and approved development (approximately 53 million square feet)."[16] The Rezone Project and Program EIR increased the residential entitlement cap by 325 units, from 3,571 to 3,896.[17] The City certified the EIR in October, 1992. It is not apparent whether the City has ever prepared an EIR for the "Phase 2" issues relating to the "long-range development of the IBC." Thus, the 1992 IBC EIR serves only as an analysis for the already approved development in excess of the General Plan at that time.

The Rezone Project created six land use categories for the IBC: office, retail, industrial, residential, and lodging.[18] The zoning code for "5.2 IBC Industrial" was amended to read:

> It is the intent of this section to preserve a viable industrial base in the IBC, and to protect non-industrial land uses from the nuisances and hazards often associated with industrial activities, by establishing an exclusively industrial district. The area designated for this district has historically been exclusively industrial, and is currently unsuitable for most non-industrial uses (e.g., residential retail).[19]

The zone change added "5.3 IBC Residential" as a zoning designation, stating that:

> It is the intent of this section to ensure that previously approved but unbuilt residential projects are not threatened by the development of non-compatible land uses (e.g. hazardous materials). The regulation is intended, however, to permit the development of non-

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[15] 1992 IBC EIR, Appendix A, page 6.
[16] *Id.* at 7.
[17] 1992 IBC EIR, § III, 9-13 (attached hereto as Exhibit B); 1992 IBC EIR, Appendix B, "Proposed Zoning Ordinance" (attached hereto as Exhibit C),§ V.E-836.3. The maximum number of dwelling units in the IBC Residential land use category was 3,536, and the additional 360 dwelling units were vested on "the Trammell Crow site" in the Multi-Use zoning district. increased the residential entitlement cap by 325 units, from 3,571 to 3,896. 1992 IBC EIR, Appendix B, at § V.E-836.3. 1992 IBC EIR, Appendix C, "Summary of Revisions for General Plan Amendment," is attached hereto as Exhibit D.
[18] 1992 IBC EIR, Appendix B,§ V.E-102.1.
[19] *Id.* at § V.E-329.5.2.

> residential uses, provided they are compatible with residential development.[20]

At the time of preparation of the 1992 IBC EIR, the only sites designated residential, in addition to those previously designated for Metropolitan Condominiums and The Lofts, were at the current locations of Villa Sienna, Toscana Apartments, Watermarke, and Phases I & II of The Plaza-Irvine.[21]

Replacing the point system created by the IIC-West EIR, the Rezone Project created the "IBC Land Use and Trip Generation Data Base" that "regulat[ed] the types of land uses, intensity, and traffic generation for each property in the Irvine Business Complex."[22] The data base allocated trips to each legal parcel in the IBC.[23] Credits were given for unused trips on developed parcels, and the parcels could then transfer development rights by trading credits.[24]

From the approval of the Watermarke Condominiums in 2001 to Avalon Jamboree Village and 2323 Main in 2006, the City has approved 17 residential projects totaling 5,587 dwelling units in the IBC in excess of the 3,896 dwelling units allowed under the General Plan, Zoning Code, and 1992 IBC EIR.[25] The City currently has an additional 17 residential projects totaling 5,428 dwelling units in application and pending approval.[26]

All of these additional projects have prepared Addenda or Subsequent EIRs tiering from the 1992 IBC EIR. Those Addenda and Subsequent EIRs state that the residential redevelopment of the IBC is consistent with the City's "long-range plan for the IBC." However, the 1992 IBC EIR itself stated that the City's "long-range plan for the IBC" was supposed to be covered by a later Phase 2 Program EIR, while the 1992 IBC EIR only covered Phase 1, that is, the amendment of the General Plan and zoning regulations to account for the excess entitlements already in existence.[27]

Residential Mixed Use Development Strategy

The following is excerpted from the City of Irvine's web site regarding "IBC Residential"[28]:

> In 2004, The City of Irvine developed a preliminary framework for a strategy to address the issues associated with increasing residential development in the Irvine

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[20] *Id.* at § V.E-329.5.3.
[21] 1992 IBC EIR, Appendix B, Figure/Map at § V.E-308.
[22] *Id.* at § V.E.-836.5.1; 1992 IBC EIR, § III, 10.
[23] *Id.*
[24] *Id.*
[25] Estimates based on the City's "List of IBC Residential Projects," *at* http://www.ci.irvine.ca.us/civica/filebank/blobdload.asp?BlobID=8773.
[26] Estimates based on the City's "List of IBC Residential Projects," *at* http://www.ci.irvine.ca.us/civica/filebank/blobdload.asp?BlobID=8773 and the list of "Pending Development Applications" *at* http://www.ci.irvine.ca.us/civica/filebank/blobdload.asp?BlobID=5452.
[27] 1992 IBC EIR, Appendix A, page 6; see also the Alternatives section in the Draft 1992 IBC EIR, wherein the "Long-Range Plan" was discussed but omitted in the final version (attached hereto as Exhibit E).
[28] City of Irvine, "IBC Residential," *available at* http://www.ci.irvine.ca.us/depts/cd/planningactivities/ibc_graphics/default.asp

> Business Complex (IBC). This direction arose from a series of workshops with the Planning Commission and joint sessions between the Planning Commission and City Council in 2004. ...
>
> On January 20 and February 17, 2005, the Planning Commission received presentations and input from staff, representatives of the development community and affected businesses. The strategy included a preliminary framework for addressing those issues that is defined by a set of vision statements, goals, and policies, a proposed IBC Residential/Mixed-Use Overlay district, and a menu of issues to be addressed by the strategy. ...
>
> 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. ...
>
> On April 12, 2005, the City Council directed staff to create new development standards for residential development in the IBC, based on a set of visioning goals and principles. ...

Pursuant to Council direction, the City staff created five "Vision Elements":

1. Protect the existing job base within the IBC;
2. Develop mixed-use cores;
3. Provide transportation, pedestrian, and visual connectivity;
4. Create useable open space; and
5. Develop safe, well-defined neighborhoods.

Since April 12, 2005, City staff has sought to implement the spirit of the five vision principles in the approval of IBC residential projects, but actual compliance has not been required.[29]

In July of 2005,

> The City of Irvine Community Development Department hosted a design workshop, or "charrette,"... to create new standards for residential development in the Irvine Business Complex (IBC). ...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.[30]

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[29] *See* the Staff Reports for each and every IBC residential project approved from April 12, 2005 to present.
[30] City of Irvine, "IBC Residential," *available at* http://www.ci.irvine.ca.us/depts/cd/planningactivities/ibc_graphics/default.asp

The City prepared a Draft IBC Residential Mixed Use Overlay District zoning code and released it to the public on October 5, 2005.[31] "On October 19 and 20, 2005, The Planning Commission and Community Services Commission held joint study sessions on the draft code."[32] "On November 22, 2005, the City hosted a meeting with IBC stakeholders to address issues raised" during the October study sessions.[33] The City held a second meeting with the IBC stakeholders on December 13, 2005, to respond to comments made at the November meeting.[34]

In January, the City published a revised draft Code and Vision Plan and held a third meeting on January 16, 2006, with the IBC stakeholders to discuss the draft Code and Vision Plan.[35] At the same time, the City released for public review and comment a Draft Negative Declaration for the Code and Vision Plan.[36] The City received much adverse public comment on the Draft Negative Declaration, particularly from the cities of Newport Beach and Tustin, and IBC industrial residents Deft, Inc. (paint manufacturer) and Allergan, Inc. (biomedical manufacturing and research). As a result, the Draft Negative Declaration was informally abandoned.

The draft Code and Vision Plan were again revised in May and June of 2006. At a meeting of the City Council on July 19, 2006,

> The Council heard an extensive staff report, received public testimony and discussed several major issues, including the overall suitability of residential uses in the IBC, the adequacy of the proposed 200-foot buffer distance between residential uses and existing business, and the proposed IBC infrastructure public benefit assessment.[37]

The City Council discussed the IBC residential mixed-use strategy again on July 25, 2006, and "gave staff direction regarding a number of components" of the Code and Vision Plan.[38] The most current draft of the Code and Vision to date is dated June 16, 2006.

"On January 8, 2007, the City of Irvine released a Notice of Preparation (NOP) and Initial Study for the Environmental Impact Report (EIR) for the Draft IBC Vision Plan and Residential Mixed Use Overlay Zone."[39] On February 5, 2007, the City held a scoping session for the preparation of a full EIR for the "Residential Mixed-Use Development Strategy."[40]

As of the date of this paper, 17 residential projects in the IBC have been approved since the 1992 IBC EIR, and 17 more projects currently have applications pending approval.[41]

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[31] *Id.*
[32] *Id.*
[33] *Id.*
[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] *Id*
[39] *Id.*
[40] *Id.*
[41] Exhibit F, attached hereto.

Exhibit A

IRVINE BUSINESS COMPLEX
PHASE I REZONING PROGRAM EIR

PROJECT DESCRIPTION

A. LOCATION

The Irvine Business Complex (IBC), Planning Area 36, is a business and industrial complex covering approximately 2,500 acres, located within the western portion of the City of Irvine in central/southern Orange County, approximately 40 miles south of downtown Los Angeles and 90 miles north of San Diego (see Exhibit 1, REGIONAL VICINITY MAP). The site is bordered to the north by the U.S. Marine Corps Air Station (Helicopter) (USMCAS(H)) Tustin, and to the south by John Wayne Airport and Campus Drive. The San Diego Creek channel and the Costa Mesa Freeway (State Route 55) border the site to the east and west, respectively. Interstate 405 traverses the southern portion of IBC, and Interstate 5 is located to the northeast. 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. Refer to Exhibit 2, PROJECT VICINITY MAP, for a map of the project location.

B. ENVIRONMENTAL SETTING

On-Site

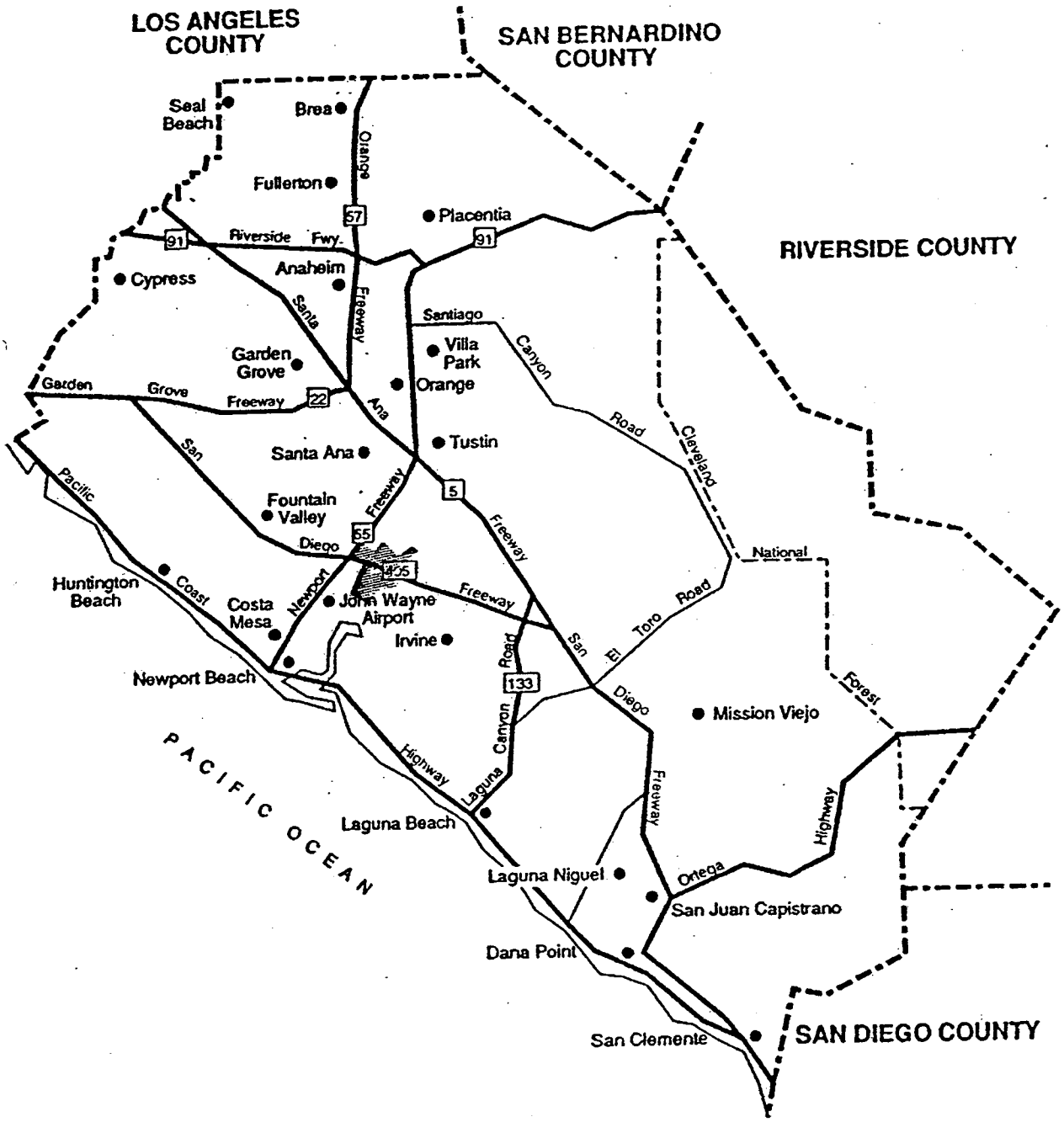
Within IBC, the prominent land use is office/industrial. There are several acres of medium density residential use in the south-central area of the site. In addition, over 3,000 dwelling units have recently been approved in the context of several large projects. The area of IBC has a minimum amount of community retail and public recreation areas. The individual sites within the IBC, are for the most part, multi-use developments separated by design and distance from neighboring developments. The central area straddling the San Diego Freeway (I-405) is the most densely developed portion of the site, containing several corporate office buildings and large hotels.

A 40 acre site located to the south, which is bounded by the San Joaquin Marsh and adjacent to the City of Newport Beach, is the only area of IBC located in the Coastal Zone and is subject to the City's Coastal Plan Requirements.

Surrounding Areas

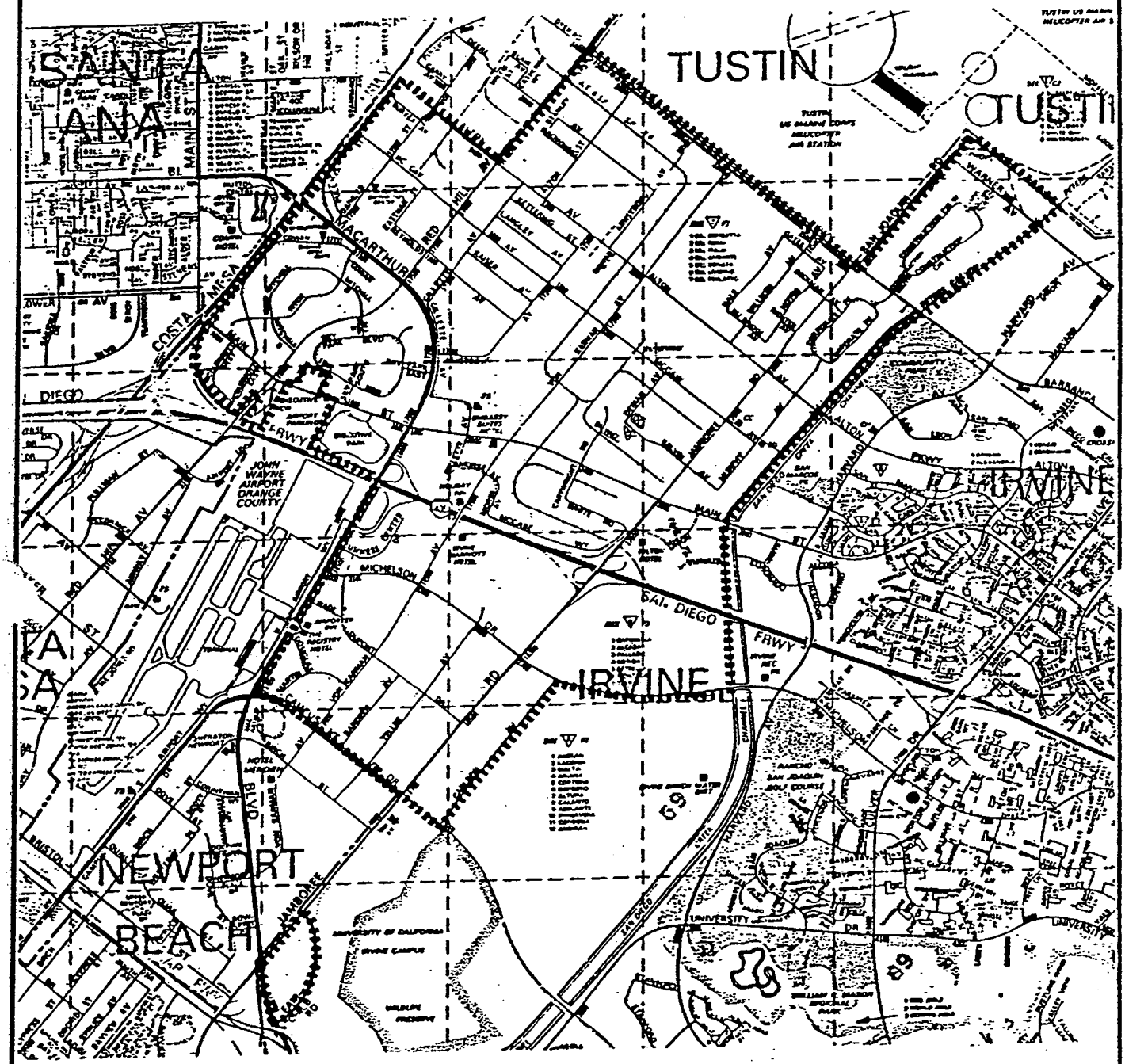
On the east, separated by the San Diego Creek Channel, the IBC abuts the recently developed village of Westpark. Although a predominantly residential village, Westpark includes a District Level Commercial Center and the Irvine Civic Center.

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,



Project Site

Regional Vicinity Map



Project Site Boundary

0 1000'

Vicinity Map

Robert Bein, William Frost & Associates

10-89

Exhibit 2

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 and a parcel owned by the Irvine Company.

The City of Newport Beach is 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 border.

The John Wayne Airport is located to the southwest of the Irvine Business Complex. The airport serves all of Orange County and has recently completed major remodeling and expansion. 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 overcrossings are constructed. Because of the scale and quality, projects such as Hutton Center, MacArthur Place, and Pacific Center in Santa Ana and a planned project in Costa Mesa will help to visually extend the IBC urban form across the freeway. As the Sakioka Farms property is developed, 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 USMCAS(H), Tustin. The USMCAS(H) Tustin is a helicopter training base whose operations impose some noise constraints on areas of the IBC directly adjacent to the Air Station. The El Toro MCAS is located to the northeast of IBC, and also affects portions of the site. Commercial, office and industrial facilities, much like those in the IBC, are adjacent to the IBC boundary.

C. BACKGROUND AND HISTORY

Since the 1960's, the Irvine Business Complex (IBC) has transitioned from a low rise industrial complex to a major regional business center. With its emergence as a major business center, pressures to convert the existing light industrial uses within the complex to office uses grew. With this transition came significant traffic impacts. In order to gain control of the increasing traffic impacts, the City Council approved a rezoning of the complex in 1982 (for which a Final Environmental Impact Report was certified).

In order to encourage a mix of land uses and to partially mitigate traffic impacts, the 1982 ordinance established a development credit system allowing additional development for projects that provided a mix of uses. The land use intensity regulations in the 1982 zoning ordinance were based upon the projected traffic impacts. The 1982 EIR identified specific mitigation measures to address the impacts of development anticipated within the IBC.

Between 1982 and 1985, substantial development activity occurred in the IBC which deviated from the pattern and distribution of development known in 1982. In 1985, a Supplemental EIR was certified which incorporated the new land use information and identified specific

funding mechanisms to implement the circulation improvements necessary to accommodate changed development patterns as identified in the 1985 EIR.

After completing a detailed analysis of existing ordinance provisions and determining that approved development exceeds infrastructure capacity, the City Council instituted an emergency measure called an Interim Urgency Ordinance in 1988 and 1989, which limited development within the complex to a level more commensurate with the transportation system.

In 1988, the City initiated a rezoning effort to address many issues that inadvertently resulted from, or were not resolved during previous efforts. A list of goals and objectives for the project was prepared and submitted to the City Council. The concept of creating an "Urban Village" in the IBC stemmed from these goals and objectives to promote a more effective mix of land uses in an integrated urban pattern.

In late 1989, the City adopted the Conservation Open Space General Plan Amendment (GPA-16) which established a maximum development intensity limit of 48.25 million square feet of Business-Industrial uses and 3,571 units of residential development.

Following an extensive series of preliminary investigations, existing conditions analyses, and intensive planning and design efforts, a "Composite Sketch Plan" for IBC was submitted on September 25, 1989.

In March of 1990, staff was given new direction by the City Council to prepare and analyze additional land use alternatives for initial review before the City Council.

Following extensive public discussions and review, the City determined that there are essentially two sets of issues related to the IBC. First, those issues that require immediate attention and resolution. These are issues related to the excess approvals, and the inconsistencies between the Zoning Ordinance, the General Plan and the Circulation Improvements. Second, issues that are related to the long-range development of the IBC and require more extensive planning and environmental considerations. These issues can be addressed and resolved through a Master Land Use Plan for the IBC.

To ensure that both sets of issues are addressed as part of the IBC Rezoning effort, with consideration for the order of their expediency, the City Council approved a two-phase work program for the Rezoning on October 23, 1990. The Program EIR to be prepared at this time will address the impacts of the Phase I of the IBC Rezoning.

It has been determined after completion of an Initial Study, that the proposed zone change and General Plan Amendment may have a significant impact upon the environment. As required by the California Environmental Quality Act (CEQA) Guidelines (Section 15064), an Environmental Impact Report (EIR) will be prepared prior to the project being reviewed by the City Commissions and the City Council. The specific areas of potentially significant environmental impact to be addressed in the EIR are identified in the Supplemental Comments to the City of Irvine's Environmental Analysis form, and are itemized, but may not be limited to those listed below:

1. Earth Resources
2. Air Resources
3. Water Resources
4. Cultural/Scientific Resources
5. Land Use
6. Relevant Planning
7. Public Health and Safety
8. Noise
9. Aesthetics/Light and Glare
10. Public Services and Utilities
11. Circulation and Traffic
12. Biological Resources
13. Energy

(in addition to alternatives, cumulative impacts, growth inducing impacts and other mandatory CEQA sections).

The EIR will assess project impacts in each specified environmental issue area, and will suggest mitigation measures and/or alternatives to reduce these impacts to acceptable levels. As allowed by Section 15168 of State CEQA Guidelines, a Program EIR will be prepared. Impacts and mitigation measures will be identified for the IBC as a whole (a "Program" level of analysis), as anticipated benefits and impacts of recommended transportation improvement mitigation measures. Subsequent activities will be examined in the light of the Program EIR to determine whether an additional environmental document must be prepared.

D. PROJECT CHARACTERISTICS

The IBC Zone Change Project includes a Zone Change, General Plan Amendment, and the establishment of a traffic mitigation/development/circulation phasing plan and revised fee program and/or alternatives to a revised fee program. The purpose of the project will be to rectify the present General Plan/Zoning entitlement cap (48.25 million square feet) with estimated actual existing and approved development (approximately 53 million square feet). The proposed Project will honor the existing agreements, entitlements and approvals that are near completion or that have already been approved. The project will include an approved work program and database that will include a 0.25 Floor Area Ratio (FAR) for vacant/underutilized parcels (e.g. a 40,000 square foot lot would be permitted for a 10,000 square foot building). The Project also includes transportation improvements and an associated phasing and fee program to provide acceptable levels of service. Traffic modelling for IBC is planned to assume a 15% trip reduction for Transportation Demand Management (TDM) measures (rail transit will not be assumed although it will be included as a mitigation).

There are three major elements which comprise the proposed IBC Zone Change project:

- Zone Change
- General Plan Amendment
- Traffic Mitigation/Circulation Phasing Plan and Fee Program

The project will require a zone change and a General Plan Amendment to the Land Use and Circulation Elements, and possibly other General Plan elements.

TABLE 1

IBC LAND USE COMPARISONS

Land Use	Estimated Existing and Approved Including 0.25 FAR for Vacant and Underutilized	Maximum Allowed Under Current General Plan	Approximate Maximum Allowed by Proposed Project
Commercial, Industrial and Retail (total square feet)	53,000,000 S.F.	48,250,000 S.F.	53,000,000 S.F.
Residential (dwelling units)	N/A	3,571 D.U.	3,571 D.U.

Zone Change

The new zoning will amend development intensity regulations which currently determine land uses within IBC. Modification of outdated areas of the zoning ordinance will be implemented and the revised General Plan intensity cap will be documented in the zoning ordinance through the zone change.

General Plan Amendment

The project will update the General Plan regarding maximum allowable building intensity standards by the proposed Project in IBC, and will reflect any changes to the land use categories and circulation system necessitated by the rezoning. The General Plan intensity cap will be increased to approximately 53,000,000 million square feet of commercial and industrial use from it's original 48,250,000, million square feet an increase of 4.75 million square feet.

Exhibit B

rights to come back to the City, to be used for IBC roadway mitigation costs (see Appendix B, PROPOSED ZONING ORDINANCE).

Funding Programs and Development Phasing: A re-evaluation of the cost and revenue assumptions to identify funding needs has resulted in ways to reduce the funding shortfall by evaluating contingency needs and funding opportunities from other agencies. The revised funding analysis identifies alternate funding sources including consideration of readily available funds to address any potential shortfall such as Transfer of Development Rights Fees (see Appendix D, FUNDING PROGRAM).

The aforementioned changes constitute a mid-course correction for the IBC GPA/Zone Change project and are not considered to be of a significant nature.

The EIR will assess project impacts in each specified environmental issue area, and will suggest mitigation measures and/or alternatives to reduce those impacts to acceptable levels. As allowed by Section 15168 of State CEQA Guidelines, a Program EIR will be prepared. Impacts and mitigation measures will be identified for the IBC as a whole (at "Program" level of analysis), as well as anticipated benefits and impacts of recommended transportation improvement mitigation measures. Subsequent activities will be examined in the light of the Program EIR to determine whether any additional environmental documentation must be prepared.

D. PROJECT CHARACTERISTICS

The IBC General Plan Amendment and Rezoning Project includes a Zone Change (88-ZC-0135), General Plan Amendment (7234-GA), and the establishment of a Circulation Mitigation Program and revised Funding Program including a Fee Program.

Based upon the proposed zoning concept, the Planning Area will be divided into three districts. The Multi-Use District will be comprised of all portions of the planning area south of Barranca Parkway. Parcels with existing or previously approved residential projects will be zoned residential and will constitute the Residential District in the IBC. Residential development within IBC will be limited to the existing and previously approved projects. No additional residential units beyond the existing and approved projects will be allowed within IBC. The Industrial District will include the area north of Barranca Parkway, commonly known as the Construction Circle area.

As each legal parcel within the IBC will be allocated a total "Trip Budget", development within each parcel will be limited to generate the allocated trips. Projects can use the total allocated AM and PM trips to propose various types of non-residential land uses. The proposed zoning concept provides additional flexibility to developers in terms of the selection of land uses. As a result, it is anticipated that certain land use compatibility issues may arise as developers introduce a variety of land uses throughout the IBC. To ensure that land use compatibility issues are considered while the IBC retains its mixed use character, the City will ensure that thorough environmental analysis is conducted on project proposals. In addition, the proposed zoning ordinance specifies master plan, conditional use permit or other discretionary review processes to ensure that all aspects of proposed projects, including land use compatibility, are analyzed. Appendix B is the proposed IBC Zoning Ordinance which includes the details of land use regulations, development intensity, development standards and special development standards within the IBC.

Included in the proposed IBC Zoning Ordinance is a mechanism for Transfer of Development Rights (TDR's). The TDR mechanism allows for the transfer of trips from parcel-to-parcel and site-to-site within the IBC boundaries. Each TDR application will be required to complete a discretionary review process to allow identification of all potential impacts of the TDR, and propose appropriate mitigation. The applicant will be required to submit a traffic study to identify and address any potential traffic impacts on the circulation system to a level of insignificance. All TDR applications will also be required to be associated with a project, so as to eliminate the "Banking" of development potential on sites which have no plans to utilize the additional potential. A TDR Fee has~~will~~ also been~~be~~ established to~~that would~~ supplement the Funding Program for the implementation of circulation improvements (see Appendix B, PROPOSED ZONING ORDINANCE).

The purpose of the project will be to amend the present General Plan and Zoning intensity standard of approximately 48.255 million gross square feet of Business/Industrial uses and 3,571 units of Residential uses, with estimated actual existing, approved and projected development of approximately 55.818 million gross square feet of non-residential development and 3,896 residential units (this is the "Preferred Alternative" addressed in the project traffic study). A slight increase in the maximum residential units is proposed as compared to the Current General Plan (refer to Table 1, IBC LAND USE SUMMARY). The proposed project (with respect to zoning, land use and square footage) will include the existing projects and approvals (approvals include all Vesting Maps, Development Agreements, Conditional Use Permits, Master Plans, Zoning Compliances, and building permits for projects within the IBC) that are near completion or that have already been approved. The project will also allow for a 0.25 Floor Area Ratio (FAR) of office

equivalent development for vacant/under-utilized parcels. Under-utilized parcels are those which are currently developed to less than 0.25 FAR of office equivalency. The project includes transportation improvements and an associated phasing and fee program to provide acceptable levels of service. Traffic modelling for IBC is planned to assume a 15% commuter trip reduction for Transportation Demand Management (TDM) measures (rail transit will not be assumed although it will be included as a mitigation). The project includes the following land use provisions and key elements:

Zone Change (88-ZC-0135)

The intent of this rezoning is to establish a mitigation program that is capable of addressing the impacts of all existing and approved development including development resulting from a maximum of 0.25 FAR on vacant and under-utilized parcels. Under-utilized parcels are those which are currently developed to less than a 0.25 FAR of office-equivalent development, based on the proposed land uses for each parcel.

To fulfill this purpose, a draft Zoning Ordinance has been prepared that regulates development intensity based upon the amount of existing built, approved and development potential of up to 0.25 FAR of office equivalency on vacant and under-utilized parcels. The parcel-specific zoning will be implemented and monitored through the establishment of Trip Budgets which correspond to the total trip generation of the buildout of the existing, approved and projected land uses within each parcel. Thus, based on the new zoning regulations and the revised intensity limit (both square footage and trip maximums), a parcel-based system has been created that links land uses and intensities with the projected traffic and other impacts.

Included in the proposed IBC Zoning Ordinance is a mechanism for Transfer of Development Rights (TDR's). The TDR mechanism allows for the transfer of trips from parcel-to-parcel and site-to-site within the IBC boundaries. Each TDR application will be required to complete a discretionary review process to allow identification of all potential impacts of the TDR, and propose appropriate mitigation. The applicant will be required to submit a traffic study to identify and address any potential traffic impacts on the circulation system to a level of insignificance. All TDR applications will also be required to be associated with a project, so as to eliminate the "Banking" of development potential on sites which have no plans to utilize the additional potential. A TDR Fee has~~will~~ also been~~be~~ established to~~that would~~ supplement the Funding Program for the implementation of circulation improvements (see Appendix B, PROPOSED ZONING ORDINANCE).

The proposed total development intensity and its allocation to the individual parcels within the IBC is based upon a Database compiled by the City's Community Development Department. The database, following an extensive public review process, was approved by the City Council in January 1991, and identifies the total square footage in existing, approved and remaining potential, as well as the trip maximums based on the legal parcel boundary. On a parcel-by-parcel basis for the entire IBC, the new zoning will amend development intensity as well as land use regulations within IBC. Modification of outdated areas of the zoning ordinance will be implemented and the revised General Plan intensity cap will be documented in the zoning ordinance through the zone change (see Appendix B, PROPOSED ZONING ORDINANCE).

General Plan Amendment (Project No. 7234-GA)

The project will update the General Plan regarding maximum allowable building intensity standards (in both total square footage, and also trips generated by parcel) in the IBC, and will reflect any changes to the land use designations and circulation system necessitated by the rezoning. The General Plan building intensity standard will be increased to approximately 55.818 million gross square feet of business and industrial uses and would generate 63,346 AM trips, 76,055 PM trips and 811,296 average daily trips (ADT), as compared to its present building intensity standard of 48.255 million gross feet which generates 60,292 AM trips, 71,212 PM and 748,966 ADT. The project permits 3,896 residential units which would generate 1,949 AM trips, 2,027 PM trips, and 24,545 ADT, of which 403 units are existing, and are generating a total of 201 AM trips, 209 PM trips, and 2,494 ADT (refer to Table 2, IBC TRIP GENERATIONS BY LAND USE). The General Plan Amendment will amend the Building Intensity Standards in the Land Use Element Figures A-7 (INDUSTRIAL INTENSITY STANDARDS) and A-10 (RESIDENTIAL INTENSITY), Objective A-4 (INTENT OF THE GPA AND ZONE CHANGE), the Housing Element Figures C-1 (GENERAL PLAN POTENTIAL RESIDENTIAL DEVELOPMENT) and C-2 (DWELLING UNIT RANGE), and Objective C-7 (IMPLEMENTING ACTION), and the Circulation Element Figure D-5 (ARTERIAL HIGHWAY DESIGNATION). Also, please refer to Appendix C, SUMMARY OF REVISIONS FOR GENERAL PLAN AMENDMENT. The Circulation Element will require an amendment for the segment of Redhill Avenue between Main Street and MacArthur Boulevard from "Primary" to "Major" arterial (other road widenings are occurring on major arterials and therefore will not require a Circulation Element Amendment).

Table 1

IBC LAND USE SUMMARY

LAND USE	EXISTING (as of 7-15-92)	*CURRENT GENERAL PLAN AND ZONING	IBC GPA AND REZONING
Office	23.033 million S.F.	39.209 million S.F.	32.019 million S.F.
Retail	1.197 million S.F.	1.524 million S.F.	2.051 million S.F.
Hotel	1.571 million S.F.	2.732 million S.F.	2.580 million S.F.
Industrial/Warehouse	14.046 million S.F.	4.790 million S.F.	14.097 million S.F.
Residential (Dwelling Units)	403 D.U.	3,571 D.U.	3,896 D.U.**
"Zoning Potential"			5.072 million S.F.***
TOTAL	39.846 million S.F. 403 D.U.	48.255 million S.F. 3,571 D.U.	55.818 million S.F. 3,896 D.U.

TOTAL NET INCREASE

Over Existing Conditions: 15.972 million SF (3,493 DU)
Over Current General Plan: 7.563 million SF (325 DU)

S.F. = Square Feet
D.U. = Dwelling Units

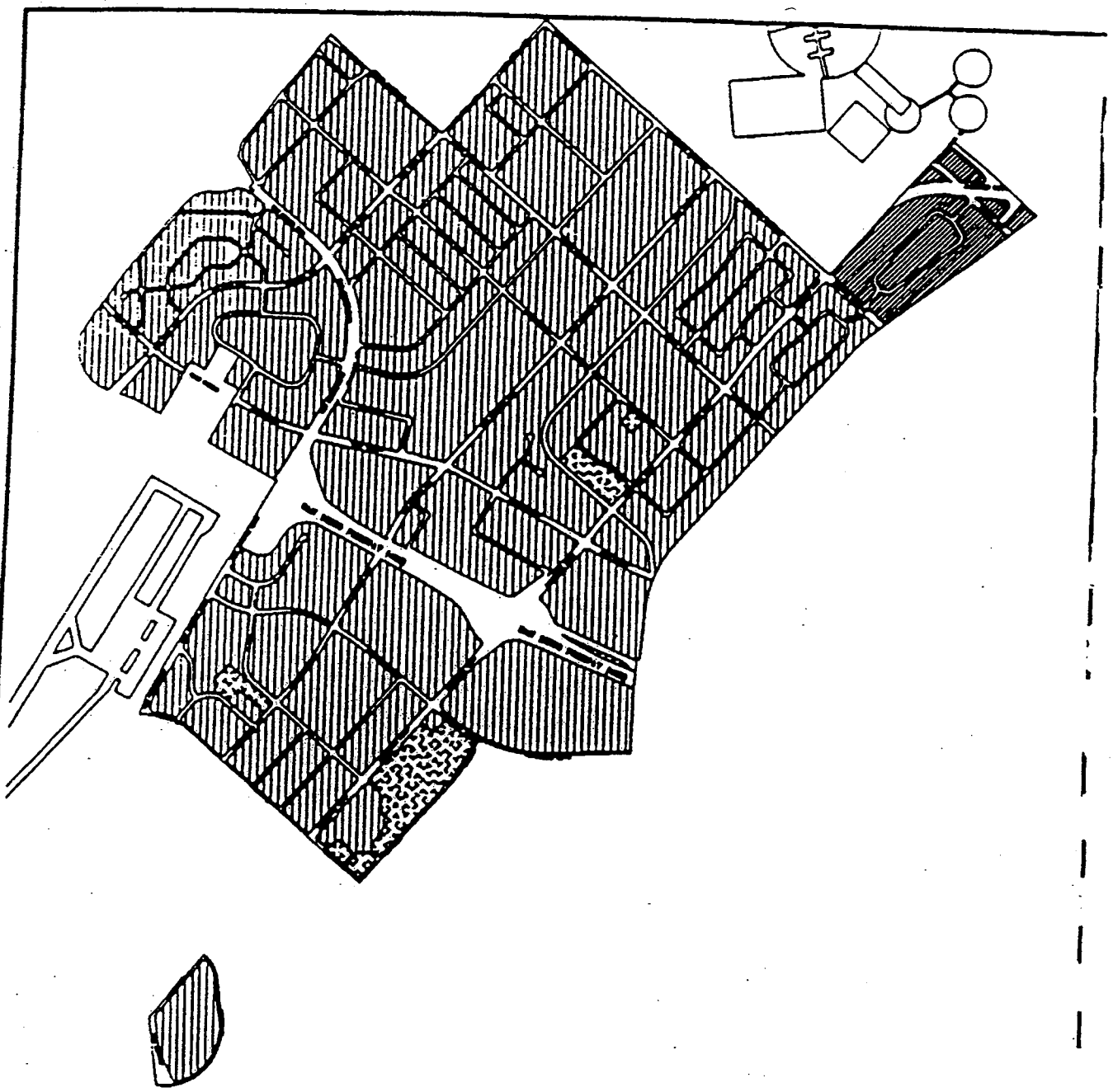
Source: City of Irvine

* Note: Current General Plan and Zoning Ordinance Land Uses are consistent with modelling assumptions for traffic, noise and air quality. Specific land uses and corresponding building intensities for buildout projects are not legislated in the City's General Plan and Zoning Ordinance.

** Note: Includes the 87 dwelling units in the McGaw Apartments and the 360 density bonus dwelling units for Park Place Apartments.

*** Note: Zoning Potential was calculated using a 0.25 FAR office equivalency for each parcel currently developed to less than a 0.25 FAR office equivalent.

Exhibit C



DATE: May 27, 1992

N

Scale: 1 in. = 2500 ft.

5.1 IBC Multi Use

5.2 IBC Industrial

5.3 IBC Residential

COMMUNITY DEVELOPMENT

IRVINE BUSINESS COMPLEX

CITY OF IRVINE

SECTION V.E-329.5.2
5.2 IBC INDUSTRIAL

Intent:

It is the intent of this section to preserve a viable industrial base in the IBC, and to protect non-industrial land uses from the nuisances and hazards often associated with industrial activities, by establishing an exclusively industrial district. The area designated for this district has historically been exclusively industrial, and is currently unsuitable for most non-industrial uses (e.g., residential, retail)

	GLU[1] CAT.	USE
Permitted Uses:	35	Accessory use
	36	Agriculture (interim use)
	34	Caretaker's quarters
	31	Equipment rental
	30	Greenhouse
	29	Information Center
	29	Industry, service
	35	Manufactured structure (up to 2 Years)
	30	Manufacturing, light
	29	Office, design professional
	31	Outdoor vendor
	30	Packing plants for agriculture products
	36	Park
	36	Pushcart
	30	Recreational vehicle storage, public
	36	Reverse vending machine
	29	School, public
	30	Vehicle assembly
	31	Vehicle repair
	30	Vehicle storage
Conditional Uses:	36	Ambulance service
	31[T]	Car wash
	31	Child care center
	29	Church
	31[T]	Convenience, liquor store
	35[T]	Community facility
	30	Composting facility
	31[T]	Drive thru
	31[T]	Gas station/fuel dispenser

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[1] *General Land Use (GLU) Categories identify the trip rates used for analyzing a corresponding permitted or conditional use in the IBC. See section V.E-836.5.1 for additional information regarding trip rates for each General Land Use Category.*

[T] *A traffic study is required for this use, see V.E-836.5.4.*

5.2 IBC INDUSTRIAL

	GLU[1] CAT.	USE
Conditional Uses (cont.)	29[T]	Government facility
	30[T]	Hazardous waste facility
	36	Heliport
	32	Hotel, motel
	30[T]	Large collection facility
	35	Manufactured structure, (over 2 years)
	30	Manufacturing, heavy
	30[T]	Materials recovery facility
	30	Mini warehouse
	31	Outdoor sales
	30	Outdoor storage
	31[T]	Restaurant
	31[T]	Restaurant, (fast food, except drive thru)
	31[T]	Retail and/or service business, general (except drive thru)
	30	Small collection facility
	31[T]	Solid waste transfer station
	30[T]	Truck terminal
	35	Utility building and facility
	30	Vehicle body, paint and restoration
	30	Vehicle impound yard
	31	Vehicle leasing and rental
	31	Vehicle sales
	30	Vehicle wrecking yard
	31	Warehouse and sales outlet
	30	Warehousing, storage and distribution

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[1] *General Land Use (GLU) Categories identify the trip rates used for analyzing a corresponding permitted or conditional use in the IBC. See section V.E-836.5.1 for additional information regarding trip rates for each General Land Use Category.*

[T] *A traffic study is required for this use, see V.E-836.5.4.*

Maximum Building Intensity:	*The IBC Land Use Data Base specifies maximum development allocations in gross square feet, number of dwelling units and hotel rooms for each legal parcel in the IBC. In addition, the data base indicates the number of estimated A.M. and P.M. Peak Hour and Average Daily Automobile Trips (ADT) for each site. Developments shall not exceed the allocated A.M. and P.M. Peak Hour Trip allocations specified in the data base for a particular legal site.* *A traffic study shall be required for development proposals which exceed the maximum ADT limitation. A conditional use permit may also be required. Refer to section V.E-836.5.3. for special regulations that pertain to applications proposing to exceed the maximum ADT limit.*
Minimum Site Size:	*1 acre*[1]
Maximum Site Coverage:[2]	*65%*

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[1] *This requirement shall not be construed to prevent condominium-type developments which have smaller lot sizes as long as they have a mandatory owners association, and the land area under the jurisdiction of the owners association meets the minimum lot size requirements.*

[2] *In projects which include a parking structure, those portions of the structure which meet the following criteria shall not be counted in determining compliance with the limits on building site coverage.*

a. *The roof and the structure is within 5 feet of the surface grade existing on the site prior to the development of the project; and*

b. *The roof of the structure is, in effect, replacing the ground surface in the functions that it performs, i.e., it will be covered by such improvements as surface parking, access drives, landscaping, walkways, and plazas in a manner similar to the design that would be used if the roof were land surface; and*

c. *Any portion of the parking structure which is above the existing grade is screened from off-site views.*

Maximum Building Height:	*35 feet*[3]
Landscaping Site Landscaping:	*A minimum of 15% landscaping is required for each improved building site.*
Parking Area Landscaping:	*A minimum of 15% of that portion of the site devoted to parking shall be landscaped.*[4] *Parking shall be computed by adding together the acreage devoted to vehicular parking spaces plus any drives, aisles, and maneuvering areas that provide access from the street to those vehicular parking areas. The landscaping provided to meet this requirement can also be counted toward the site landscaping requirement.*
Boundary Landscaping:	*A landscaped strip with a minimum width of 5 feet shall be required along all interior property lines for office and retail uses. (Section V.E-401 et seq.). For industrial uses, this requirement applies only to side yard property lines. In the instance where an industrial use has no rear yard (such as where there are street frontages), then all interior property lines shall have boundary landscaping.*

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[3]*The height of equipment or machinery which is necessary to the operation of a permitted use may exceed 35 feet but may not exceed FAA height limits.*

[4]*Exceptions: For an industrial use, the 15% landscaping requirement in the parking lot area shall apply only to those parking areas which are in the front of, or on the site of a building, and not to the rear parking area, unless the rear parking is visible from any public right-of-way, then the 15% parking area landscaping requirement shall apply. The Director of Community Development shall determine which parking areas are exempt from the landscaping criteria at the time of zoning compliance review.*

Special Landscaped Streets:

Properties which abut any of the streets listed below must landscape the area between the ultimate street right-of-way line and the minimum building setback line. Such landscaping shall be consistent with any applicable City standards programs or policies. The only improvements which may encroach into this landscaped area are driveway entrances, sidewalks, planters, fences, or walls. Special landscaped streets include:

Costa Mesa Freeway	***Campus Drive***
San Diego Freeway	***Dupont Drive***
MacArthur Boulevard	***Michelson Drive***
Redhill Avenue	***Von Karman Avenue***
Main Street	***Jamboree Blvd.***

Setbacks	
Streetside setbacks:	*40 feet[5, 6]*
Side setbacks:	*10 feet[6, 7]*
Rear setbacks:	*0 feet[8]*
Improvements permitted within the setback area:	*1. Pedestrian walks.* *2. Paving and associated curbing, except that vehicle parking shall not be permitted within the streetside setback where the property abuts a street designated as a special landscaped street, or within 10 feet of the ultimate right-of-way line for property along other streets.* *3. Landscaping.* *4. Steps, and open and unenclosed stairways, except that they may not be located within 10 feet of the streetside property line.* *5. Architectural projections such as eaves, columns and buttresses may extend 6 feet into a 30-foot setback, and 3 feet into a setback less than 30 feet.* *6. Any planter, fence or wall within the streetside setback may not exceed 3.5 feet in height.*

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[5]If the ultimate right-of-way for a street is widened subsequent to June 30, 1982, then the minimum setback may be 30 feet from the new right-of-way line. this provision shall not be construed to allow existing structures to expand by virtue of the reduced setback.

[6]Transfer station and Material Recovery Facility enclosure setbacks to be determined by the Planning Commission at time of CUP review.

[7]May be 0 feet provided that the main building on the abutting lot is at 0 feet, and both parcels are developed at the same time.

[8]Any parcel with 2 or more street frontages may have one interior property line with a setback of 0 feet.

Setbacks for structures built over public streets:

Intent

Structures spanning public street rights of way require special design considerations. this section is intended to serve several purposes. the first of these is to ensure that a tunnel like effect is avoided along public street rights of ways, even if structures such as bridges are developed on a series of properties. In addition, such developments are intended to observe setback requirements consistent with those applied to all other structures in the area. Finally, to ensure that adequate vertical clearance for vehicular traffic across the impacted street rights of way is maintained.

Buildings which are located on either side of a public street must maintain the following setbacks and clearances.

1. ***The vertical plane of the building which faces the street must be at or outside the required building setback from that street.***

2. ***A clearance of at least 20 feet from the surface of the roadway to the underside of the bridge or useable floor area must be maintained. Signs shall be provided on bridges indicating the vertical clearance from the street.***

3. ***If more than 1 bridge is proposed over the same street, the bridges, can be no closer together than the width of the 2 bridges added together.***

4. ***This section does not apply to pedestrian and/or bicycle overcrossings.***

Sidewalks:

Sidewalks shall be installed along all street frontages in the planning area in accordance with the sidewalk plan for the Irvine Business Complex adopted by the City of Irvine. Additional sidewalks and other pedestrian access facilities shall be required as needed to facilitate pedestrian circulation between places of employment, restaurants, park, institutional, retail and residential uses.

Lighting:

1. ***Exterior lighting is required for all employee and visitor parking areas, walkways, and building entrances and exits.***
2. ***No light standard shall exceed 10 feet in height unless the light standard has a light cutoff of 90 degrees or less, in which case the maximum height shall be 30 feet.***
3. ***No light source shall be affixed to any building so that rays are perpendicular to the building face.***
4. ***All direct rays shall be confined to the site.***

Screening:

1. ***All building operating mechanical equipment shall be screened from off-site view.***
2. ***All outside storage areas shall be screened with an opaque wall or fence.***

Parking	*Parking shall be provided in accordance with Section V.E-401 et seq. of the Irvine Code except for the following:* *1. In no instance shall parking exceed 1 space per 500 square feet for an industrial, storage, or warehouse use.* *2. For mixed use buildings, each use shall have parking as per the requirements of the City's zoning ordinance. Those portions devoted to an industrial, storage or warehousing use shall not exceed 1 space per 500 square feet of gross floor area.*

SECTION V.E-329.5.3
5.3 IBC RESIDENTIAL

Intent: ***It is the intent of this section to ensure that previously approved but unbuilt residential projects are not threatened by the development of non-compatible land uses (e.g., hazardous materials). The regulation is intended, however, to permit the development of non-residential uses, provided they are compatible with residential development. Special provision are also included to allow for other uses under certain circumstances.***

	GLU[1] CAT.	USE
Permitted Uses:	35	*Accessory use*
	36	*Agriculture (interim use)*
	36	*Home Care*
	36	*Home occupation*
	35	*Manufactured structure (less than 2 years)*
	36	*Park*
	36	*Public park facility*
	36	*Pushcart*
	29	*Schools, public*
Conditional Uses:	29	*Child care center*
	29	*Church*
	35	*Community facility*
	30	*Congregate care facility*
	30	*Convalescent home*
	29	*Information center*
	35	*Manufactured structure (over 2 years)*
	31	*Model home sales complex*
	30	*Recreational vehicle storage, private*
	29	*Residential care facility*
	33	*Residential, cluster*
	33	*Residential, conventional detached*
	33	*Residential, second unit*
	29	*School, private*
	33	*Senior housing*
	35	*Utility building and facility*

[1] ***General Land Use (GLU) Categories identify the trip rates used for analyzing a corresponding permitted or conditional use in the IBC. See section V.E-836.5.1 for additional information regarding trip rates for each General Land Use Category.***

[T] ***A traffic study is required for this use, see V.E-836.5.4.***

Intensity standard:	*30-45 dwelling units per net acre.* *Sites with approved applications for residential development shall be limited to the quantity of dwelling units approved.*
Minimum Site Size:	*.5 acre*[1]
Maximum Site Coverage:	*65%*[2]
Maximum Building Height:	*FAA height limits as determined in accordance with part 77 of the FAA regulations.*
Special Landscaped Streets:	*Properties which abut any of the streets listed below must landscape the area between the ultimate street right-of-way line and the minimum building setback line. Such landscaping shall be consistent with any applicable City standards programs or policies. The only improvements which may encroach into this landscaped area are driveway entrances, sidewalks, planters, fences, or walls. Special landscaped streets include:*

Costa Mesa Freeway	*Campus Drive*
San Diego Freeway	*Dupont Drive*
MacArthur Boulevard	*Michelson Drive*
Redhill Avenue	*Von Karman Avenue*
Main Street	*Jamboree Blvd.*

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[1] *This requirement shall not be construed to prevent condominium-type developments which have smaller lot sizes as long as they have a mandatory owners association, and the land area under the jurisdiction of the owners association meets the minimum lot size requirements.*

[2] *If usable open space, landscape or hardscape is placed over the parking structure, then that portion of the parking structure covered by these areas shall not count towards building site coverage, provided that the parking structure is designed in keeping with the architectural theme of the residential units, and is screened with a berm having a minimum height of 5 feet.*

Setbacks *From property lines:*	*30 feet*[3,4]
Streetside setback:	*30 feet*[4,5]
Improvements permitted in the setback area:[6]	*1. Pedestrian walks.* *2. Driveway entrances.* *3. Planters, fences and walls not to exceed 3.5 feet in height.* *4. Steps, and open and unenclosed staircases, except that they shall not be permitted within 10 feet of the streetside property line.* *5. Architectural projections such as eaves, columns, buttresses, bay windows and fire places may extend 6 feet into a 30-foot setback, and 3 feet into any setback less than 30 feet. However, for those parcels along Jamboree Road, the architectural projections indicated above may encroach 6 feet into the 15 foot streetside setback only.*
Sidewalks:	*Sidewalks shall be installed along all street frontages in the planning area in accordance with the sidewalk plan for the Irvine Business Complex adopted by the City of Irvine. Additional sidewalks and other pedestrian access facilities shall be required as needed to facilitate pedestrian circulation between places of employment, restaurants, park, institutional, retail and residential uses.*
Parking:	*Parking requirements for all residential units shall be based on the parking standards as set forth in Section V.E-401 et seq. of the Irvine Code. If an applicant desires a reduction in these standards when applying for a conditional use permit approval, they must submit a parking study stating the request and the reasons why the reduced ratio is appropriate for the proposed rental and/or for-sale residential units. This study shall be reviewed by the Transportation Commission and approved by the Planning Commission prior to, or concurrent with, the approval of the conditional use permit.*
Private Drives:	*All private drives shall meet the standards stated in the City's private drive policy in effect at the time of conditional use permit approval.*

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[3]If the use of the adjoining parcel is residential, then the building setback shall be a minimum of 5 feet, but in no instance shall any structure be located closer than 10 feet to another structure.

[4]On-site parking shall not be permitted within 30 feet of exterior boundaries of the site, except for the parcel (Lot 1 of Tract 13037) located on the southwest corner of Jamboree Road and Kelvin which is impacted by the IBC Road Widening. However, on-site parking is permitted to cross parcel lines within a site as long as a legal document is executed ensuring that the parking area will continue to function as a single entity.

[5]For those parcels that are located along Jamboree Road, and are impacted by the IBC Road Widening, the building streetside setback will be reduced to fifteen (15) feet. This building streetside setback shall be measured from the new ultimate right-of-way line of each parcel.

[6]Other than the improvements noted, streetside setbacks shall be landscaped.

Fences:	*The height and materials of all fences, berms and walls constructed as acoustical barriers shall be reviewed and approved as part of conditional use permit approval. All other fences shall be limited to a maximum of 6 feet.*
Affordable Housing Requirement:	*Any residential units built must comply with Section V.E-836 of this ordinance.*
Special Note:	*If due to environmental considerations, (i.e., hazardous materials), the City denies a development application for a residential project, the total allocated trips to the parcel can be used for uses permitted or conditionally permitted within the multiple use district. Conversions shall be subject to all regulations and policies in effect at time of approval.*

V.E-836. PLANNING AREA 36 (IRVINE BUSINESS COMPLEX)

V.E-836.1. Land Use Zoning Map (see opposite page)

V.E-836.2. Introduction

Planning area 36, Irvine Business Complex, is located along the western edge of the City. Boundaries include State Route 55 (Costa Mesa Freeway) and the John Wayne/Orange County Airport to the west, USMCAS Tustin to the north, Peter's Canyon Wash, the San Diego Creek and the San Joaquin Marsh to the east, and MacArthur Boulevard and Campus drive (Newport Beach) to the south.

The planning area is divided into three districts. The Multi-Use District is comprised of nearly all portions of the planning area located south of Barranca Parkway. The Residential District is located in several areas within the Multi-Use District boundaries. The Industrial Use District is comprised of all portions of the planning area north of Barranca Parkway.

V.E-836.2.A. Intent of This Chapter

It is the intent of this chapter to specify regulations to maintain the development and traffic intensity at the levels analyzed in and mitigated by the Final Program Environmental Impact Report for the planning area adopted on October 27, 1992.

V.E-836.3 Statistical Analysis

GROSS SQUARE FOOTAGE[1]

LAND USE CATEGORY	AREA NUMBER	GROSS ACREAGE	NET ACREAGE	MAXIMUM NUMBER OF DWELLING UNITS	MAXIMUM NUMBER OF GROSS SQ. FEET
Multi-Use (IBC)	5.1	2566	2078	360[2]	
Industrial (IBC)	5.2	123	92		
Residential (IBC)	5.3	72	72	3,536	
TOTAL		2760	2242	3,896	55,817,660

TRIPS

	AREA NUMBER	AM PEAK	PM PEAK	AVERAGE DAILY TRIPS
Multi-Use (IBC)	5.1			
Industrial (IBC)	5.2			
Residential (IBC)	5.3			
TOTAL		63,346	76,035	811,296

[1] The City shall conduct annual updates to the City's general plan and zoning ordinance to reflect changes in the total maximum square footage in the IBC.

[2] The 360 residential dwelling units in the Multi-Use zoning district is only permitted on the Trammell Crow site, which is vested.

V.E-836.4. SPECIAL DEVELOPMENT REQUIREMENTS

See Section V.E-300 for applicable general development requirements.

V.E.-836.5 SPECIAL DEVELOPMENT REGULATIONS:

V.E-836.5.1 Irvine Business Complex Land Use and Trip Generation Data Base

A. Intent of this section

It is the intent of this section to define the policies used to maintain a land use and vehicle trip generation data base for monitoring and regulating the types of land uses, intensity and traffic generation for each property in the Irvine Business Complex. Section V.E-836.5.7 contains the data base as of the effective date of this ordinance.

B. The Director of Community Development shall maintain a Land Use and Trip Generation Data Base for the Irvine Business Complex.

1. The IBC Land Use and Trip Generation Data Base shall specify the quantity, in gross square footage, dwelling units and hotel rooms as defined by the Uniform Building Code, of all existing, approved and zoned development in the planning area by legal parcel and according to the following general land use categories:

Office
Industrial
Retail
Lodging
Residential
Zoning Potential

2. The Land Use and Trip Generation Data Base shall specify the corresponding A.M. Peak Hour trips, P.M. Peak Hour Trips and Average Daily Trips (ADT) allocated for both existing and buildout conditions for each legal parcel in the planning area. These trip allocations shall be based upon the following trip factors:

Use	A.M. Peak	P.M. Peak	ADT	Qty.	Unit
Office:	1.30	1.38	13.77	1000	sq.ft.
Industrial:	.45	.42	4.62	1000	sq.ft.
Retail:	2.54	6.96	84.00	1000	sq.ft.
Lodging:	.42	.68	10.00	1	room
Residential:	.50	.52	6.30	1	D.U.*
Zoning Potential:	1.30	1.38	13.77	1000	sq.ft.

*Dwelling Unit

3. *The applicable General Land Use Category for each permitted and conditional use within Planning Area 36 is specified through the use of General Land Use codes. These codes are included in the Land Use Matrix of this ordinance (see Section 301.1) and are defined as follows:*

29	*Office*
30	*Industrial*
31	*Commercial*
32	*Lodging*
33	*Residential*
34	*Zoning Potential*
35	*Undefined Uses*
36	*Uses Assumed to Have no Traffic Generation*

The following two codes deal with uses which require special treatment:

35: Undefined uses

Undefined uses include accessory uses, manufactured structures and drive thru. The General Land Use categories and corresponding trip rates shall be determined by the Director of Community development at time of project submittal and shall be based upon the specific land uses proposed.

36: Uses assumed to have no traffic generation.

These include parks, pushcarts and heliports for which no traffic generation shall be assumed.

Several conditional and permitted uses have also been identified as potential high traffic generating uses. Refer to section V.E-836.5.4 for additional regulations concerning these uses.

4. *Adjustments to the data base*

The Director of Community Development shall regularly adjust the Land Use and Trip Generation Data Base to reflect the status of existing and approved development in relation to the maximum square footage, dwelling unit and trip allocations for the planning area.

A. *If, as a result of periodic monitoring, the City finds that the allocated intensity for a particular location in the data base is inconsistent with what is approved, all necessary adjustments shall be made to the data base to reflect what has been documented as approved. Applicants wishing to challenge the intensity allocations for a particular site shall submit floor plans*

and/or other documentation acceptable to the Director of Community Development to receive credit for existing square footage which was previously approved and inspected by the City.

B. If an approved discretionary case for non-residential development expires, the data base shall be adjusted to reflect the amount of trips corresponding to the uses and intensity existing on site plus any additional Zoning Potential required to bring the total square footage up to a .25 floor area ratio. The Director of Community Development shall allocate the additional Zoning Potential intensity according to the following six steps:

STEP 1: Calculate .25 Floor area ratio.

Net Site Acreage (as recorded on legal instrument) x .25 =

.25 FAR for the site

STEP 2: Convert .25 FAR to Office Trip Intensity.

.25 FAR for the site x .00138 = .25 FAR P.M. Trips (rate per sq.ft)

STEP 3: Calculate Total Trips for Existing and Approved Development for PM Peak Period.

Existing:
Office + Industrial + Lodging + Retail

Plus:

Approved:
Office + Industrial + Lodging + Retail =

Total PM Trips for Existing and Approved Development.

STEP 4: Calculate Total Gross Trips of Zoning Potential to be added.

.25 FAR Trips for the site - Total PM Trips for Existing and Approved Development =

Total PM Trips of Zoning Potential to be added

STEP 5: *Calculate Gross Square Feet of Zoning Potential to be added.*

Total Trips of Zoning Potential to be added =
P.M. Zoning Potential Trip Rate

Total Gross Zoning Potential Square Feet to be added

STEP 6: *Add additional Zoning Potential to existing development allocation.*

Total Existing and Approved Gross Square Feet of Development	+	*Total Gross Zoning Potential Square Feet to be Added*	=

Total Possible Gross Square Feet of Development for the Site.

6. Credit for Existing Square Footage Uses and Intensity

In cases where an existing structure is located on the site of a proposed project, credit can be granted for the existing gross building square footage, by use, for purposes of applying the intensity to the proposed project. The procedure for granting credit is as follows:

A. The applicant shall submit a floor plan of the existing building illustrating the uses and gross square footage devoted to each use prior to the project proposal. The Community Development Department shall verify that appropriate approvals were granted for the establishment of these uses. The department shall calculate the number of A.M. peak, P.M. peak, and Average Daily vehicle trips attributable to the approved uses using the ratios specified in section V.E-836.5.1.

B. Requests for credit for existing gross square footage shall be reviewed and approved by the Director of Community Development for projects which do not require a conditional use permit and by the approval authority for projects requiring a use permit. Credit can only be retained by the applicant if it obtains appropriate permits from the city for any interior alterations or demolitions of buildings. Any demolition must proceed prior to the issuance of any building permits for new structures on the site, or in accordance with a phasing plan approved by the Director of Community Development.

V.E-836.5.2 *Subdivisions, Mergers and Adjustments*

A. Intent

The following regulations are intended to insure that the finite quantities of development allocated to each legal parcel in the IBC Land Use and Trip Generation Data Base are accurate and current and that allocated development intensity to each legal parcel is not exceeded as subsequent subdivisions occur.

B. Applicability

These regulations apply to all applications submitted for properties located in planning area 36 (IBC) for Tentative Parcel maps, Tentative Tract Maps, Lot Mergers and Lot line Adjustments.

C. Development Intensity Distribution

Prior to the approval of any final map, lot merger or lot line adjustment for properties located in planning area 36, applicants shall submit to the Director of Community Development for review and approval a document specifying the proposed distribution of development intensity for each legal parcel. The approved document shall then be recorded by the County of Orange Recorders Office.

All initial intensity allocations made to a legal parcel shall be carried through to subsequent subdivisions.

Total development intensity shall not exceed the intensity allocated under the original subdivision configuration existing at the time of the adoption of both the zoning ordinance and the data base.

V.E-836.5.3 *Procedure for Analysis of Average Daily Trips (ADT)*

A. Intent

This section provides a procedure for 1) analyzing Average Daily Trips for development proposals and 2) identifying and mitigating anticipated traffic impacts (if any) of developments that propose to exceed allocated ADT.

B. Applicability

This section applies to development applications which propose to exceed the ADT limits specified for a parcel in the IBC Data Base.

C. Traffic Study

A traffic study shall be required for development applications proposing to exceed the ADT limits for a parcel within the Irvine Business Complex.

The traffic study shall be reviewed and findings shall be made and approved by the Director of Community Development.

D. Findings

The following findings must be made in order to approve projects proposing to exceed the ADT limits specified for a site in the IBC Data Base:

1. *Approval of the project will not result in exceeding the A.M. and P.M. peak hour trip allocations established for the project site in the IBC Land Use and Trip Generation Data Base. The Average Daily Trip (ADT) limits established for the project site in the IBC Land Use and Trip Generation Data Base may be exceeded only if the traffic analysis has identified impacts and mitigation measures that show the circulation system has the capacity to accommodate the project.*

2. *Approval of the project will not jeopardize the ability of the City of Irvine to qualify for funding sources including but not limited to the Orange County Congestion Management Program (CMP).*

E. Conditional Use Permit

Should any of the findings listed above not be made, the application shall require a Conditional Use Permit subject to Section 204 of this ordinance. The Conditional Use Permit Application shall be subject to review by the Planning Commission.

V.E-836.5.4 High Traffic Generating Commercial Uses

A. Intent of this section

It is the intent and purpose of this section to assure that certain land uses which generate high levels of traffic are prevented from exceeding the levels of traffic originally analyzed in the environmental documents for Planning Area 36. These specific land uses are identified with a footnote ([T]) in the Citywide Land Use Matrix (see Section V.E-301.1.).

B. In projects which include uses identified with a footnote ([T]) in the Land Use Matrix (Section 301.1.) , a Conditional Use Permit shall be required. In addition to the required materials listed in Section V.E-204.2. the Conditional Use Permit application shall include a traffic analysis prepared under the direction of the Director of Community Development.

C. Findings

In addition to the findings listed in Section V.E.-204.4, the following finding shall be made in order to approve a conditional use permit for the above uses.

1. *Approval of the project will not result in exceeding the A.M. and P.M. peak hour trip allocations established for the project site in the IBC Land Use and Trip Generation Data Base. The Average Daily Trip (ADT) limits established for the project site in the IBC Land Use and Trip Generation Data Base may be exceeded only if the traffic analysis has identified impacts and mitigation measures that show the circulation system has the capacity to accommodate the project.*

2. *Approval of the project will not jeopardize the ability of the City of Irvine to qualify for funding sources such as the Orange County Congestion Management Program (CMP) or Measure M.*

V.E-836.5.5 *Sites Providing Amenities*

A. Intent of this section.

The intent of this section is to recognize developments which were built during the period in which the Extraordinary Amenities section of the IBC Mixed-Use zoning ordinance was in place (June 30, 1982-October 23, 1990) and which constructed amenities during that period in conformance with the ordinance.

As part of the data base for the Irvine Business Complex, special square footage allocations shall be included to account for amenity credits for eligible locations. To apply for these allocations, Applicants must obtain a conditional use permit to the which must be approved by the City of Irvine Planning Commission.

B. Eligibility

Limited to those properties which were built and actually constructed qualifying amenities during the period between June 30, 1982 and October 23, 1990. (See IBC Data Base for Reserved Intensity for Amenities.)

C. Review Procedure

1. *Types of amenities allowed: Amenities such as extraordinary open space, parks, plazas, facilities for the arts, athletic facilities, and child care centers. They shall provide a benefit not only to the site, but also to the larger community. The City shall receive assurance that any structure or area proposed for credit will be used for that purpose for the life of the project receiving this credit through the provision of a document to be recorded separate from the deed.*

2. *The site in which the amenity area is located shall be a minimum of 10 gross acres (as recorded on the legal map) in order for the area to qualify. If the site consists of more than 1 parcel, then the parcels which comprise*

Exhibit D

C. Summary of Revisions for General Plan Amendment

IRVINE BUSINESS COMPLEX GENERAL PLAN AMENDMENT REVISIONS

A. LAND USE ELEMENT

Amend Figures A-7 and A-10 of the Land Use Element to 55,817,660 square feet (included in the total is 2,579,677 hotel s.f. for 3,864 hotel rooms) to accommodate all existing and previously approved development (50,746,030 square feet), and development of a .25 FAR of office equivalent development (5,071,630 office equivalent square feet) for all vacant parcels and properties currently developed at less than a .25 FAR of office equivalent development within Planning Area 36 (IBC). These Land Use Intensity Tables will also include the maximum Trip Budget for Planning Area 36. The Trip Maximums consisting of 63,346 AM peak hour trips, 76,035 PM peak hour trips, and 811,296 Average Daily Trips (ADT) will be included in Land Use Element Figures A-7 and A-10. A note indicating that the City will undertake annual General Plan Amendments to revise and update the square footage figures for the IBC, both on a parcel-by-parcel basis and on a Planning Area-wide basis, to make any necessary adjustments. The IBC Land Use and Trip Generation Data Base will be included as an appendix to the Land Use Element of the General Plan. An additional note shall be included in the Land Use Intensity Matrices to refer to the IBC Land Use and Trip Generation Data Base Appendix.

Revise Objectives A-4-f of the Land Use Element of the General Plan. The objectives, per the General Plan, were developed specifically for IBC. Revise Objectives A-4-f to read:

1. Regulate the intensity of high traffic generating uses through the Zoning Ordinance.

2. Delete current wording.

3. Delete current wording.

4. Consider IBC a residential village for purposes of implementing the Housing Element policies to residential development in IBC.

In addition, add new objectives 5 and 6 to the Land Use Element to be as follows:

5. Establish zoning provisions which establish parcel-specific intensity standard regulated by the maximum allowable trip generation based on the existing and previous approvals granted by the City and ensure development potential of .25 FAR office trip equivalency for vacant parcels and parcels developed at less than a .25 FAR of office equivalent development.

6. Establish a full funding program or a development phasing plan for IBC to ensure that land development occurs commensurate with infrastructure development.

B. HOUSING ELEMENT

Amend Figures C-1 and C-2 of the Housing Element to 3,896 dwelling units and add applicable Trip Budget figures to accommodate all existing and previously approved residential development within IBC.

~~Retain~~ Delete Objective, C-7, Implementing Action (c), Urban Village Development, of the Housing Element.

C. CIRCULATION ELEMENT

1. Amend Figure D-5 of the Circulation Element in order to designate Redhill Avenue (from Main Street to MacArthur) as a Major arterial (at buildout) as opposed to a Primary arterial (at present). Also designate Alton Parkway (from Jamboree Road through Redhill) as a Major arterial (at buildout) as opposed to a Primary arterial (at present).

2. Add Objective D-1, Implementing Action (u), Areawide circulation improvements to the Circulation Element.

Exhibit E

C. "LONG RANGE PLAN" ALTERNATIVE

A "Long Range Plan" Alternative may be considered by the City at a later date to address more complex planning issues associated with IBC (primarily traffic and public services). This alternative could be characterized by a more intense mix of uses including extensive pedestrian and recreational activities, along with improved transportation networks (possibly including rail and transit systems). The alternative could promote pedestrian activities such as locating people closer to their jobs and to needed services which, in turn, promotes alternative transportation methods (walking, bicycling, transit, rail) versus the reliance on automobiles.

This alternative could focus on development of large neighborhood areas to provide numerous urban needs within a clearly identifiable center (core) and boundary (periphery). These urban needs include housing, employment, recreational, cultural and historic activities which benefit the people and surroundings within these distinct areas.

A long-range plan alternative could substantially reduce or eliminate significant impacts identified for the project, and may be considered by the City Council at a later date as a second phase to IBC planning efforts. However, at present, City staff, at the Council's discretion, desires to complete the project ("Phase I" rezoning), in order to correct existing inconsistencies (requiring immediate attention) and to provide a framework upon which more extensive planning solutions can be developed for the unique issues associated with IBC.

D. "ALTERNATE SITE" ALTERNATIVE

Development of the proposed IBC Rezoning Project at an alternate site (provision of an additional 14.7 million SF) would not be anticipated to provide a significant reduction in the project's overall environmental impact. Regardless of the project location, the proposed project would result in similar environmental effects to traffic, noise, air resources, land use, aesthetics and public services and utilities. In addition, IBC is planned for business/industrial uses and is served by two freeways and is adjacent to John Wayne Airport and residential populations which are all key factors for a regional employment center. Furthermore, an alternative site analysis is not considered appropriate for this project, which has been initiated by City staff to specifically rectify zoning and General Plan inconsistencies within IBC and to provide for IBC road improvements.

Exhibit F

IBC RESIDENTIAL PROJECTS APPROVED SUBSEQUENT TO THE 1992 IBC EIR

(As of February 12, 2007)

Approval Date	Project Name, Address, Location	Site Acreage	Dwelling Units	Density (units/acre)
Jan. 9, 2001	**Watermarke Condos**, Campus & Carlson	10.81	535	50
May 13, 2003	**MetLife Apartments**, 2555 Main St., NW corner of Siglo & Main	9.78	481	49.2
May 13, 2003	**Essex Apartments**, 2552 Kelvin Ave, SE corner Kelvin & Derian	3.07	132	43
Aug. 26, 2003	**The Lofts at Von Karman**, 18883 Von Karman, SW corner Von Karman & Dupont	1.93	115	48.2
Aug. 26, 2003	**Campus Center Apartments** (Avenue One Condominiums), 1000 & 2000 Scholarship, SE corner Jamboree & Dupont	6.687	341	52
Dec. 9, 2003	**R.D. Olson / Legacy**, 2801 Main St., NE corner Jamboree & Main	5.26	290	55.13
July 2004	**The Plaza-Irvine Condos (Phase I & II)**, 5000 & 8000 Scholarship, NE corner Jamboree & Campus	5.25	202	38
Aug. 2004 (pending last CUP approval by CCC)	**Central Park**, 18311 Jamboree Rd., NW corner of Jamboree & Michelson	42.75	1,380	47.3
March 22, 2005 (pending PC approval of TTM and PP)	**BOSA II**, NW corner Michelson & San Diego Creek (in Park Place)	8.95	566	63.2
June 28, 2005	**Calypso**, 2801 Alton Pkwy, NE corner Jamboree & Alton	3.76	179	49
Sept. 1, 2005	**2801 Kelvin Ave.**, NE corner Jamboree & Kelvin	5.18	248	47.9
Sept. 27, 2005 (approved by PC; pending CC approval)	**Campus Center Apts. Modification**, 1000 & 2000 Scholarship, SE corner Jamboree & Dupont	--	61 (added to the 341 previously approved)	--
Sept. 27, 2005	**Carlyle at Colton Plaza**, 2201 Martin, NE corner Douglas & Martin	3.41	156	45.75
Dec. 13, 2005 (approved by PC; pending CC approval)	**The Plaza-Irvine Condos (Phase III & IV)**, NE corner Jamboree & Campus	3.1	105	48
June 27, 2006	**17421 Murphy**, NW corner Kelvin & Murphy	1.2	71	59.1
July 25, 2006	**Avalon Jamboree Village**, 2701 Alton, NW corner Jamboree & Alton	4.5	280	57
July 25, 2006	**2323 Main**, NE corner Main/ Von Karman	9.1 net	445	45
TOTALS:		**124.74** acres	**5,587** units	**44.8** units/acre

PENDING IBC RESIDENTIAL PROJECTS

(As of February 12, 2007)

Status, Tentative Hearing Dates	Project Name, Address, Location	Site Acreage	Dwelling Units	Density (units/acre)
PC: 02/15/07 (last CUP & Master Plan Mod.)	**Central Park**,* 18311 Jamboree Rd., NW corner of Jamboree & Michelson	42.75*	1,380*	47.3*
PC: 02/07; CC: 03/07	**2851 Alton**, NW corner Alton & Murphy	3.72	170	46
PC: 02/07; CC 03/07	**Martin Street Condos**, 18831 Von Karman	2.02	82	41
PC: 06/07; CC 07/07	**Millikan/Barranca**, 16541 & 16542 Millikan, 2502 Barranca, SE and W corners of Barranca & Millikan	5.22	250	52
PC: 06/07; CC 07/07	**2802 Kelvin**, SE corner Jamboree & Kelvin	3.5	185	52.8
PC: 09/07; CC 10/07	**Avalon Jamboree Village Phase II**, 16901 Jamboree, SW corner Jamboree & Richter	2.8	146	52.1
PC: 09/07; CC 10/07	**Kilroy**, 17150 Von Karman	9.15	469	52
PC: 10/07; CC 11/07	**Metropolis**, 2500 Main, 17872 Cartwright, Main & Cartwright	7.38	381	52
NOP, Initial Study done 08/06	**Irvine Crossings**, 17871 Von Karman, 17836 Gillette, North of Main Street, West of Von Karman Ave.	15.4	752	49
PC approved GPA, ZC, CUP, PP 09/27/05; pending approval by CC	**Campus Center Apts. Modification**,* 1000 & 2000 Scholarship, SE corner Jamboree & Dupont	--	61*	--
PC approved GPA, ZC, CUP, PP 12/13/05; pending approval by CC	**The Plaza-Irvine Condos (Phase III & IV)**, NE corner Jamboree & Campus	3.1	105	48
coping session done 07/12/05	**2801-2823 McGaw**, NE corner Jamboree & McGaw	5.86	289	49.3
Scoping session done 07/12/05	**2132-2168 Michelson Dr.**, SE corner Michelson & Dupont	6.113	323	52.8
Scoping session done 07/12/05	**1929-2031 Main & 17809-17819 Gillette**, North side of Main St., between Von Karman & MacArthur	6.03	321	53.2
CC approved GPA 03/22/05; pending PC approval of TTM and PP	**BOSA II**,* NW corner Michelson & San Diego Creek (in Park Place)	8.95*	566*	63.2*
No actions yet	**Irvine Technology Center**, 2525, 2601 2649, 2727, 2737, 2747 Campus Drive; 18872, 18902 Bardeen Ave; and 18871, 18900, 18910 Teller Ave	18.84	1,000	63
No actions yet	**The Village - Mixed Use**, 18691 Jamboree, NW corner Jamboree & Dupont	7.5	264	32.8
No actions yet	**Park Avenue Apartments**, 16952 Millikan, NE corner Alton & Millikan	2.53	187	74
No actions yet	**Mountain Vista**, 2501 Alton, NW corner Alton & Millikan	3.91	190	49
No actions yet	**2900 McCabe**, North side of McCabe, near Jamboree	4.09	314	76.8
TOTALS:		**107.163** acres	**5,428** units	**50.7** units/acre

roject was also listed on the approved list because some approvals granted, some remain. Development figures for these projects are not included in the totals on this list; they are included in the totals on the pending projects list.

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To: **Irvine City Council**

From: **Rich Salter, IBC Manufacturers Group**

On behalf of: **Ray Diradoorian, Allergan**
Mary Ann and Tony Desmond, Deft
Paul Queyrel, MPC Industries
Dave Marzullo, Parker Hannifin
Mike Derderian, Royalty Carpet Mills

Date: **February 27, 2007**

Subject: **IBC EIR scoping**

Thank you for the opportunity to comment on the scoping for the new IBC EIR. We offer the following suggestions to be taken into account when the EIR is prepared.

Protecting the Existing Job Base

Page 1 of the staff report lists the first goal of the CC as "Protect Existing Job Base within the IBC," and our suggestions in italics below are in reference to the bullets listed under that goal:

A. Establish Mature Industrial District in which residential uses are prohibited.

This District as currently shown has turned out to be Construction Circle and the land under the airport landing/take-off zone west of Armstrong and MacArthur. Let's face it: The reason residential is being prohibited west of Armstrong is due to the low-flying aircraft – not because we have deliberately established it to "protect existing job base in IBC." We have not seen any analysis of economic impact of saving jobs in this area vs. any other areas of IBC – how many jobs are saved in this Mature Industrial District vs. how many will be lost in the other areas of IBC? What types of jobs have been saved and lost? What is the total economic impact (jobs, wages, goods and services output) of saving only the jobs in this small area vs. losing jobs in the other areas? For example, most of our Manufacturers Group facilities are along Von Karman Avenue, and most have been doing business there for more than 30 years, so why was the Von Karman Avenue corridor not designated as a Mature Industrial District?

Please perform an economic impact analysis of the proposed Vision Plan and Zone Change, and please move the boundary of the Mature Industrial District to easterly of Von Karman Avenue.

B. Retain Zoning rights for existing commercial and industrial uses.

What is provided to insure that future residents do not force existing commercial and industrial users to limit their business hours or expansion plans, and thereby force them out of IBC? For example, the legal council of the residential developers of 2323 Main (before it converted back to commercial use) offered several ideas for legal instruments to insure that future residents would not use legal means to limit business uses. The EIR should analyze these and other alternatives, and propose ways to insure that the Zoning rights for existing commercial and industrial uses are indeed retained.

C. Require a pre-application review to determine land use compatibility with surrounding businesses prior to submittal of a formal discretionary application.

It is very good to know that there will be a "pre-application" review to determine land use compatibility, and this will include the Industrial Adjacency Analysis within 1000 feet. It is important that this be done <u>before</u> application is made to flip a property to residential so that the City learns whether it is compatible before the developer expends significant funds on plans, drawings, and screen checks (staff time) and thereby cements his claim to new residential entitlement.

Also, the IAA needs to have specific limits (acceptable levels) of incompatible conditions (e.g., noise, odors, light and glare, truck traffic, proximity to hazmat, et al). We do not want to be here before the PC month after month with each residential application arguing over what is the acceptable noise level and what is unacceptable. Note that our City standards for acceptable noise levels differ for residential districts vs. industrial districts. The businesses and the developers both need and deserve <u>certainty</u> with respect to these acceptable limits so that they can make plans for their future land uses.

D. Establish a presumptive 200-foot buffer zone around existing key businesses in which residential units are prohibited.

It is good that staff is recommending some hard-zoned buffer, but 200 feet is not nearly the 1000 feet that we need. It is important to point out that all uses other than residential are allowed in the buffer: high-rise office, retail, manufacturing, etc. This buffer has already been enacted in other cities (as previously testified by Patti Krebs of IEA), and it is a real need for our survival: environmental laws require us to notice residents within 1000 feet when we propose to use new hazardous materials, and condo owners would obviously oppose this. The lack of a buffer would effectively limit our ability to expand and operate our businesses. The EIR should analyze a plan with a 1000 foot buffer around key businesses.

Economic impact

The staff report does not list economic impact as one of the issues to be studied in the EIR, and we strongly request that this impact be studied. While you might at first glance think that economic impact is not a CEQA issue, it certainly is in this case because the economic implications of this rezoning will cause large physical changes in IBC. For example, the addition of 20,000 to 39,000 housing units will displace millions of square feet of commercial and industrial uses, resulting in a massive change to the economic output and physical environment in IBC.

There are standard economic impact models that allow the forecasting of Direct, Indirect, and Induced impacts of business or housing projects on the area's economy. Both the broader Economic impact (jobs, wages, population supported, and output) should be studied as well as the Fiscal impact (incremental taxes and fees that flow to the City's coffers).

We have utilized economic models and shared the results with staff: the **types** of jobs displaced (and their **jobs multiplier**) are the keys to the economic impact. For example, our model shows that an Aircraft Parts Manufacturer has a jobs multiplier of 2.768, meaning that if it has 500 direct employees, it would support 1384 jobs, including 415 Indirect jobs (subcontractors, service providers, etc.) and 469 Induced jobs (those supported by the spendable income of its direct and indirect employees). This company supports a population of 1062 people with its Direct Jobs, 880 more with its Indirect Jobs, and 996 more with its Induced Jobs, for a total population supported of 2939 (nearly 3000 people supported by those 500 direct jobs). It also generates an economic output of $240,000,000 annually. This is just the impact of a single 500-employee manufacturing business, so you can imagine how many jobs and people are supported by all businesses in IBC that will be displaced by 20,000-39,000 condos, and how much economic output will be lost.

Displacing manufacturing jobs with housing or even retail jobs has a large economic impact. Retail is often a favorite with cities because it generates sales tax dollars. However, the basic wage rate for retail is lower than manufacturing and its jobs multiplier is half (1.3 vs. 2.7), so that the total economic benefit of retail is much much lower than manufacturing.

Another aspect that requires study is the **fiscal impact** (taxes and fees) – we do have a Fiscal Element in the General Plan and we need to keep it in balance with all the changes to the other elements (e.g., the new land use element with all the changes proposed in IBC). What is the fiscal impact of 20,000-39,000 housing units displacing commercial uses? I have been told that the property tax increment from housing that flows to the City does not cover the expense of services required (police, fire, etc), and that after about 10 years residential is a fiscal drain on the City. When will this long-term fiscal impact be identified? This is surely a subject that requires extensive study during the EIR process.

The City's decision makers need to have this economic and fiscal impact information in order to make an informed decision about whether it makes sense to replace manufacturing uses with retail or residential. Please add economic impact analysis to the EIR process.

Negative Fiscal Impact of Residential

Staff has indicated that the EIR will analyze a 20,000 du cap for IBC, and at the statewide average of 2.6 residents per du, this will result in about 52,000 residents for IBC. Note that this is nearly twice the population of Woodbridge, the City's largest village to date.

These 52000 residents will need services including schools, libraries, parks, police, firemen, paramedics, etc., and the cost to provide these services will exceed the revenue that they will generate for the City by about 10%. That is, for every $1.00 in property taxes and other income they generate for the City, we will spend about $1.10 for their required services. How will this deficit impact the rest of the City? This negative fiscal impact must be analyzed by the EIR.

New Traffic Study and Mitigation Program

We are very much looking forward to seeing the methodology to be applied to the new traffic study to be conducted for this EIR. Specifically, we expect that the IBC intersections that are now projected to operate below Irvine's residential standards will be mitigated to upgrade them to the same level of service (LOS) that is standard in our other residential villages. This mitigation program must be funded by the new development that causes the traffic problem, not by existing businesses.

Also, we expect that the traffic study will be based on realistic estimates of internal trip capture for mixed use sites based on data from truly comparable sites, and expect that you will use a reasonable estimate of the number of residents who can be expected to both live and work in IBC, again based on hard data such as surveys from existing IBC residents and businesses.

New Community Park Program

Our City requirement for park land is 5 acres per 1000 residents, 3 acres of neighborhood park and 2 acres community park. Assuming a 20,000 du cap for IBC, at the statewide average of 2.6 residents per du, this will result in about 52,000 residents for IBC. These 52,000 residents will require 104 acres of community-level parkland, and at a price of $5M per acre these 104 acres will cost $520M. The EIR should identify areas for these 104 acres of community level parkland, and the $520M to purchase it (or dedicate it) should come from developers who generate the need, not from new fees on existing businesses.

Another issue with regard to the parkland requirement was surfaced by the PC It was discovered that the City currently uses a number of 1.3 residents per housing unit for

High Density (50 units/acre) residential, rather than the statewide average of 2.6. This number of 1.3 residents per condo is obviously too low (i.e., How many people do you know who can afford to buy a $500,000 condo and only have one person living in it?!). If we do not change this artificially low number, then the park land dedication or in-lieu fees required of condo developers will be half the required amount. The lack of sufficient park land in IBC will increase the usage of community parks in other parts of town resulting in a level of service decrease for all residents.

Delay further residential until EIR is completed

If the 14,407 du already in process are allowed to become entitled before the EIR analyzing the 20,000 du cap is completed, then 72% will be approved and only 28% of the cap will remain to bear the burden of new mitigation measures (costs for traffic mitigations, parks, etc.). Faced with this fact, it is prudent that the CC halt the processing of residential projects in IBC until after the EIR is completed to insure that all residential projects participate per their fair share of mitigations. To not do so risks the very real possibility that there will not be enough participants to fund the items required to achieve the new mixed-use urban village that the City desires.

INDUSTRIAL ENVIRONMENTAL ASSOCIATION
Leaders of Environmental Responsibility

February 27, 2007

Mayor and City Councilmembers
City of Irvine
One Civic Center Place
Irvine, CA 92623

Re: IBC EIR Scoping Meeting

Dear Mayor and members of the City Council:

Thank you for the opportunity to comment on the scoping for the new IBC EIR. As an organization representing manufacturing, technology and research and development interests, I would again like to register our serious concerns for any collocation of residential conversions within 1,000 feet of existing industrial uses or current industrial land use designations.

One of the primary reasons for "urbanized industrial flight" is the encroachment of incompatible uses. The City of Irvine has a thriving and vibrant urbanized industrial area, and the industrial area should be preserved and protected as a cohesive and contiguous jobs-producing area.

I would like to provide a few specific comments:

***Establishment of Minimum 1,000 Foot Separation between Residential and Industrial Uses:** Any type of adjacency studies can only capture a "snapshot" in time or specific timeframe of a company's processes and operations. The 1,000 foot separation is necessary to ensure that businesses retain their "potential to emit" rights and provides the only assurance for a business it will not be negatively affected by operational constraints or mandates for mitigation controls during permitting updates or regulatory challenges.

***Real Estate Easements:** Public regulatory officials are "blind" to land use or real estate agreements, including avigation easements. They are required by law to investigate and regulatorily respond to any issues with regard to public health, safety or welfare regardless of whatever kind of notification or easement the residential occupant signed.

701 B Street • Suite 1040 • San Diego, CA 92101 • (619) 544-9684 • FAX (619) 544-9514

***Economic Impacts:** The industrial base will continue to be a "contributor" to the City of Irvine's economy; residential uses result in a drain on the system after several years.

Again, we urge your careful and thoughtful consideration of potential unintended consequences for conversions of any industrial lands to residential purposes in the Irvine Business Complex.

Sincerely,

Patti Krebs

Patti Krebs
Executive Director

SGi

February 27, 2007

Mr. Bill Jacobs, AICP
Principal Planner
CITY OF IRVINE
PO Box 19575
Irvine, California 92623

Re: Irvine Business Complex (IBC) NOP for Vision Plan and Residential Mixed-use Overlay Zoning Code

Dear Bill:

Thank you for the opportunity to comment on the IBC NOP, we have the following comments:

The environmental analysis for the IBC should include information on the Orange County Fire Authority program to regulate hazardous material use and storage based on Federal and State regulations. It is our understanding that certain properties in the Jamboree Village are identified as users of hazardous materials in such an amount that requires approval of a report/plan by OCFA. Some properties are not subject to the regulation because the amount stored is below a threshold requiring the filing of a report/plan. We request that current sites in the IBC be identified that are regulated by the OCFA. We request that the EIR include a description of the regulations and what it means to the existing employee population and other surrounding populations as a safety concern.

The environmental analysis should also include criteria for location of pedestrian bridges that includes analysis of pedestrian flows that would trigger use of a pedestrian bridge.

Include an analysis of cost to develop a residential project in the IBC with proposed mitigation and fees compared with surrounding cities such as Costa Mesa, Newport Beach and Santa Ana.

Alternative sites within the IBC for a library should be identified that would not result in the construction of a parking structure at The Civic Center/Bill Barber Park. An alternative that could be considered is a store front within an existing retail center or part of an existing industrial building.

In order to reduce concerns of industrial and commercial land owners in projects located near their facilities, a mitigation measure should be added to the residential projects that requires signed agreements acknowledging the operation of the business will result in unacceptable noise levels from testing of emergency generators, 24 hour operations, lighting and deliveries.

Include an analysis of the long-term effects of granting land use buffers around businesses requesting such a buffer and proposed mitigation of those effects.

Sincerely,

Pamela Sapetto

PAMELA SAPETTO
Principal, Sapetto Government Solutions, Inc.

Bill Jacobs

From: Susan Whittaker [SWhittaker@sapettogroup.com]
Sent: Wednesday, February 28, 2007 8:14 AM
To: Bill Jacobs
Subject: IBC NOP

Bill:

I thought of one more thing to include in the NOP for IBC concerning Schools. I am requesting that the EIR look into the feasibility of a Charter School in the IBC. The school could focus on Math and Sciences and possible even be affiliated with UCI and do internships with surrounding businesses. Irvine Apartment Communities looked into this issue before they constructed Villa Sienna. They found that with just the school fees paid by Villa Sienna and what was Mola, a Charter School could be constructed. They tried to work a deal with IRWD for purchase of land for the school. They were not able to get land from IRWD and they went ahead and paid fees to Santa Ana Unified School District. I think this would be a huge benefit to the IBC and a bonus to the quality of life for the residents. Also, the Charter School might also be able to take students from IUSD, Tustin USD and SAUSD.

I know this is late in coming, but I thought worth including.

Thank you,

Susan B. Whittaker, AICP
Senior Associate

Sapetto Group, Inc.
2 Park Plaza, Suite 735
Irvine, CA 92614
Phone: 949-252-0841 x41
Fax: 949-252-0842

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TOM DALY
Clerk-Recorder

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CITY OF IRVINE

SUBJECT: Environment Impact Reports
Amendment of "Public Resources Code, Section 21092.3"

The attached notice was received, filed and a copy was posted on 1-09-2007

It remained posted for 30 (THIRTY) days.

Tom Daly
County Clerk-Recorder
In and for the County of Orange

By: _____ Deputy

Public Resource Code 21092.3

The notices required pursuant to Sections 21080.4 and 21092 for an environmental impact report shall be posted in the office of the County Clerk of each county in which the project will be located and shall remain for a period of 30 days. The notice required pursuant to Section 21092 for a negative declaration shall be so posted for a period of 20 days, unless otherwise required by law to be posted for 30 days. The County Clerk shall post notices within 24 hours of receipt.

Public Resources Code 21152

All notices filed pursuant to this section shall be available for public inspection, and shall be posted within 24 hours of receipt in the office of the County clerk. Each notice shall remain posted for a period of 30 days. Thereafter, the clerk shall return the notice to the local agency with a notation of the period it was posted. The local agency shall retain the notice for not less than nine months.

Notice of Availability

DATE: January 8, 2007

TO: Interested Parties

FROM: City of Irvine

POSTED

JAN 09 2007

TOM DALY, CLERK-RECORDER

By _____ DEPUTY

SUBJECT: **Notice of Preparation and Public Scoping Meeting**
Initial Study, Notice of Preparation and Request for Comments
Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code
(Planning Area 36)

Please be informed that the City of Irvine will be the Lead Agency and will prepare an environmental impact report for the project identified above. The City has released the Initial Study and an extended public review period of 45-days for this process is from January 8, 2007 to February 22, 2007. We request your comments on the Initial Study.

The proposed project consists of the following components:

- Irvine Business Complex (IBC) Residential Vision Plan, which outlines the City's policies and design guidelines for addressing the influx of residential development within the IBC.
- IBC Residential Mixed Use Overlay Zoning Code, which defines regulatory zoning districts for properties within the IBC, and outlines a process for analysis of compatibility of residential development with adjacent businesses.
- Infrastructure Improvements outlines to improve walkability and connectivity within the IBC, as considered by the City Council on July 25, 2006.

The EIR will also review alternatives relating to one or more proposed "Town Center," in which higher densities would be permitted in conjunction with mixed use development as part of a neighborhood corridor.

As part of this project, the provisions of the IBC Vision Plan may be incorporated into the City's General Plan, rather than stand alone as a separate policy document, in which case the Vision Plan would be processed as a General Plan Amendment.

The proposed project in and of itself does not permit additional development within the IBC, rather it serves as planning guidance to address the influx of new residential development in the area. Residential projects in the IBC must be processed through the existing City processes, which include a General Plan Amendment and zone change. A total of 3,969 dwelling units currently exist within the IBC. In addition, 4,147 dwelling units have been approved, and 6,291 dwelling units are pending approvals.

For the areas of the proposed Vision Plan in which residential uses are supported (Urban Neighborhood, Multi-use, and potential Town Center districts, and excluding the Business Complex districts on Construction Circle and west of the Armstrong Channel), a total potential of 9,096,017 non-residential square feet and 458 hotel rooms remain to be built based on the existing trip caps for the area. The theoretical conversion of this remaining potential non-residential development to residential units would yield a potential total of 24,535 additional units beyond the 14,407 existing, pending and approved units noted above, assuming a theoretical, but unlikely worst case scenario in which the entire remaining development potential in the IBC would be residential.

Additional information regarding the IBC Vision Plan and Mixed Use Overlay Zoning Code, including the full Initial Study, may be found on the City of Irvine's IBC website at http://www.cityofirvine.org/depts/cd/planningactivities/ibc_graphics.asp

The 2,800-acre Irvine Business Complex (IBC) is located within the western portion of the City of Irvine in south/central Orange County. More specifically, the IBC is generally bounded by the former Tustin Marine Corps Air Station (MCAS) to the north, the San Diego Creek channel to the east, John Wayne Airport and Campus Drive to the south, and the Costa Mesa (SR 55) Freeway to the west.

Due to the time limits mandated by State law, your response must be sent at the earliest possible date but not later than ***5:00 p.m. on Thursday, February 22, 2007 (45-day extended review period)***. A complete copy of the Initial Study and Notice of Preparation prepared for the proposed project may be reviewed at the following locations:

City of Irvine, Civic Center	University Park Public Library	Heritage Park Regional Library
One Civic Center Plaza	4512 Sandburg Way	14361 Yale Avenue
Irvine, CA 92623-9575	Irvine, CA 92612	Irvine, CA 92604

Project Title: Draft Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code (Planning Area 36)

Project Applicant: City of Irvine

Scoping Meetings: The City of Irvine will hold the following scoping meetings for stakeholders and the public:

• Public Stakeholder Meeting 1:	Tues., January 23, 2007	8-10 am	Conference and Training Center
• Planning Commission:	Thurs., February 1, 2007	5:30 pm*	Council Chambers
• Public Stakeholder Meeting 2:	Fri., February 16, 2007	9-11 am	Conference and Training Center
• Community Services Commission:	Wed., February 21, 2007	6:30 pm*	Council Chambers
• City Council:	Tues., February 27, 2007	4 pm*	Council Chambers

* Meeting start time. Actual start time for IBC discussion may vary based on scheduling of other items on the agenda

The Council Chambers and Conference and Training Center (CTC) are located at City Hall, One Civic Center Plaza, Irvine CA 92623.

Send Responses to: Bill Jacobs, AICP, Principal Planner, City of Irvine, P.O. Box 19575, Irvine, CA 92623-9575. Email: bjacobs@ci.irvine.ca.us. Telephone: (949) 724-6521. Fax: (949) 724-6440.

POSTED

JAN 09 2007

TOM DALY, CLERK-RECORDER

By _____ DEPUTY

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FACSIMILE COVER SHEET - PLEASE DELIVER IMMEDIATELY

TO: Mr. Bill Jacobs, Principal Planner

FACSIMILE NO.: (949) 724-6440

FROM: Monica Burick

DATE: February 28, 2007

NUMBER OF PAGES: 3
(including cover)

MESSAGE: Enclosed please find a supplemental letter to the City Council in response to the City Council's closing comments to the IBC EIR scoping session agenda item last night. Thank you.

If you do not receive the correct number of pages,
please call the sender at (949) 784-7918.

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February 28, 2007

Via Overnight Mail

The Honorable Mayor Beth Krom
Members of the City Council
City of Irvine
One Civic Center Plaza
P.O. Box 19575
Irvine, California 92623-9575

Re: Follow up to February 27, 2007, City Council Meeting Discussion of the Notice of Preparation for the Draft Irvine Business Complex ("IBC") Vision Plan and Mixed Use Overlay Zoning Code (the "Project")

Honorable Mayor Krom and Members of the City Council:

At the City Council meeting last night, I spoke on behalf of InteleNet Communications, Inc., a regional data center located in the IBC. In light of the closing comments of Mayor Krom and some of the Council Members, InteleNet has a few additional comments. First, Mayor Krom mentioned her concern that business voices are stating that this is an "either/or" situation. We wish to clarify that we do not believe that this is an "either/or" situation. Rather, InteleNet feels that thoughtfully redeveloped, the new IBC will offer many benefits to existing businesses. However, while we are sure this is not the City's intent, the City Council's direction to proceed with pending projects without waiting for this certified EIR could be seen to send the message to businesses that the City does not wish to truly understand and address the adjacency issues. The City Council indicated that it wants to hear InteleNet's voice as a stakeholder in this process and that it understands that all stakeholders must be satisfied with the results of this redevelopment effort in order for it to succeed. However, we respectfully submit that the City Council is not acting to ensure that InteleNet's voice will matter (i.e. that our thoughts and the benefits of the EIR analysis will be available prior to the decision on the property immediately next to our business). We reiterate that we do believe there is a way to successfully insert these residents into the IBC, but that it is critical to have the benefit of this EIR in order to achieve this objective.

Put simply, we are having difficulty understanding how we can meaningfully participate in this process, as the Council Members suggested at last night's meeting. The pending redevelopment immediately adjacent to us is proceeding on its own timeline. Our participation in this EIR process for the IBC will be in vain if the pending project is determined before this EIR is certified, which is likely given that City Staff is nearly done with the Industrial Adjacency Analysis for this project. Please see the attached letter which discusses why the IAA/individual site EIR process for pending projects is insufficient. Even if the City Staff is correct that the pace of pending projects is "slowing down," with a projection of only 1,500 more units approved in the next twelve months (we believe this includes the property next to InteleNet), the City is still spending almost $1,000,000 for this EIR, which will only be available to the public, the stakeholders and the City during consideration of the tail end of the residential redevelopment in the IBC. Given the City Council's apparent direction that the IBC cap will be less than 20,000 units, even using the City Staff's 1,500 number referenced above, the total of current units plus approved units plus 1,500 is 9,616 units. Therefore, even with this conservative estimate and a more realistic cap, such as 16,000 units, fully 60% of the future residences in the IBC will have been approved by the time the EIR is certified. If the

February 26, 2007

City Council disagrees with these numbers, we would like to hear why. However, when faced with these numbers, we respectfully suggest that it makes it difficult for a business to have comfort that the City truly desires to hear and address its adjacency issues.

We would like to point out that we are not requesting, as Council Member Agran suggested, a moratorium on residential development. We are simply requesting that the City acknowledge that these individual projects are a part of the "Project" that this EIR covers. From that point on, it is business as usual that the timelines for these pending projects would include within them the timeline needed for this IBC EIR to be completed and certified.

Finally, on an unrelated note, I took note of Councilmember Agran's reference to 10,000 residents in the IBC already. With 3,969 units constructed already, this shows that there are 2.5 residents per unit. With twenty-five percent or so (using a cap of 16,000 units) of the total residential units already developed, if the City has actual knowledge that the number of residents per unit is 2.5 as opposed to 1.3, we respectfully submit that the City cannot justify using the much lower number of residents per unit in the EIR.

We respectfully request that you review our letter to Mr. Bill Jacobs delivered to the City Council at last night's meeting and enclosed again here for your convenience, and we will be in contact with each of you soon to hopefully schedule a time to open a dialog regarding these matters. We appreciate your efforts to conduct this EIR and your willingness to hear our concerns and work towards our common goal of making the City of Irvine and the IBC an even more wonderful place to work and live. Please know that our doors are always open if you are interested in coming over to our business premises to better understand our operations. If you are interested, please do not hesitate to contact me at (949) 784-7918.

Sincerely,

Monica J. Burick
General Counsel
InteleNet Communications, Inc.

Encl.: Letter to Mr. Bill Jacobs, Principal Planner, City of Irvine, dated February 26, 2007

Cc: Mr. Bill Jacobs, Principal Planner, City of Irvine (via facsimile)

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Chemical plant explosion rocks east Kansas City

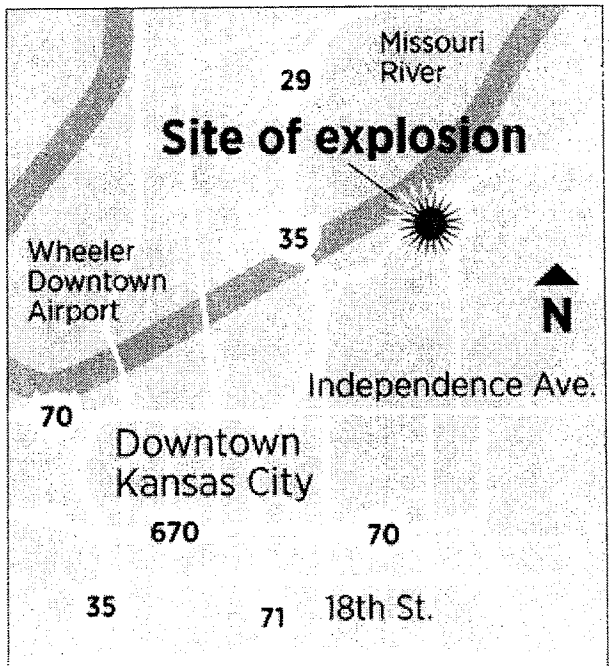
From The Star's staff

Multiple explosions at a chemical plant shook Kansas City's East Bottoms area about 2:15 this afternoon.

The fire from the explosions at the Chemcentral plant, 910 N. Prospect, sent a huge plume of black smoke drifting over the area north and east of downtown near the Missouri River.

The company distributes dozens of products, including waxes, resins, solvents, acids, urethane polyols, pigments and silicones. According to the company Web site, not all products are available at each of its outlets nationwide, and it was not immediately clear what chemicals were involved in the blast and fire.

Minutes after the initial blast, flames began poking through the thick black plume that towered over the industrial district all afternoon and into the night.



- Barricades come down, cleanup continues | video
- EPA report on ChemCentral fire
- Interview with ChemCentral official | video
- EPA checks for toxicity | video
- Students evacuated after complaints of nausea
- EPA: Smoke from fire was not unusually hazardous
- Thursday morning press conference | video
- 'Horrendous' blast puts 1,500 to flight
- Photo gallery
- Star readers' photos

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- Firefighters assessing the damage
- Schools evacuated after explosion | video
- Explosion's impact felt across KC | video
- What are the health effects?
- Share your experience and your photos
- Traffic closures
- ChemCentral, site of the blast
- Company had fire at Seattle plant in 1999
- Map locating ChemCentral
- New evacuation plan worked, city official says
- Jenee' Osterheldt: Black cloud leaves lasting impression

At North Olive and Front streets, just four blocks from the plant, Chemcentral employee Bill Rohde emerged, shaken, from the complex. He said the initial blast knocked him off his feet.

Rohde said he had no idea how the fire began.

He said chemicals stored at the facility included mineral spirits, and numerous other more toxic chemicals. He said he was concerned that nearby rail cars filled with chemicals would also catch fire or explode.

Rohde said the worldwide company, which has been referred to in lawsuits as the world's largest privately held distributor of industrial chemicals, had numerous stationary tanks at its local facility.

He said he was anxious about his nine co-workers at the plant, but he could not get close enough to check on their welfare. Soon after, authorities established a half -mile safety perimeter around the plant. A Kansas City police officer warned Rohde, "If you want to return to work here someday, you better move a half mile away."

Dan Brennan, an attorney for Chemcentral Inc., based in Bedford Park, Ill., told The Associated Press it was not immediately clear what caused the explosions at the plant.

"To the best of my knowledge there have been no injuries," Brennan said. "Everyone was evacuated safely." Firefighters said the Chemcentral building was stacked to the roof with 55-gallon barrels of chemicals, and smaller explosions continued almost two hours after the fire started. Fire crews went into a defensive mode and pulled back six blocks from the blaze.

The flames spread to nearby buildings, including a small house. As smoke drifted to the southwest, firefighters evacuated businesses and homes more than a mile around the blast site.

Firefighters are technically not fighting the fire at this point.

"The only safe way to handle this fire is to let it burn itself out," Fire Chief Smokey Dyer said during a news conference about 4 p.m. at Kansas City's Emergency Operations Center. "I think the best-case scenario is the fire would burn itself out tomorrow morning."

But it could take the fire 72 hours to burn itself out, Dyer said.

The fire was reported about 2:20 p.m. Wednesday, Dyer said during the afternoon news conference. Within minutes of their arrival, firefighters ratcheted the call from a first to a second alarm. Within 10 minutes, Dyer said, the department decided to activate the city's Emergency Operations Center and call in other departments to help with the situation.

The first firefighters hoped to control the blaze, but soon learned they could not. "We then went into a defensive mode and started utilizing all our resources for evacuation," Dyer said.

City officials urged people who live near the plant to go to a Red Cross shelter at North Kansas City High School, 620 N.E. 23rd St. ATA buses were at Nicholson and Indiana to evacuate anyone who lacks transportation.

Early reports indicate the fire does not pose a significant health risk, Dyer said. "None of these are what those of us in the field would call exotic chemicals. ... None of these have a high rating for toxicity."

That said, city officials also urged the public to avoid the area. "Obviously, it doesn't help us to have people down there gawking," said Rex Archer, head of the city's health department.

"You wouldn't want your children out in it," Dyer said.

One immediate concern was three 30,000-gallon railroad cars parked on a nearby line. They were clearly marked as containing flammable materials. Dyer said the department was worried they could catch fire and start a blevy – "boiling liquid expanding vapor explosion." The railroad car would become "a burning rocket that can move as far as a mile," Dyer said.

Dyer hadn't seen the facility's recent safety records, but officials didn't consider it a problem facility. "Generally, our anecdotal memory in the EOC is this is a very well-run facility with a pretty darn good safety record."

The area itself has been a concern for the fire department, though, because single-family homes are across the street from large industrial buildings in some places, Dyer said.

Traffic was clogged on Chouteau Trafficway. All variety of helicopters swarmed the area as the massive fire raged. Flames a hundred feet high and fireballs could be seen shooting from it at times.

About 10 employees were at the Great Central Truck Services facility when the explosion occurred, according to president Mike Colmen, 50.

"We heard a loud explosion, like an airplane crash," Colmen said. "Windows shook, the building shook, like a bomb from a war zone. I hit the ground. Other guys ducked. There was about a 100 foot fireball in the sky."

He said they evacuated the business.

Harold Craig was in his home on Garland Avenue about half a block south of the plant when the explosion happened.

It almost knocked him out of his chair, he said. That surprised him, he said, because his house is made of concrete and very sturdy.

"It was pretty jarring," said Craig, 83. "It almost shook my house."

His daughter, who lives near Blue Ridge Boulevard and Interstate 70, heard the explosion that far east, he said.

Living that close to the chemical company always made him nervous.

"We've always dreaded" an explosion like this, he said.

Jackson County Legislator Henry Rizzo and his son, J.J., were driving along Front Street a few blocks from the plant when they heard and felt the explosion.

"We pulled the car over because we thought we had dropped an axle," he said. "It felt like we had lost a wheel, which I thought was odd because it's a brand-new car. Then we saw the black plume go up. I thought it was a terrorist attack."

Rizzo said his wife, Silvia, a county employee, called concerned due to the lights flickering at the downtown courthouse.

KCP&L spokesman Tom Robinson said a transmission line near the fire was disabled, which briefly caused some power disruption and flickering lights around downtown. But that transmission line was successfully bypassed, he said, and the utility did not expect power to be further disrupted outside the immediate vicinity of the fire.

A Kansas City, Kan., Board of Public Utilities spokeswoman said the utility experienced a "sag" in electricity at about the time of the explosion. Susan Allen said that a disruption in a Kansas City Power & Light line had briefly affected power distribution in Kansas City, Kan.

The Enviromental Protection Agency and health officials from the city of Kansas City were monitoring the air for chemical content.

An EPA plane was heading to Kansas City with monitoring equipment to check the air quality.

The Jackson County courthouse closed early due to the plant explosion.

County spokesman Calvin Williford said employees were being sent home around 4 p.m. today. He said it should have minimal impact on the public since it was near the end of the work day.

"We are shutting down early based on a prudent approach," he said.

Williford said he did not know whether county officials made this decision based on the advice and recommendation of any federal, state or local official. He emphasized that this was not an evacuation.

The Kansas City, Kan., Fire Department reported that it had hazardous materials units on standby.

Battalion Chief Kevin Shirley said it's possible that the cold weather could help the smoke disperse. "That's an advantage for us at this time," he said.

Shirley said the black cloud floating away from the scene is mostly ash but would have some chemicals and that condensation could bring droplets to the ground.

"People are best off inside when something like this is going on," Shirley advised. "Not to alarm them, but stay inside and keep track of the news."

alarm them, but stay inside and keep track of the news.

He said the fire departments on the scene were wise to keep a distance from the fire.

"Rushing in there and trying to put this out, explosions can occur, spills can occur and that is a particular thing than can kill you later in life once you are exposed," Shirley said.

A section of the Missouri River was closed about 4 p.m., said U.S. Coast Guard Petty Officer 2nd Class Nyx Cangemi.

The section won't be reopened until the port captain deems it safe, Cangemi said.

As of 4 p.m., the smoke cloud had not affected air traffic at the Charles B. Wheeler Downtown Airport, said Kansas City Aviation Department spokesman Joe McBride. But airport and air traffic control officials are monitoring the situation.

Staff writers John Shultz, Mike McGraw, Tony Rizzo, Steve Everly, Malcolm Garcia, Lynn Franey, DeAnn Smith, Joyce Tsai, Randy Heaster and Mark Wiebe contributed to this report.



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Editorial of November 28th 2006

by Mark Drukenbrod

Hello and welcome to your early week international coatings industry update, brought to you by SpecialChem. We have lots of news to start out the week, so let's get started.

On Wednesday evening in Danvers, Massachusetts, USA, the building jointly occupied by CAI Ink and Arnel, Inc, a paint manufacturer, exploded evacuating an entire neighborhood of 87 houses and 300-400 people. Officials said 10 people were hospitalized with non-life-threatening injuries, and thankfully, no fatalities were reported. CAI's solvent-based inks are used on potato chip bags, cookie wrappers and other products. Ironically, CAI installed a new state-of-the-art sprinkler system in 2001 designed specifically to suppress chemical-based fires. Unfortunately, the explosion came only seconds after a general alarm was received by fire officials. The cause of the tragedy is still under investigation.

From the UK, Fiat UK has joined forces with Akzo Nobel Coatings Limited and Fusion Management Solutions Limited to launch a new Approved Bodyshop Program. This new program has been created to ensure customers receive high standards of repair and service from the bodyshops used by the Fiat Auto dealer network. In addition, the program is designed to ensure that all potential revenue streams are identified by the dealer network and wherever possible, these become an integral part of their business in the future.

Berger Paints is planning to commission its USD 2.5 million paint manufacturing facility in Russia by January 2007, as it expects additional revenues to the tune of 3-4 million dollars from the plant. The Russian facility would have a capacity to produce about 6,000 kilo liters of paint per annum, which would be sold in Russia initially.

The plant would manufacture water-based and solvent paints, he said. The Russian plant would be Berger's second plant outside India. The company had, earlier in 2000, acquired a paint manufacturing facility from Jenson and Nicholson in Nepal.

H.B. Fuller said on Monday that it signed a separation agreement on Nov. 20 with Al Stroucken, its chairman, president and CEO, related to his resignation. Under the separation agreement, Stroucken received $4 million less in payments and other benefits than he would have received had he instead chosen to leave the company at the expiration of his employment agreement, Fuller said.

American Airlines was forced to ground 22 of its Boeing MD-80s in November after finding paint chips in their fuel filters. The problem was identified in early November when filter warning lights illuminated on two MD-80s, says the airline.

Maintenance workers determined that the aircraft were from a batch of 32 that had been through a major overhaul in the summer, when their fuel access plates were painted. Inspections determined that 22 of the

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32 aircraft had paint chips in the fuel filters.

"We discovered that the paint we put on plates did not adhere," says the airline, adding that the paint was "coming off in little flakes", which were being found in the fuel filters. The MD-80 fuel filters "never had a full clog" nor caused an in-flight engine shutdown and the paint chips were "never a safety issue as far as we're concerned".

It is amazing how inconvenient a little paint problem can be. The carrier pulled the 22 aircraft out of service to repair the problem at its airport line maintenance facilities. At the peak of the groundings, 40 flight segments were cancelled. A new procedure that involves changing the way the plates are prepared for painting was employed by maintenance staff for the aircraft.

Scientists at China's National Laboratory for Molecular Sciences and the College of Chemistry, Peking University, have found a way of using the wings of cicadas as nanoscale printing blocks. Their method, based on nanoimprint lithography (NIL), could be used to make anti-reflective lens coatings and improved substrates for surface-enhanced Raman spectroscopy (SERS).

Cicada wings are covered with thousands of tiny pillar-like projections that scatter incident light and prevent it from being reflected. Each conical pillar is 400 nm tall and inclined at a 30° angle to the surface.

The Beijing team exploited NIL to make highly precise moulds of these patterns. In their technique, a section of the wing is thoroughly cleaned and then pressed against a heated layer of poly-methyl methacrylate. When the wing is removed, the PMMA mould has a series of nanowell arrays. These molds can then be used to replicate the nanostructures in a variety of surfaces.

Cicada wings have a natural advantage for the NIL technique, since their surface is coated with a wax-like substance that refuses to stick to the plastic mold. This eliminates the need for applying a mold-release material prior to imprinting, as is the practice in traditional NIL techniques.

Alternatively, metallic nano-pillars, which have applications in near-field optics, can be fabricated by coating a layer of metal over the mold. The process is reasonably cost effective, but challenges still remain. The wings can only be used a few times. "A researcher commented that a key limitation of this process is that the wing stamps can only be used a few times, as the heat and pressure applied during the imprinting process can alter the underlying structures. The technique has been patented, and further research is aiming to bring the idea closer to market.

This is not the first time that such natural templates have been used to fabricate microstructures. Nanotechnologists have long been studying the microscopic structures present on lotus leaves, which keep the leaf clean and dry at the same time. Replicating such designs could lead to a new generation of self-cleaning paints, roof tiles and fabrics while material scientists believe than mimicking other natural structures could lead to significant commercial applications.

In other news, in its second reading vote on REACH, the Environment Committee decided by a large majority to take a tougher line than the Council ...more about this news

The Board of Directors of Ciba Specialty Chemicals has appointed Jürg Fedier as new Chief Financial Officer and member of the Chairman's Committee as well as the Operational Executive Committee ...more about this news

SigmaKalon announced that it has agreed to acquire a stake in two leading Slovakian paint distributors ...more about this news

And finally, Bayer MaterialScience AG is responding to the rapidly growing importance of markets in the Middle East by establishing a new innovation center in Dubai ...more about this news

Thank you for reading the Industry Letter!

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22 January 2007

Bill Jacobs, AICP, Principal Planner
City of Irvine
P.O. Box 19575
Irvine, CA 92623-9575

Dear Bill:

Thank you for the opportunity to review the Initial Study and Notice of Preparation for a Draft Environmental Impact Report (DEIR) for the City of Irvine's proposed Irvine Business Complex (IBC) Vision Plan and Mixed Use Overlay Zoning Code.

The proposed overlay zone is adjacent to the University of California, Irvine's (UCI) North Campus. Existing North Campus land uses include administrative and academic facilities, the UCI Arboretum, UCI Child Development Center, and the San Joaquin Marsh Nature Reserve. Future development of the North Campus is proposed as mixed-use development including residential, commercial, research and development, and other uses as described in UCI's Long Range Development Plan (LRDP) and the UCI/City of Irvine North Campus Development Agreement. The University is currently in the process of updating the LRDP and LRDP Program EIR.

The IBC Plan DEIR analysis should consider existing and future University development on the North Campus as described in the LRDP. This should include vehicular trip assumptions for North Campus mixed use development in the project traffic analysis and consideration of existing and future vehicular, transit, bicycle and pedestrian access to the North Campus site and other areas of the UCI campus.

UCI looks forward to continuing to work cooperatively with the City to ensure that future North Campus planning and development is coordinated with IBC development. Please do not hesitate to contact me at (949) 824-6316 if you require additional information regarding UCI planning information for the North Campus or other University property.

Sincerely,

Richard Demerjian
Director

IBC EIR Scoping Meeting Notes
Planning Commission - February 1, 2007

Staff Presentation

Community Development staff and their consultants presented an overview of the project and sought input from the Commission.

Bill Jacobs, Principal Planner, mentioned that the City has retained The Planning Center as the EIR consultant, PB as the transportation consultant, and EDAW as the planning/design consultant.

He also mentioned that they have retained the transportation planning firm Fehr and Peers to do an internal capture analysis that would encourage mixed use and alternative modes of transportation.

Bill indicated that at present the sum of residential dwelling units (DU) in the IBC, existing, approved, and in the review process is approximately 14,000, and that a theoretical conversion of remaining non-residential intensity in the IBC would yield a theoretical, but unlikely additional 24,000 units. He added that the EIR would consider an alternative for an more likely overall cap of 20,000 total units in the IBC.

Public and Comments:

Rich Salter (provided handout with detailed issues), representing MPC Industries, Royalty Carpets, Parker Hannifin, Allergan, and Deft

- City attempted to initially bring this through on a Negative Declaration, but due to their involvement, the environmental review will now be EIR
- The longtime companies in the IBC feel neglected, and certainly feel this neglect with the new "Jamboree Village" name, which ignores the business history in the area.
- Businesses need to be able to provide input before changing over the name
- The number of new residents will have ramifications: new residents may experience a great deal of traffic
- Businesses request a full traffic study with good mitigation measures, especially roadway improvements funded by the new residential projects only; existing businesses should not be held responsible for the new roadway improvements. Vision Plan currently only noted pedestrian mitigation
- Most roadways and intersections in the IBC are already at capacity
- Businesses want a traffic study with realistic estimates of internal trip capture; wants real numbers of how many residents of the IBC work in the IBC
- Businesses than the City for keeping the IAA a pre-application process and think it would be very bad if the IAA were required concurrently.

Draft

- A 1,000 foot non-residential buffer is needed – there is a concern with the presence of 24/7 residents
- Concerns with economic impacts – want an economic model used for review – economic impact of replacing jobs with residential needs to be reviewed and should be part of the EIR process (page 3 of the handout provided)
- Economic impact should also consider the types of jobs being displaced (indirect and direct), displacing manufacturing jobs even with retail jobs will have an impact
- Compare the fiscal and economic impacts, including the long term fiscal impacts
- Parks – there is no requirement for dedication of open space in exchange for residential; there is a need for a community level park for new residential; EIR should address this; in-lieu fees good up to a point, but there is a need for more open space land
- Residential caps: businesses support the introduction of a residential cap, but feel that 20,000 units is still high
- Town Center – the group has consistently been supportive of a Town Center concept; not in favor of residential not attached to a Mixed Use or Town Center core
- Existing residents should be surveyed to see if they actually work in the IBC and to gather information on how realistic the live/work theory is

Lana Weiss, in response to question from Adam Probolsky, noted approximately $10 million dedicated for parks in the IBC at this time, and that the City is looking at sites in the IBC

Adam P. noted that the City needs a park in the IBC; in reference to the displacement of jobs – some of the development has not affected the job rich areas; the City needs to be cognizant of the job loss;

Adam P, in reference to the pre-application process, asked if applicants can apply at any time, and whether there is a desire to change that Doug Williford. responded that all applicants have been encouraged to submit and IAA to catch issues as early as possible. Adam noted he would not support any formal pre-application process.

Bill J., in response to question from Doug S. regarding if a traffic study would be prepared, noted that PB has been identified for the traffic and Fehr and Peers will be responsible for the trip capture.

Doug S. asked Rich S. if all the businesses represented by Salter applied for Industrial Business status. Rich responded that some have applied.

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Bill J, in response to Doug. S, added that staff has received appx. 20 requests for the Industrial Business designation, but determinations have not yet been issued (proceeded by an explanation of industrial businesses and IAA process)

Doug S. asked how hazardous materials issues work into this process, either in-use at the site or in transit to the site. Bill J. noted different levels of hazardous materials review; mitigation to address will be included in the EIR and project conditions of approval. Doug S. takes issue with any residential mitigation that would be "shelter in place"

Aaron Harp: Assistant City Attorney for Newport Beach:

- There needs to be a designation of what type of EIR this is (Master, Program, Tier 1); clearly identify – although NB believes this should be a Program level and all individual applications/EIRs should be delayed until the program EIR for the IBC is finalized
- The full traffic study should be comprehensive and analyze the impact of existing deficiencies as well as the TDRs that have taken place to date. It should also analyze impacts of trip distributions since residential trip distribution is very different than an office/industrial use trip
- Urban Neighborhood- Bldg. heights up to 7 stories along Irvine border with Newport beach need to be analyzed in EIR
- City needs to identify the number and location of Town Centers
- The Vision Plan should be identified as a GPA or else the Vision plan is inconsistent with the City's General Plan
- The Vision Plan should be reviewed in all impact categories- not just the two identified in the NOP
- Describe the current setting, ultimate number of units, cumulative impact of all existing and pending projects and the projects in the region
- There needs to be an accurate description of the existing traffic, the TDR process, and trip budgets
- The relocation of trip generation hasn't changed the number of trips in the IBC and Newport Beach
- Land use planning – this is patchwork land use; previously approved projects did not provide for parks
- Irvine residents impact parks in Newport Beach

Adam P. asked if there was any data of the number of residents from Newport Beach that use the parks in Irvine or number of residents from NB that use Jamboree to access the 405? Harp responded that the majority of residents use the 55 or 73; Irvine residents use the Newport Beach parks.

Adam P. asked if there should be a joint traffic study between Newport Beach and Irvine. Harp noted he cannot address that at this time.

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Adam P. asked if any there were any plans to develop Newport Beach in the area adjacent to the IBC. Harp confirmed plans to develop in the area, but there are development caps in the area and they plan to do an EIR before approving, rather than using an old EIR. Doug W. clarified that all IBC residential projects are being reviewed with a new EIR.

Karen Blakensee, Pacific Planning Consultants, representing RHC Communities:

- Mixed use cores should be focal centers – should include libraries, parks, school, daily retail uses
- There should be a substantial reduction of the speed limits
- There should be landscaped medians and parks
- Don't use overlay zone to justify approval of new residential projects- need to continue business development
- There is already a trail on the east side of the creek – doesn't feel there needs to be an additional creek walk on the west side- better to just enhance current trail
- There are no staging areas, no scenic vistas associated with the existing trail system
- Phasing of the construction should be considered
- Types of housing should be identified for the area

Karen B. elaborated on the type of housing in response to Maryann Gaido question- housing in relationship to the types of jobs – need to do market housing research and jobs/housing balance

John Toner, representing Verizon:

- Verizon site on Main is the backbone to the company providing services for the entire network west of the Mississippi; facility is operated 365 days a year, 24 hours a day.
- Generator and air conditioner are run all the time
- Generates noise within the existing parameters for industrial; residential standards are significantly lower than the industrial
- EIR should mitigate the negative impact of residential adjacent to industrial
- Existing businesses cannot be forced out by the new residential
- The IAA should include participation of existing uses – no residences within at least 200 feet

Monica Burke, representing Intelenet:

- Regional data center on Von Karman, in the beginning phases of IAA with adjacent residential project (Kilroy)
- Networks cannot go down and need to be secure
- They have noisy operations, especially with the emergency generators and air conditioning systems

Draft

- Believe there should be a delay in progress on the pending applications, there is a need for global planning
- Noted blackouts requested from Edison in response to Adam P. question. During blackouts, large power uses need to be on generators
- In response to question from Doug. S., the size and type of generators, she noted both are diesel 5000 gallon diesel fuel; tested by SCAQMD; the generators are run at night and fans are run 24/7 to keep the facility cool; cannot move this operation to a new region
- In response to question from Doug. S. regarding noise mitigation. She noted there is a concrete wall for aesthetics, but the sound is louder at higher elevations (residences) that are adjacent to the generator

In response to question from Maryann G, Bill J. noted that comments be addressed in the EIR and will be determined if they require additional consideration.

Robert Hawkins, representing Deft (produces wood finishes, coating materials for the military)

- Compared Planning Commission duties for the Great Park and the IBC – with the Great Park land is unoccupied, the IBC poses a huge challenge due to the existing uses/businesses
- The PC needs to pay attention to these issues (existing uses/businesses)
- Deft as an industrial business/key businesses – required application, but won't submit one due to Figure 4 in the Design Guidelines (already recognized as an industrial business) – they have taken steps to enter in agreement with the IAA
- The current Industrial Business designation process doesn't say anything other than it requires IAA process for adjacent residential projects
- Went through truncated IAA process for previous project (2323 Main) and believes more information/detail is required for that project
- The IBC does not have existing caps according to the 1992 IBC EIR; and the new cap comes from the trip budget in the 1992 EIR; the new EIR needs to address the 1992 EIR
- Traffic study assumptions of the 1992 EIR should not be carried forth
- Agrees with Newport Beach that this should be a program EIR
- Infrastructure will need additional review
- The project description of the Draft Design Guidelines and Vision Plan don't include anything about preserving the existing land uses
- There are 3 districts – Urban, Mixed Use, and Business District, although there aren't any key businesses in the Business District.
- Suggests industrial nodes
- Business District is important for buffers – need 1,000 foot buffer
- Deft needs 1,000 feet minimum due to the hazards of Deft's operations – believes IAA should incorporate 2,500 foot buffer; need to protect residential uses and industrial businesses; need to bring same concerns of siting

Draft

residential next to industrial as you would siting industrial next to residential in other areas of the City of Irvine

Adam P. noted that there are already thousands of people close to Deft all the time while at work; doesn't see the difference between the workers who are already exposed to Deft and potential residents. Hawkins responded noting that Deft is basing the buffer of 1,000 feet from State ARB (Air Resources Board) guidelines. Adam P asked that if Deft this dangerous – should the City be working to eliminate all uses around Deft (industrial/commercial office/retail/residential).

Commission Discussion and Comments

Nancy Neudorf asked what would be the density of the IBC if the cap is 20K units. Bill J. responded that an overall density would not be appropriate for the whole IBC area given the mix of uses. Need to review on a project by project basis, and that there is an existing general plan density cap of 52 dwelling units per acre

In response to Nancy N question as why is there a town center west of Von Karman, when the area west of Von Karman was considered "off-limits" for residential, Bill J. noted that this town center is south of the 405 freeway and adjacent to the airport – Von Karman north of the 405 is under the flight path for JWA

Nancy N asked if the developer did an IAA, what if a business in question changes operations (either intensifies the use or ceases to operate)? Is the EIR going to contain any evaluation of health affects of living within a certain range of the 405 (particulate exposure)?

Nancy N also asked if the City look into the health benefits of creating a lively, active community, safety of revised neighborhood? Doug W. responded that these issues are assumed to be part of the project.

Maryann G asked what is tipping point of residential to force a transit operation; are there models to check the viability of transit? Will there be different cap levels? Doug W. responded that there will be continued review of units to achieve the goals in the vision.

Maryann G. added the following:

- The City should look into ways to reduce individual vehicle use
- Salter's economic impact review: Many aerospace businesses left and the City needs to look at the marketability of the land and needs to review future land utilization, determine if industrial uses will stay;
- Need for services in the IBC

Draft

- Review childcare needs for residences and businesses in the IBC

Greg Smith:

- Analysis of relationship between the 1992 EIR and the proposed project (how the two work together)
- Economic analysis – "Destination Irvine" – experts convinced the City to generate business climate rather than emphasize tourism, big box commercial – businesses help sustain economic health of City of Irvine
- Economic analysis at loss of existing jobs, job base (existing vs. residential) – residential tends to be a drain (tax service analysis), costs in services so it pays for itself – i.e. service industry such as a Starbucks should not replace an engineering firm
- Examine rental vs. ownership (advantage of ownership district)
- IBC has no schools, parks, commercial services don't want IBC to impact existing village areas – worried about overloading services in adjacent villages: how is the area served by large scale development; schools (how are the students transported); use of medical and retail services
- Vision Plan comments:

    - Concerns with the minimal setbacks; 7 story heights, shared parking
    - Study should be done with realistic assumptions to evaluate shared parking
    - Emphasis on play space – how will children and families be served
    - No existing industries should be impacted or displaced by the proposed residential
    - Overlays should not impact key employers/businesses
    - City of Irvine has been recognized internationally as a well planned city – with a master plan – people need to know why transitioning from an industrial area to a residential area is a benefit to the City

Doug Sheldon:

- Economic analysis and housing type analysis need to be identified/completed
- City needs to speed up the designation of Industrial Businesses
- A resident's reasonable expectation of safety is different from industrial – this needs to be explored/addressed
- Residential has disabled, elderly and stay at home parents, which is different from industrial, day to day work operations
- IAA should look at the adjacency issue from the perspective of future residents

Adam Probolsky:

- Need a park site in the IBC (analysis of this) at least one site in the IBC

Draft

- Shared parking – wants specific outside examples and how it can work in Irvine, need it to be a viable option
- Library – what kind of library would be appropriate in IBC, wants specific examples of what it would look like

Maryann Gaido:

- Look into the possibility of a magnet school to be used by all districts (Irvine, Tustin, Santa Ana) Possibly specializing in sciences- – does it need to be institutionally zoned land?
- Identify a library that would benefit the businesses and the residents
- Would like to see the analysis be done in a way to assess the impact of pedestrian, shuttle, and transit
- Higher density should be evaluated to encourage transit

Draft

IBC Scoping Meeting Notes
Community Services Commission
February 21, 2007

Community Development staff and their consultants

Bill Jacobs, Principal Planner, presented an overview of the project and the EIR process and sought input on the EIR from the Commission. Vishal Bhargava from EDAW presented town center concepts.

Bill mentioned that the City has retained The Planning Center as the EIR consultant, PB as the transportation consultant, and EDAW as the planning/design consultant. He also mentioned that they have retained Fehr Peers to do the internal capture analysis.

Bill indicated that at present the sum of residential dwelling units (DU) in the IBC, existing, pending, and in the review process is approximately 14,000. Bill mentioned that the while the NOP stated a higher theoretical estimate for additional units in the IBC, the EIR would analyze a potential maximum of 20,000 DU (additional appx. 6,000 DU). He also mentioned that the Vision Plan plans to incorporate internal trip capture and how that would encourage mixed use and alternative modes of transportation.

Public Comments:

Dr. Maryann Desmond: co-owner of Deft

- Needs to be full analysis of residential transformation in EIR
- Need 1,000 foot buffer for the protection of both industry and residences
- Stresses the need for CSC to consider that there are adequate park space in a safe place within the IBC
- The EIR needs to include a long term analysis of water supply
- Strongly against the continued piecemeal of project approvals – against CEQA policy

Rich Salter: representing Deft, Allergan, Royalty Carpets, Parker Hannifin, and MPC Industries

- EIR is to analyze a dwelling unit cap of 20,000, which results in a population of approximately 52,000 residents in the IBC
- EIR needs to include review of public services including but not limited to parks, schools, libraries
- Per his estimates/calculations, the costs to operate these services will exceed the revenue of the new mixed-use residential development by about 10%
- EIR should identify costs of service to City.

- Analyze the park need – he estimates 100 acres of park space is needed using the 52,000 resident assumption
- New residents need to pay for parks, should not be a financial burden on existing businesses
- The current high rise population calculation identifies only 1.3 residents per unit, instead of 2.6 residents per unit (statewide average) – park calculations may be off if using this ratio – this should be corrected in the EIR to ensure the needs is properly analyzed

In response to question form Maryam Khosravani regarding the accuracy of the 1.3 or 2.6 pph figures from Rich S., Bill J. noted 1.3 is the adopted U.S. Census for high density development, while 2.6 is likely a number for lower density.

Maryam K. noted concerns about park space and the supply for both the IBC and all of the City.

J. Luong:

- Has attended most meetings on the IBC and believes that the insufficient land for a park is a major issue.
- Noted that the city needs to be sensitive to the land price and there should be an effort to balance the land uses.
- Consider revisiting the issue of a buffer – has City staff met with the businesses regarding a buffer?

B. Jacobs responded that an appropriate buffer is based on the outcome of the Industrial Adjacency Analysis (IAA) prepared to IBC residential projects, per direction given by Council July 25, 2006

In response to Maryam's question regarding whether there is an example of a town center in Orange County, Vishal noted there were none of the smaller scale proposed for the IBC, but larger examples can be found in Fullerton, Orange.

Bill Jacobs clarified overlay zone concept in response to request from Tim Cheng.

M. Khosravani asked about current parks in the IBC. B. Jacobs noted there are private parks located throughout each residential development; however the IBC design guidelines and Vision Plan identify the need for a community park. It is difficult to find a site for the community park within the IBC – originally funding was for Bill Barber, now it is in a separate fund for the IBC.

Bill J. provided more information on the proposed creek walk in response to question from Maryam K.

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J. Luong would like a thorough review of the adequacy of the water supply in the EIR. Bill J. responded that as part of the EIR process, IRWD will be conducting a water assessment analysis

In response to T. Cheng's question regarding status and timing for providing input for the town center concept.

B. Jacobs responded that the scoping meeting was the opportunity to provide input for the EIR and that the NOP period ended Tuesday. Additional comments regarding the town center and the process could be made to the Council-appointed task force via Commissioner Luong.

T. Cheng: Will forward additional comments through J. Luong

J. Luong asked if the name Jamboree Village had been formally adopted. Bill J. responded no. J. Luong added that Jamboree Village doesn't give any recognition of industrial business – things IBC should remain the name out of respect for the existing businesses.

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IBC Scoping Meeting Notes
City Council
February 27, 2007

Community Development staff and their consultants

Doug Williford, Director of Community Development, and Bill Jacobs, Principal Planner presented an overview of the EIR for the IBC Vision Plan/Design Guidelines, the NOP/EIR process, and provided an update on the project. Staff identified that the key issues identified at the Planning Commission Scoping meeting and the Community Services Commission meeting are an increase in traffic, a need for park facilities, dwelling unit caps, and the town center alternatives. Steve Kellenberg from EDAW presented town center concepts.

Doug indicated that at present the sum of residential dwelling units (DU) in the IBC, existing ,pending, and in the review process is approximately 14,000. Doug mentioned that while the NOP stated a higher theoretical estimate for additional units in the IBC, the EIR would analyze a potential maximum of 20,000 DU (additional approximate 6,000 DU). He also mentioned that the Vision Plan plans to incorporate internal trip capture and how that would encourage mixed use and alternative modes of transportation.

Public comments:

Pamela Gordon – Irvine resident

- Wants name of Jamboree Village not the Irvine Business Complex, wants area to have "good name"

Laura Dietz – member of the Newport Beach Environmental Quality Advisory Committee

- Speaking for herself – not the committee
- Received a letter from counsel for Tustin/Newport Beach with direction to highlight a few points
    - Newport Beach completed a traffic study that demonstrated impact to Irvine – needs to be reciprocal
    - EIR needs to include economic development study and a comprehensive traffic study
    - The EIR needs to include a full spectrum review of the project
    - EIR needs to consider height restrictions for the skyline

Scott Reekstin – Senior Planner for the City of Tustin

- The type of EIR needs to be determined (program, master, or tier)

- City should postpone consideration of projects that are in the process until EIR is completed and adopted
- EIR should identify the total number of town centers included with the project
- Identify the significant impacts in urban neighborhoods
- The Vision Plan should be a General Plan Amendment – should be codified
- The EIR should evaluate the Vision Plan
- There should be an accurate description of the existing project character
- EIR should include the cumulative impacts
- EIR should include the growth inducing impacts
- Within Traffic section: There should be an accurate description of current traffic and trip conditions
- Within Land Use section: EIR should identify all impacts to the existing land uses
- Within Parks and Recreation section: Previous projects have not had to address the impacts of residential on the parks and recreation needs of the City of Irvine

Monica Burick: General counsel for Intelenet

- Intelenet has a back-up generator that produces noise, is run on diesel fuel
- Submitted written comments
- The pending residential project on Von Karman will impact this existing facility
- Requests a postponement on proceeding with the individual projects

William Desmond: co-owner of Deft

- EIR should evaluate the risk of impact of private aircrafts that utilize John Wayne Airport and residential
- Safety is a priority and should be addressed, especially with the increased density
- Jamboree is the return route for disabled aircraft
- Will OCFA have high enough ladders for the high rise condominiums proposed?

David Hunt: Counsel for Allergan

- There needs to be a comprehensive document
- The continuation of processing applications is like putting the cart before the horse – projects should be delayed until IBC EIR is completed
- Wanted to know if the IBC Task Force was to be a legislative body under the Brown Act.

Sharon Landers, Assistant City Manager responded that the IBC Task Force is in fact a legislative body.

Tom Boylan: Deft

- There needs to be a clear definition of compatible uses and there needs to be a 1,000 foot buffer
- The IAA process forces businesses to constantly be evaluated and threatened
- Business owners should be allowed to focus on running a business rather than worry about constant new residential development

Maryann Desmond: Co-owner of Deft

- Emphasized the need to retain the existing job base and retain the base zoning for existing parcels
- The IAA only represents a snapshot rather than a full picture
- There needs to be a 1000 foot buffer for safety; businesses need to be able to run at the full capacity; and with what they use, store, and emit, there needs to be a 1000 foot buffer
- There needs to be a way to identify the industrial uses – Deft has been in operation for 32 years
- All new residential should be put on hold

Balco Mahrer (?): Deft

- OSHA info: businesses have to provide information to all employees regarding the risks at work with hazardous materials – will they have to provide this to the new residents?
- Deft has hazardous materials at a level 4 for flammability and toxicity
- There is always human error – he provided examples of 2 facilities with paint that resulted in neighborhood evacuations based on this
- There is a need for a 1000 foot buffer zone

Rich Salter: Representative for Deft, Allergan, MPC, Royalty Carpets, Parker Hannifin

- Noted that he is appreciative of staff's effort to complete an EIR
- Highlighted his letter submitted to the Council
- The City needs to complete an economic impact study as part of the EIR process
- Every time a new residential project is approved; retail and office is lost
- The EIR should evaluate the economic loss of jobs, examine the industrial and office vs. residential tax revenue

Robert Hawkins: Represents Deft

- Stop the processing of the applications for residential
- Adjacency Analysis – comparison to the non-smoking ordinance passed this evening – concerned of the residential owners/users adjacent to hazardous, carcinogenic materials
- Figure 4 has already identified key businesses – there should be an industrial node created

City Council:

Kang:

Councilmember Kang asked how long the EIR process will take and how much it will cost.

Doug Williford responded that the process will conclude with hearings in the first quarter of 2008 and that the final cost will depend on the impacts that need to be reviewed. A rough estimate is $700,000-800,000, which will be paid by the City.

Councilmember Kang asked how many projects are in the works – how many have been approved and how many have been submitted.

Doug Williford acknowledged that the development has slowed and that there are approximately eight projects that will go to hearing within the next 12 months. These projects result in approximately 1,200-1,500 units.

Councilmember Kang inquired on the difference between a Program, Master, or Tier 1 EIR?

Bill Jacobs responded that the city is completing a program EIR for the IBC Design Guidelines and Vision Principles, but that each individual project will be required to prepare subsequent EIRs.

Doug Williford added that all projects currently under review are preparing individual program level EIRs.

Councilmember Kang asked what will be included in the EIR, will the town center concept by included?

Bill Jacobs indicated that yes, the town center will be included in the EIR. An alternative is also looking at residential caps for the IBC.

Councilmember Kang asked about the caps and whether or not the 20,000 unit cap was realistic or if it would be a cap of 13,000-14,000 units as previously noted.

Doug Williford indicated that the 14,000 unit level includes the totals the City has for existing, approved, and submitted for review projects. The remainder comes from what the remaining potential is without going to an extreme. The City believes that this is a reasonable estimation of the cap.

Councilmember Kang asked if the City of Irvine is in continuous dialogue with the City of Tustin and Newport Beach? Also, has the City been in contact with the businesses?

Doug Williford indicated that yes, the City of Irvine has been in dialogue with the City of Tustin and Newport Beach and that the City as provided an extensive opportunity for other jurisdictions and businesses to provide input.

Councilmember Kang noted that the plan should include consideration of a park site in the IBC.

Choi:

Councilmember Choi noted that the focal point of this effort is to conduct a comprehensive EIR that will hopefully answer all questions. He would like the EIR to include analysis of 20,000 unit cap. He inquired on the density/dwelling unit for the IBC?

Doug Williford indicated that the standard for high density is 1.3.

Councilmember Choi noted that he believes a calculation of 2 people per dwelling unit is more realistic. He also wants to ensure that all comments from previous meetings are considered. Other points included the following:

1. Consider the availability of schools – the IBC is shared by all three districts and there will be impacts to IUSD, SAUSD, and TUSD. There should be informal meetings between the three school districts.
2. Other public facilities – evaluate the need for a library, which has always been overlooked in previous EIRs/projects. The City is below its library provisions and the libraries are impacted since there is no expansion opportunity at University Park.
3. Recreation – the EIR needs to evaluate the need for open space/park area. San Diego Creek could be used as park/open space – through the Creek Walk.

Shea:

Councilmember Shea thanked staff for their efforts. She indicated that she is not a critic of what is being done in the IBC, supports the concept of innovation in the

IBC, and believes the EIR will address some significant impacts. Councilmember Shea identified the following issues:

- Residential Cap: She is supportive of identifying one, but believes a cap of 20,000 units is too much. She believes having a cap is a good idea. If 20,000 units is the cap, this results in approximately 40,000 residents and that number of people combined with the existing and new businesses will create traffic impacts in the IBC. She likes the idea of the Jamboree Corridor, but knows there will be traffic; density will create problems that large metropolitan areas have.
- Why go through the EIR process while other projects are in the pipeline? The City doesn't have a design yet and we seem to be doing the process backwards. Councilmember Shea noted that we need to stop moving forward if we are to create a great town center.
- Include a traffic study, noise, and 1000 foot buffer/setback should be considered.
- We shouldn't be building residential next to industrial – these are concerns that will continue with business expansions. We need to slow down development/approvals.

Agran:

Mayor Pro Tem Agran noted that the people who want a moratorium should come forward; he, however, does not support a moratorium on the projects in the pipeline. He provided a brief amount of history on the IBC, indicating that the Irvine Industrial Complex became the Irvine Business Complex and that the 1992 EIR opened up a revolution of uses and residential moving towards a mixed use IBC.

Mayor Pro Tem Agran noted his concern with the traffic in the IBC, which is due to the approximately 90,000 who work in the IBC and this number does not include those associated with the university. One reason the City wants residential is so that residents can walk to work from where they live.

Mayor Pro Tem Agran stated that there are currently approximately 10,000 people who live in the IBC and these are people who have chosen to live there.

Mayor Pro Tem Agran asked when the transit/Jamboree shuttle will be constructed/implemented and whether or not there would be new behaviors for the transit considered?

Doug Williford noted that yes, the City will try to consider these new behaviors through trip capture.

Mayor Pro Tem Agran concluded his remarks by identifying the following additional issues:

- Cultural Issues: The City wants cultural amenities in the IBC – there is a need for libraries in the IBC.
- In regards to the proposed 20,000 unit cap: Mayor Pro Tem Agran noted that 20,000 units might be too high for the cap and should be backed off, but that it should be used for the study
- The City needs to ensure that we include the stakeholders in the process; particularly, the City should include the 10,000 residents that are principle stake holders – there should be outreach and focus groups.

Krom:

Mayor Krom asked how the IBC EIR deviates from a traditional "village" EIR.

Bill Jacobs noted that with previous EIRs, the environmental was completed after the placemaking was determined by the applicant, and in this case, the City is establishing the placemaking through the environmental.

Mayor Krom noted that the IBC is a special part of the City of Irvine and serves as a connector to Newport Beach, Tustin, Costa Mesa, and Santa Ana and a regional hub. As a priority to her, the IBC needs to be successful for all stakeholders. Mayor Krom stated that there is an imbalance between jobs and housing (a 3:1 imbalance) and that quality of life is a determinant. There is an opportunity to create an integrated community that will offer people less of a commute time to the IBC.

Mayor Krom noted the following other issues that should be included in the EIR:
- Human scale issues; retail access, child care, amenities
- Park and open space (San Diego Creek Channel)
- Smaller blocks and how to plan for these
- Trip capture
- Review every conceivable element/stakeholders in EIR – it doesn't have to be an "either/or" situation, take a look at creating a cohesive community

Following individual comments from the City Council, Mayor Pro Tem recommended that City staff commence preparation of the EIR for the IBC exploring the proposed dwelling unit cap and the town center concept. The motion was seconded by Councilmember Kang and was moved with a vote of 5-0.