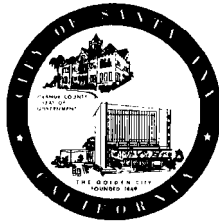


# MEMORANDUM



**To:** City Manager **Date:** June 7, 2010

**From:** Executive Director  
Planning and Building Agency

**Subject:** AMENDMENTS TO ITEM 80A OF THE CITY COUNCIL AND COMMUNITY  
REDEVELOPMENT AGENCY JUNE 7, 2010 MEETING

The following is a list of amendments to the Final EIR No. 2006-02, General Plan Amendment No. 2010-01, and Amendment Application No. 2005-09 (Transit Zoning Code). The amendments are a result of comment letters received during the public review and comment period for the General Plan Amendment No. 2010-01, but after the close public review period for the EIR, after the publication of the Final EIR and after the May 27, 2010 Planning Commission public hearing on the proposed Transit Zoning Code (TZC).

Exhibits:

1. Amendment to the General Plan Land Use Element as to Flood Control.
2. Amendment to the TZC Street Network Concepts as to bus/transit stops
3. Supplemental Response to Comments
4. Amendment to the Findings of Fact
5. Additions to the Mitigation Monitoring and Reporting Program

These items will be considered by the City Council/Community Redevelopment Agency as part of the actions for the June 7, 2010 meeting.

  
Jay M. Trevino

JMT:LL:rb

c: Mayor and City Council

## Amendments to the General Plan Land Use Element

1. Modify item 5.5 in Table 2, Page 24 as follows:

Ensure that post-development hydrology and storm water runoff rates and velocities from a site have no significant adverse impact on downstream drainage facilities, flood protection levels, erosion and/or stream habitat.

2. Update the map depicted in Exhibit A-9 Flood Hazards in order to accurately reflect FEMA FIRM Maps, Panel 0144j.
3. Modify the first paragraph under Flood Hazards on Page 41 as follows:

The Santa Ana River is the major drainage channel flowing through the City and many of the major storm drains in the City, are (directly or indirectly) connected to it. The lower Santa Ana River from Weir Canyon Road to the Pacific Ocean was improved as part of the U.S. Army Corps of Engineers' Santa Ana Mainstream Project. The reach through Santa Ana consists mostly of a trapezoidal, concrete lined channel with a bottom width of 180 feet. is slated to undergo substantial modification, and will be fully lined where it passes through the City upon project completion. Major segments of the Santa Ana River have been modified with high earthen levees to minimize flood damage to the surrounding area.

## **Amendment to the Transit Zoning Code Street Network Concepts**

1. Add the following to the Street Network Concepts:

When identifying potential transit/bus stop locations within the proposed transit zone, a thorough evaluation should be conducted to ensure that each bus stop is strategically placed. This will minimize the impact to adjacent businesses and/or residential units. The following should be included during the evaluation:

- Stops should not be placed directly in front of entryways.
- Stops should not block signage or display windows for businesses located in the general area.
- Stops should not be placed in areas where there may be outside seating, such as sidewalk cafes.
- Stops should be placed at locations where engine noise and/or exhaust fumes generated from buses will not directly affect the adjacent properties.
- Street furniture should be strategically placed to minimize the impact to general pedestrian traffic or limit the visibility of businesses located behind the furniture.
- Stops should be in compliance with the American Disability Act and OCTA requirements for wheelchair boarding areas (see OCTA's Bus Stop Safety and Design Guidelines online at [www.octa.net/Uploadedfiles1publication\\_bus\\_guidelines.pdf](http://www.octa.net/Uploadedfiles1publication_bus_guidelines.pdf)).
- A standard bus turnout or concrete bus pad should be placed at each potential stop location to minimize roadway damage.

# CITY OF SANTA ANA TRANSIT ZONING CODE (SD 84A AND SD 84B)

## Environmental Impact Report

SCH No. 2006071100

*Volume 1b: Responses to Comments Received  
Since Publication of the Final EIR*

*Prepared for*  
**City of Santa Ana**  
20 Civic Center Plaza, Ross Annex M-20  
Santa Ana, California 92702

*Prepared by*  
**PBS&J**  
12301 Wilshire Boulevard, Suite 430  
Los Angeles, California 90025

June 2010

EXHIBIT 3

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## **Tables**

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# CHAPTER 12 Responses to Comments Received Since Publication of the Final EIR

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## 12.1 ORGANIZATION OF THE RESPONSES TO COMMENTS RECEIVED SINCE PUBLICATION OF THE FINAL EIR

The letters in this document include public comments on the EIR for the proposed Transit Zoning Code that were received after the close of the public review period, after publication of the Final EIR and after the May 27, 2010, Planning Commission public hearing on the proposed Transit Zoning Code. The Draft EIR was circulated for public review from February 2, 2010, to April 12, 2010. Although the City of Santa Ana is not required to respond to these comments, it has chosen to do so (CEQA Guidelines Section 15207).

Responses to these comments have been prepared to address the environmental concerns raised by the commenter and to indicate where and how the EIR addresses pertinent environmental issues.

The comment letters have been numbered in an ordinal fashion. Each issue within a comment letter, if more than one, has a letter assigned to it. Responses to the comment letter immediately follow each letter. References to the responses to comments identify first the letter number, and second, the comment letter (6A, for example). Where comments have been duplicated within a single letter, the reader is referred to the appropriate responses number rather than having a comment repeated and providing a duplicate answer.

The commenters, along with the page number on which their comment letters appear, are listed below.

<b>Table 12-1 Comment Letters Received after the Draft EIR Comment Period</b>			
<b>Letter Code</b>	<b>Commenter/Organization</b>	<b>Letter Date</b>	<b>Page No.</b>
AQMD	South Coast Air Quality Management District	6/01/10	12-3
OCPW	Orange County Public Works	6/03/10	12-11
OCTA	Orange County Transportation Authority	6/01/10	12-15
BHLG	Brandt-Hawley Law Group	6/04/10	12-19
BLC	Briggs Law Corporation	6/05/10	12-27

## 12.2 RESPONSES TO COMMENTS ON THE EIR

This section contains the original comment letters, which have been bracketed to isolate the individual comments, with each letter followed by a section with the responses to the comments within the letter. As noted above, and stated in Sections 15088(a) and 15088(b) of the CEQA Guidelines, comments that raise significant environmental issues are provided with responses. Comments that are outside of the scope of CEQA review will be forwarded for consideration to the decision-makers as part of the project

approval process. In some cases, a response may refer the reader to a previous response, if that previous response substantively addressed the same issues.



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

E-mailed: June 1, 2010

June 1, 2010

Ms. Lucy Linnaus  
Senior Planner  
City of Santa Ana  
Planning and Building Agency  
Santa Ana, CA 92702

**Review of the Draft Environmental Impact Report (Draft EIR)  
for the City of Santa Ana Transit Zoning Code**

The South Coast Air Quality Management District (AQMD) appreciates the opportunity to comment on the above-mentioned document. Although the public comment period for the Draft Environmental Impact Report (Draft EIR) closed on March 19, 2010 AQMD staff was not notified about this project until April 20, 2010. While the comment period has closed, the Final Environmental Impact Report (Final EIR) has not yet been published by the lead agency. The following comments are intended to provide guidance to the lead agency and should be incorporated into the Final EIR as appropriate. Additionally, pursuant to CEQA Guidelines §15086 AQMD staff requests that the lead agency please ensure that the AQMD is included in the distribution list for all future projects subject to CEQA.

AQMD-1

AQMD staff recognizes the regional air quality benefits of the proposed project (Transit Zoning Code) given that it will increase residential densities near future employment and transportation centers. However, AQMD staff is concerned that the project provides a mixed use overlay zone that could potentially encourage more people to live in close proximity to sources of air pollution such as industrial uses and Interstate 5. Therefore, AQMD staff requests that the lead agency review and implement mitigation measures consistent with the advisory recommendations and respective source categories from the California Air Resources Board's Air Quality and Land Use Handbook: A Community Perspective (CARB Handbook). Further, AQMD staff recommends that the lead agency require additional construction mitigation measures to minimize the project's potential air quality impacts.

AQMD-2

Pursuant to Public Resources Code Section 21092.5, please provide the AQMD with written responses to all comments contained herein prior to the adoption of the Final EIR. Further, staff is available to work with the lead agency to address these issues and any

AQMD-3



Ms. Lucy Linnaus  
Senior Planner

2

June 1, 2010

other questions that may arise. Please contact Dan Garcia, Air Quality Specialist CEQA Section, at (909) 396-3304, if you have any questions regarding the enclosed comments.

↑  
AQMD-3  
cont'd.

Sincerely,



Ian MacMillan  
Program Supervisor, CEQA Inter-Governmental Review  
Planning, Rule Development & Area Sources

Attachment

IM:DG

ORC100420-04  
Control Number

Air Quality Analysis and Mitigation Measures:

Siting Criteria and Future Project Planning

1. The AQMD staff recognizes the proposed project provides regional air quality benefits by increasing residential densities near future employment and transportation centers. However, the proposed project (Transit Zoning Code) provides a mixed use overlay zone for select areas that allows for mixed use development at the discretion of the property owner. As a result, the proposed project could place additional residential uses (e.g., single family homes, condos, and apartments) in close proximity to industrial uses (e.g., auto body paint shops) and a major freeway (i.e., Interstate 5).

Given that the proposed project allows for the placement of residential uses in close proximity to industrial uses and Interstate 5, the AQMD staff is concerned about the exposure of local residents to potentially significant sources of emissions. Therefore, AQMD staff recommends that the lead agency review the CARB Handbook, which offers guidance on the siting of incompatible land uses and “sensitive land uses” (e.g., residences, parks and medical facilities) near industrial sources, high traffic freeways and roads to design the proposed project. Further, AQMD staff requests that the lead agency implement mitigation measures consistent with the advisory recommendations and respective source categories in the CARB Handbook.

AQMD-4

Construction Mitigation Measures

2. The regional and localized construction emissions from implementing the proposed project could potentially exceed the AQMD’s daily significance thresholds for NOX, VOC, CO, PM10 and PM2.5, therefore, AQMD staff is concerned about the overall implementation and effectiveness of the lead agency’s construction related mitigation measures. Specifically, AQMD staff recommends that where the phrases: “to the extent readily available,” “to the extent cost effective” and “to the extent feasible” appear in mitigation measures (i.e., MM4.2-7, 4.2-9, 4.2-11, 4.2-19, and 4.2-20) that the lead agency develop criteria to determine the “availability”, “cost effectiveness” and “feasibility” of these measures.

AQMD-5

Additionally, AQMD staff requests that the lead agency consider adding the following mitigation measures to further reduce air quality impacts from the proposed project:

- ❖ Reroute construction trucks away from congested streets or sensitive receptor areas,
- ❖ Consistent with measures that other lead agencies in the region (including Port of Los Angeles and Port of Long Beach) have enacted, require all on-site construction equipment to meet EPA Tier 2 or higher emissions standards according to the following:
  - ✓ April 1, 2010, to December 31, 2011: All offroad diesel-powered construction equipment greater than 50 hp shall meet Tier 2 offroad

AQMD-6

emissions standards. In addition, all construction equipment shall be outfitted with the BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.

- ✓ January 1, 2012, to December 31, 2014: All offroad diesel-powered construction equipment greater than 50 hp shall meet Tier 3 offroad emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.
- ✓ Post-January 1, 2015: All offroad diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.
- ✓ A copy of each unit's certified tier specification, BACT documentation, and CARB or AQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.

❖ For additional measures to reduce off-road construction equipment, refer to the mitigation measure tables located at the following website:  
[www.aqmd.gov/ceqa/handbook/mitigation/MM\\_intro.html](http://www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html).

❖ The lead agency should consider encouraging construction contractors to apply for AQMD "SOON" funds. As an example, incentives could be provided in the bidding process for those construction contractors who apply for AQMD "SOON" funds. The "SOON" program provides up to \$60 million dollars to accelerate clean up of off-road diesel vehicles, such as heavy duty construction equipment. More information on this program can be found at the following website:  
<http://www.aqmd.gov/tao/Implementation/SOONProgram.htm>



AQMD-6  
cont'd.

AQMD-7

AQMD-8

## ■ Response to Letter AQMD: South Coast Air Quality Management District (AQMD)

### ***Response to Comment AQMD-1***

This comment contains introductory language as well as a request to be included on future CEQA document distribution lists. Though the City's records indicate that a copy of the Draft EIR was mailed to the AQMD, the comment is noted and the City will ensure that all future CEQA projects include distribution to AQMD.

### ***Response to Comment AQMD-2***

The commenter is concerned about future residential uses being sited in proximity to industrial uses and Interstate 5, and the impacts to future sensitive receptors caused thereby. The commenter also suggests that the City examine the California ARB Handbook for guidance on the siting of potential sensitive receptors near sources of high pollutant emissions. According to the California ARB Handbook, sensitive receptors should be located at least 300 feet from Interstate 5 as well as dry cleaners using Perchloroethylene. The Handbook also states that residential uses should not occupy the same building as dry cleaners using said chemical. In addition, other examples cited by the commenter such as auto-body paint shops and other manufacturing operations (as shown in Table 1-3 of the Handbook) are required to obtain a permit from the AQMD, which carries with it certain requirements relating to production methodologies.

It should be noted that, with the exception of the Developer Project (described in Chapter 3 of the DEIR), the Transit Zoning Code EIR is a programmatic document, and future projects that could occur within the planning area are unknown and speculative at this time. Therefore, future projects would be subject to City plan review and, depending on their nature, subject to subsequent CEQA review. The City's Municipal Code sets forth specific land use compatibility requirements for industrial and sensitive receptors. In urbanized infill projects (especially those that utilize transit-oriented development), it is often infeasible to site projects more than 300 feet from high-traffic freeways and may (in some cases) minimize the project's benefit as a reducer of automobile trips. As a result, mitigation measures may be required for projects such as these that could require the use of American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standard 170-2008—Ventilation of Health Care Facilities (as a worst-case example of standards) for intake systems as well as compliance with the standards for "Protective Environment" under the aforementioned Standard, which requires a dual-phase filtration intake systems with efficiency ratings classified by the MERV standards for filtration<sup>1</sup>.

Finally, mitigation measure MM4.2-21 requires that subsequent projects within the Transit Zoning Code complete site-specific air quality analyses to determine their impacts and provide mitigation (if necessary) that reduces impacts associated with said projects.

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<sup>1</sup> American Society of Heating, Refrigerating, and Air Conditioning Engineers, *Standard 170-2008 Ventilation of Health Care Facilities*, 2008.

### **Response to Comment AQMD-3**

This comment requests that the City provide AQMD with written responses to the comments set forth in this letter prior to certification of the EIR for this project. The City will provide the AQMD with a written response to these comments before the public hearing on the project.

### **Response to Comment AQMD-4**

Refer to response AMQD-2.

### **Response to Comment AQMD-5**

The commenter states that the City should consider developing criteria to determine the “availability”, “cost effectiveness”, and/or “feasibility” of the use of construction methods or equipment that would help to reduce construction-related pollutant emissions. Since this programmatic EIR is analyzing long-range future development, it is not feasible to determine the criteria that the commenter suggests. Technologies change as do costs. As indicated in the MMRP prepared for the project, future entitlements by the City prior to the issuance of grading or building permits will be required. Therefore, the appropriateness of these measures can better be determined at such time. Thus, the City does not consider the development of these criteria to be feasible mitigation at the time of this writing.

### **Response to Comment AQMD-6**

The commenter suggests several additional mitigation measures. The first suggestion is to re-route construction equipment away from congested streets or sensitive receptor areas. MM4.2-15 sets forth mitigation to ensure smooth traffic flow. Also, in the FEIR, the following text change was added to the Transportation Section:

In addition, any work that proposes to excavate, improve, or otherwise occur in a public street, sidewalk, or any other public place will be required to obtain a permit from the Public Works Department. One of the requirements to obtain a permit as outlined in Section 33-32(a)(7) of the Municipal Code is the preparation of a construction work plan that is approved by the City Traffic Engineer. This includes identifying lane closures, their duration, the means for traffic safety control, the types and number of traffic delineators, schedule, hours of operation, etc. Compliance with the City's Noise Ordinance and the Municipal Code will prevent any significant impacts to local roadways or on the nearby school.

Attainment of the aforementioned permit will require a construction work plan as stated above. The provisions thereof will ensure that the City Traffic Engineer will grant a permit at which time traffic disruption is determined to be at the minimum possible levels.

In regard to the other suggested mitigation measures, as is standard practice, the City included the mitigation measures that are listed in the URBEMIS model since they are calculated into the “mitigated” model output.

However, the City concurs and will add the following mitigation measures to reduce Impact 4.2-5, identified in Section 4.2 of the DEIR although the reductions (if any) are not quantifiable.

MM4.2-7(a)

*With respect to the Transit Zoning Code area as a whole, the City shall, to the extent feasible, require all on-site construction to meet EPA Tier 2, or higher, emissions standards according to the following:*

- *April 1, 2010, to December 31, 2011: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 2 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.*
- *January 1, 2012, to December 31, 2014: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 3 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.*
- *Post-January 1, 2015: All off-road diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.*
- *A copy of each unit's certified tier specification, BACT documentation, and California ARB or AQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.*

MM4.2-7(b)

*With respect to the Developer Project analyzed in the EIR for the Transit Zoning Code, the City shall require all on-site construction to meet EPA Tier 2, or higher, emissions standards according to the following:*

- *April 1, 2010, to December 31, 2011: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 2 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.*
- *January 1, 2012, to December 31, 2014: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 3 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.*
- *Post-January 1, 2015: All off-road diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.*

- *A copy of each unit's certified tier specification, BACT documentation, and California ARB or AQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.*

### **Response to Comment AQMD-7**

The commenter refers the City to a website “for additional measures to reduce off-road construction equipment ...” However, the tables listed on the website depict a breakdown of emission reductions per vehicles and power ratings complying with California ARB Tiers 1, 2, 3, and 4 and do not list specific feasible mitigation measures. Comment noted.

### **Response to Comment AQMD-8**

This comment asks the City to encourage construction contractors to apply for funding that would enable owners of eligible fleets to purchase low-emission heavy-duty engine technologies to achieve near-term reduction of NO<sub>x</sub> emissions from in-use, off-road diesel vehicles. These fleet upgrades are in furtherance of the State “Surplus Off-road Opt-in for NO<sub>x</sub>” (SOON) provision of a recently adopted California ARB regulation, which sets more-stringent NO<sub>x</sub> emission targets for in-use, off-road diesel vehicles. In 2008, the AQMD Board approved setting aside up to \$120 million over a four year period for this purpose called the “SOON” Program.. The current funding period closed June 4, 2010. This EIR is both a programmatic level document for the Transit Zoning Code, as well as a project specific analysis for the Development Project for the Redevelopment Agency parcels. With both the current funding cycle for the SOON Program having closed and therefore not available for the near-term Development Project, and the unknown status of future funding for projects that have not yet been identified, it is not feasible to add specific mitigation measures relating to SOON Program funding. The City notes the comment and will forward this to the decision-makers.



*John A. Carbaugh, Director*  
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Fax: (714) 834-5188

June 3, 2010

Ms. Lucy Linnaus, Senior Planner  
City of Santa Ana  
Planning and Building Agency  
20 Civic Center Plaza, M20  
Santa Ana, CA 92702

**SUBJECT: Environmental Impact Report 2006-02, General Plan Amendment No. 2010-1 and Zoning Ordinance Amendment No. 2005-09 for the Transit Zoning Code**

Dear Ms. Linnaus:

The County of Orange has reviewed the documents referenced above that are related to the proposed Transit Zoning Code located in the City of Santa Ana. We applaud the City of Santa Ana for this planning effort and the goal of facilitating new development activity in this area. We offer the following comments for your consideration:

OCPW-1

County Owned Properties

Within the boundary of the Transit Village Zone are County-owned properties along Santa Ana Boulevard. These include the "Fruit Street" maintenance yard and a vacant parcel across the street on the northerly side of Santa Ana Boulevard. In the EIR prepared for this project, the land use for the Fruit Street property is described as "Institutional" and the vacant property as "industrial." The zoning for these properties is "Open Space," which includes "government buildings" as a permitted use.

OCPW-2

Adoption of the proposed General Plan and Zoning Code amendment would result in the rezoning of the County properties from "Open Space (OS)" to "Transit Village (TV)." This would also result in a change of permitted uses and development standards to encourage the development of "compact transit-supportive mixed use/residential development." We understand that in general these types of land use changes enhance surrounding areas and would therefore have no negative impact on the value of the County owned properties affected.

There is a discussion in the proposed Transit Zoning Code regarding existing, non-conforming uses. The document states that "lawfully established" uses may continue to operate but may be altered only in compliance with the Code. As you know, the City and the County are exempt from each other's zoning and building regulations as long as the property in question is used for governmental purposes. It is the County's intention to continue to operate, maintain and possibly expand the Fruit St. facility consistent with its current use. Strictly speaking, therefore, the County property and its uses would not be considered non-conforming since it is public property. The County anticipates that this continuing use will not interfere with the goals and objectives of the proposed Transit Village Zoning. We suggest that this be noted in the record.



Since the exemption from City Zoning is a result of County ownership, the City zoning would presumably apply if the ownership of the property changed.

↑ OCPW-2  
cont'd.

Water Quality

The recommended generic Mitigation Measure MM4.6-1 for potential surface water quality impacts of runoff from redevelopment pursuant to the Transit Zoning Overlay District (see Pages 4.6-16 and 17) correctly suggests requirements of the Municipal Stormwater NPDES Program are subject to periodic change. Specific reference should be made to the 4<sup>th</sup> term Municipal NPDES Stormwater Permit for the Santa Ana Region of Orange County as adopted on May 22, 2009. The 4<sup>th</sup> term permit requires substantive changes to the Model WQMP for Orange County, changes that will likely be effective in early 2011. The revised Model WQMP for Orange County will require that each priority development or redevelopment project infiltrate, harvest and re-use, evapotranspire or capture runoff from the 85th percentile 24 hr. storm event ("design capture volume"). Any portion of this volume that is not infiltrated, harvested and re-used, evapotranspired or captured onsite by Low Impact Development (LID) BMPs shall be treated and discharged using LID or similarly effective treatment control BMPs or mitigated.

OCPW-3

Flood Control

Any intensification of land use that might result from the update may increase the overall impervious area and impact local as well as regional drainage. Therefore, we recommend that Item 5.5 in Table 2, Page 24 be modified to read: "Ensure that post-development hydrology and storm water runoff rates and velocities from a site have no significant adverse impact on downstream drainage facilities, flood protection levels, erosion or stream habitat."

OCPW-4

It appears that the 100-Year Flood Zone boundary depicted in Exhibit A-9, Page A-47 is inconsistent with FEMA's FIRM Maps, Panel 0144J and may need revision. City of Santa Ana, as floodplain administrator for areas within its municipal boundaries should ensure that all FEMA regulations and floodplain requirements applicable to the Land Use Element are met.

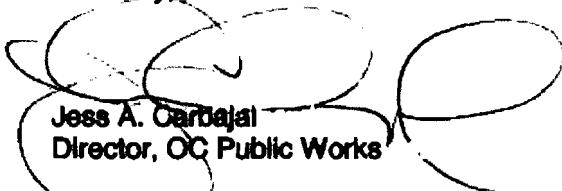
OCPW-5

The first paragraph under Flood Hazards on Page A-41 of the document needs to be revised. The lower Santa Ana River from Weir Canyon Road to the Pacific Ocean has undergone major improvement as a part of the U.S. Army Corps of Engineers' Santa Ana Mainstem Project. The reach through Santa Ana consists mostly of a trapezoidal, concrete lined channel with a bottom width of 180 feet.

OCPW-6

If you have any questions, please contact me at (714) 667-3217 or Mike Balsamo at (714) 667-8854.

Sincerely,



Jess A. Carbajal  
Director, OC Public Works

c: Rick LeFeuvre, Interim Director, OC Planning  
Mike Balsamo, Manager, OC Planning/General Land Use Planning

## ■ Letter OCPW: Orange County Public Works (OCPW)

### ***Response to Comment OCPW-1***

This comment contains introductory and general background information and is not a direct comment on environmental issues or the content or adequacy of the Draft EIR. No response is required.

### ***Response to Comment OCPW-2***

The comment accurately reflects the proposed changes to existing zoning and application of the zoning contained within the Transit Zoning Code, as well as changes to land use contained in the amendment to the General Plan Land Use Element, on the properties currently owned by the County of Orange described as the “Fruit Street” maintenance yard and the vacant parcel across the street on the northerly side of Santa Ana Boulevard. The comment also accurately reflects the exempt status of the properties owned by the County of Orange from the provisions of the Transit Zoning Code and other provisions of the Santa Ana Municipal Code Chapter 41—Zoning, including provisions related to legal non-conforming uses and sites. Due to the fact that the property is not currently in private ownership, any improvements or uses that do not currently comply with the existing zoning, or proposed Transit Zoning Code standards, are not considered legal non-conforming and, as such, existing improvements and uses do not enjoy the protection of the provisions of the Santa Ana Municipal Code Chapter 41 as it relates to non-conforming uses and sites. As stated in Comment OCPW-2, should the property currently owned by the County of Orange change to private ownership, the full provisions of the Transit Zoning Code would apply and any future development would be required to comply with all of the standards contained within the Transit Zoning Code. This comment does not address environmental issues or the content or adequacy of the Draft EIR. No additional response is required.

### ***Response to Comment OCPW-3***

The commenter requests that the mitigation measure MM4.6-1 be revised to adhere to “... the 4<sup>th</sup> term Municipal NPDES Stormwater Permit for the Santa Ana Region of Orange County as adopted on May 11, 2009.” As written, the mitigation measure states:

In order to comply with the current version of the DAMP, future development projects in the Transit Zoning Code (SD 84A and SD 84B) area shall prepare Storm Drain Plans, Stormwater Pollution Prevention Plans (SWPPP), and Water Quality Management Plans (WQMP) conforming to the current National Pollutant Discharge Elimination System (NPDES) requirements, prepared by a Licensed Civil Engineer or Environmental Engineer, shall be submitted to the Public Works Agency for review and approval.

The city understands that the commenter’s intent is to ensure that the mitigation measure requires compliance with the latest set of regulations regarding the NPDES. However, since the majority of the future development of the Transit Zoning Code may occur years in the future, requiring development projects to comply with “current National Pollutant Discharge Elimination System (NPDES) requirements” ensures compliance with the most up-to-date standards over a longer period of time, since the requirements that are in effect today may differ in the future. Writing the mitigation measure in this way places the responsibility of complying with NPDES regulations on future project proponents, regardless of how the regulations change over time. Therefore, the City will adopt mitigation measure MM4.6-1 as set forth in the EIR.

**Response to Comment OCPW-4**

Comment OCPW-4 addresses the proposed amendment to the Santa Ana General Plan Land Use Element. The City will modify Item 5.5 in Table 2, page 24 of the Land Use Element to read: “Ensure that post-development hydrology and storm water runoff rates and velocities from a site have no significant adverse impact on downstream drainage facilities, flood protection levels, erosion, or stream habitat.” This comment does not address environmental issues or the content or adequacy of the Draft EIR. No additional response is required.

**Response to Comment OCPW-5**

Comment OCPW-5 addresses the proposed amendment to the Santa Ana General Plan Land Use Element. The City will review and update as necessary the map depicted in Exhibit A-9 Flood Hazards in order to accurately reflect current FEMA FIRM Maps, Panel 0144J. This comment does not address environmental issues or the content or adequacy of the Draft EIR. No additional response is required.

**Response to Comment OCPW-6**

Comment OCPW-6 addresses the proposed amendment to the Santa Ana General Plan Land Use Element. The City will modify the first paragraph under Flood Hazards on Page A-41 to read as follows: “The Santa Ana River is the major drainage channel flowing through the City and many of the major storm drains in the city are (directly or indirectly) connected to it. The lower Santa Ana River from Weir Canyon Road to the Pacific Ocean was improved as part of the U.S. Army Corps of Engineers’ Santa Ana Mainstem Project. The reach through Santa Ana consists mostly of a trapezoidal, concrete lined channel with a bottom width of 180 feet.” This comment does not address environmental issues or the content or adequacy of the Draft EIR. No additional response is required.



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June 1, 2010

Ms. Lucy Linnaus, Senior Planner  
City of Santa Ana  
20 Civic Center Plaza, M20  
Santa Ana, CA 92702

**Subject: Referral of General Plan Amendment No. 2010-1 for the Transit Zoning Code**

Dear Ms. Linnaus:

The Orange County Transportation Authority (OCTA) has reviewed the proposed General Plan Amendment No. 2010-1 and the corresponding Draft Environmental Impact Report (DEIR). The following comments are provided for your consideration:

OCTA-1

OCTA appreciates the City of Santa Ana (City) acknowledging the need for improved bicycle and pedestrian facilities and that these improvements are being pursued. In this regard, the transit zoning code works toward the same purpose as the 2009 OCTA Commuter Bikeways Strategic Plan.

OCTA-2

The Congestion Management Program (CMP) analysis indicates that the overall project is adding a large amount of traffic to the transportation system; however, CMP intersections outside the project area are not analyzed. The CMP Traffic Impact Analysis Guidelines recommend that traffic impacts be analyzed along CMP highway system facilities until the impacts are under 3 percent of the level of service E capacity. As shown in the DEIR, the traffic counts for First Street east of Grand Avenue are significant. Due to these impacts, the CMP intersection at First Street and the Santa Ana Freeway (Interstate 5) should be included in the analysis.

OCTA-3

As a matter of OCTA's protocol, any modifications to the Master Plan of Arterial Highways (MPAH) facilities must go through the MPAH amendment process and be approved by our Board of Directors. This must be completed prior to an amendment and/or approval of the City General Plan in order for the City to maintain eligibility for Measure M2 funding.

OCTA-4

When identifying potential transit/bus stop locations within the proposed transit zone, a thorough evaluation should be conducted to ensure that each bus stop is strategically placed. This will minimize the impact to adjacent businesses and/or residential units. The following should be included during the evaluation:

OCTA-5

- Stops should not be placed directly in front of entryways.
- Stops should not block signage or display windows for businesses located in the general area.

SANTA ANA PLANNING DEPT

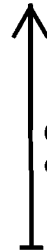
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Letter OCTA

Ms. Lucy Linnaus  
June 1, 2010  
Page 2

- Stops should not be placed in areas where there may be outside seating, such as sidewalk cafés.
- Stops should be placed at locations where engine noise and/or exhaust fumes generated from buses will not directly affect the adjacent properties.
- Street furniture should be strategically placed to minimize the impact to general pedestrian traffic or limit the visibility of businesses located behind the furniture.
- Stops should be in compliance with the American Disability Act and OCTA requirements for wheelchair boarding areas (see OCTA's Bus Stop Safety and Design Guidelines online at [www.octa.net/Uploaded\\_files/publication\\_bus\\_guidelines.pdf](http://www.octa.net/Uploaded_files/publication_bus_guidelines.pdf)).
- A standard bus turnout or concrete bus pad should be placed at each potential stop location to minimize roadway damage.



OCTA-5  
cont'd.

In addition, the OCTA stops and zones section should be notified to provide assistance with the placement of each bus stop location within the proposed project area. The contact name and corresponding phone number to provide further assistance is Bill Batory, Stops and Zones Senior Analyst, at (714) 560-5912.

If you have any questions or comments, please contact Hal McCutchan, Environmental Programs Manager, at (714) 560-5759 or by email at [hmccutchan@octa.net](mailto:hmccutchan@octa.net).

Sincerely,

Charles Larwood  
Manager, Transportation Planning

CL:cm  
Attachment

c: Greg Nord, OCTA  
Joseph Alcock, OCTA  
Bill Batory, OCTA  
Hal McCutchan, OCTA

guidelines in the ITE Trip Generation Manual and appropriate professional judgment are the predominant techniques employed. To supplement the guidance available through ITE documentation, local jurisdictions are encouraged to undertake additional studies to document rates applicable within their jurisdiction. The determination of applicable rates should be undertaken by experienced transportation engineering professionals with thorough documentation of the methodology, data, and assumptions used. It is recommended that those jurisdictions which do not currently allow these adjustments establish revised TIA procedures incorporating this element. As with trip generation data, a central library would be desirable for reporting of data and analyses performed locally related to determination of appropriate factors.

#### **Trip Distribution and Assignment**

Several appropriate distribution and assignment techniques are used in Orange County, depending on the size of the development and the duration of buildout. Manual and computer modeling approaches are used as appropriate. Manual methods based on the best socio-economic information available to the agency and applicant should be acceptable except when a development's size makes a modeling approach more appropriate. Sources of this information include demographic surveys, market analyses, and previous studies.

#### **Radius of Development Influence**

There are numerous ways to identify the study area to be evaluated in a TIA. These include both qualitative and quantitative approaches. One of the most effective ways is through the determination of the quantity of project traffic on CMP roadway links compared to a selected level of impact. The goal of a quantitative approach is to be sure that all elements of the CMP network are addressed in a comparable manner from jurisdiction to jurisdiction. This is important due to the potential for overlapping impacts among jurisdictions. It is also important to maintain flexibility within a quantitative process to allow transportation professionals at local jurisdictions to add areas to the study which are of specific concern. It is not intended that CMP practices should restrict this aspect of each agency's existing TIA process.

It is recommended that the study area for CMP Highway System links be defined by a measure of significant impact on the roadway links. As a starting point, it is proposed that the measure be three percent of existing roadway capacity. Thus, when a traffic impact analysis is being done it would require the inclusion of CMP roadway links that are impacted by 3 percent or more of their LOS E capacity. If a TIA is required only for CMP purposes, the study area would end when traffic falls below three percent of capacity on individual roadway links. If the TIA is also required for other purposes, additional analysis can be required by the local jurisdiction based on engineering judgment or local regulation as applicable.

#### **Background Traffic**

In order for a reasonable assessment of the level of service on the CMP network, it is necessary to not only identify the proposed development impact, but also the other traffic which can be expected to occur during the development of the project. There are numerous methods of evaluating background traffic. The implications of these alternative methods are that certain methodologies may result in deficiencies, while other methodologies may find an acceptable operating conditions.

## ■ **Response to Letter OCTA: Orange County Transportation Authority (OCTA)**

### ***Response to Comment OCTA-1***

This comment contains introductory or general background information and is not a direct comment on environmental issues or the content or adequacy of the Draft EIR. No response is required.

### ***Response to Comment OCTA-2***

It is noted that the Transit Zoning Code is consistent with OCTA's policies regarding bicycle commuting. This comment does not address environmental issues or the content or adequacy of the Draft EIR. This comment will be forwarded to the decision-makers prior to final action.

### ***Response to Comment OCTA-3***

Discussions between Charles Larwood, Manager of Transportation Planning at OCTA and George Alvarez, Santa Ana City Engineer, on June 4, 2010, determined that the intersection mentioned in the comment letter was in fact outside of the study area. As a result, no further action required.

### ***Response to Comment OCTA-4***

The Circulation Element of the Santa Ana General Plan is currently in compliance with the County of Orange Master Plan of Arterial Highways (MPAH). The Transit Zoning Code and attendant amendments to the Land Use Element of the Santa Ana General Plan do not propose any modifications to the Circulation Element of the Santa Ana General Plan and, as such, would not result in a change to the MPAH. The City of Santa Ana will continue to remain in compliance with the provisions of the MPAH and to follow any amendment processes in order to maintain eligibility for Measure M2 funding. This comment does not address environmental issues or the content or adequacy of the Draft EIR. No additional response is required.

### ***Response to Comment OCTA-5***

The City of Santa Ana currently coordinates the placement of all transit/bus stop locations with the Orange County Transportation Authority (OCTA) using the strategic siting criteria contained in Comment OCTA-5. While the Transit Zoning Code is primarily intended to regulate development on private property, one of its chief objectives is to ensure proper integration of private development with public transit. To that end, the criteria for strategic siting of bus/transit stops suggested by OCTA in Comment OCTA-5 will be incorporated into the Street Network Concepts Guidelines section of the Transit Zoning Code in order to facilitate the placement of future bus/transit stops. This comment does not address environmental issues or the content or adequacy of the Draft EIR. No additional response is required.

**BRANDT-HAWLEY LAW GROUP**

Environment/Preservation

Susan Brandt-Hawley

Chauvet House PO Box 1659

Legal Assistant

Jeanie Stapleton

Glen Ellen, California 95442

June 4, 2010

Mayor Miguel A. Pulido  
and Members of the Santa Ana City Council  
[council@santa-ana.org](mailto:council@santa-ana.org)

Subject: Transit Zoning Code and Station District Development

Dear Mayor Pulido and City Councilmembers:

On behalf of the Friends of the Lacy Historic Neighborhood, I respectfully ask the Council to reject the needless demolitions proposed by the Station District Development. Understanding the importance of community revitalization, the Friends urge the Council to consider whether laudatory project objectives can be feasibly achieved without demolition of unique historic properties. Yes, they can.

BHLG-1

Friends is a public interest group formed in November 2009 and devoted to the appreciation, preservation, and adaptive reuse of the aesthetic, historic, and cultural resources of Santa Ana's Lacy Neighborhood. The Friends retained this office because our statewide law practice focuses on citizen enforcement of the California Environmental Quality Act, particularly involving historic resources. The many CEQA cases we have handled over the last twenty-five years include published appellate and Supreme Court decisions in *Friends of Sierra Madre v. City of Sierra Madre*, *Lincoln Place Tenants Association v. City of Los Angeles*, *The Pocket Protectors v. City of Sacramento*, *Preservation Action Council v. City of San Jose*, *Friends of the Santa Clara River v. Castaic Lake Water Agency*, *Architectural Heritage Association v. County of Monterey*, *League for Protection v. City of Oakland*, *Galante Vineyards v. Monterey Peninsula Water Management District*, *Stanislaus Natural Heritage Project v. County of Stanislaus*, and *Sierra Club v. County of Sonoma*.

BHLG-2

As you may recall, when the City approved demolition contracts in the Lacy Neighborhood last year, the Friends filed suit based on violations of CEQA. (Santa Ana Superior Court Case 30-2009 00321561-CU-WM-CMX.) The Friends were appreciative that the City Council responded to the lawsuit by rescinding the

BHLG-3



demolition contracts and thus stopping the then-imminent demolitions. After the City also revised its EIR for the pending Transit Zoning Code to add non-demolition alternatives for the Lacy Neighborhood, the Friends agreed to dismiss the case, expecting to work with the City on a feasible combination of new development and adaptive reuse of many of the existing homes in order to retain the Lacy Neighborhood's unique historic character.

Yet this has not yet happened. The project before you involves the same demolitions that were the subject of the Friends' initial lawsuit, and more. Serious legal problems remain. Although the Friends had been hopeful that the City staff would acknowledge the feasibility of adaptive reuse of many of the threatened Lacy Neighborhood homes while still accomplishing project objectives, the proposed approvals before you do not do so. We will be providing further information to you on Monday regarding legal inadequacies of the proposed findings and approvals, primarily based on the fact that the demolitions and future plans do not include provision for adaptive reuse of any of the viable Lacy Neighborhood resources. There is no question that most of the plan objectives could be accomplished without demolition of all of the vintage buildings in the Lacy Neighborhood.

The Friends of the Lacy Historic Neighborhood have offered, for many months, to work with the City on viable alternatives. We propose the following:

1. Of the 18 structures proposed for demolition (listed in the EIR on 5-1 as 14 demolitions but several parcels have multiple structures), at least 10 should either be rehabilitated in place or, if that is not feasible, moved within the Lacy Neighborhood.
2. Regarding the purchase of an additional 20 properties (listed in the EIR on 3-6 as Potential Acquisitions):
  - a. There should be a moratorium on additional purchases for 3 months, as these properties have not been inspected.
  - b. During the 3 month period, city staff should be directed to work with the Friends and other neighborhood groups to determine disposition.
  - c. At least 10 of the additional properties should be rehabilitated in place or, if that is not feasible, moved within the neighborhood.
  - d. The rehabilitated structures should be on 5th and 6th streets.



e. A rehabilitation pool should be funded based on savings/cost avoidance from avoidance of moving or purchasing some of the properties.

BHLG-10

The project before you is poised to ultimately result in the demolition of all historic resources in the Lacy Neighborhood, leaving only the school and a large group of modern big-box apartments. With the prior demolition of 32 structures and the current proposed additional demolition of 28 more, a total of 60 resources would be lost forever. The Friends ask that the City consider the feasible rehabilitation of only a third of these. This feasible alternative accomplishes most of the project objectives; therefore the project cannot be approved as proposed.

BHLG-11

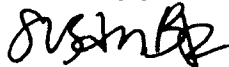
BHLG-12

Finally, I must relate to the Council my understanding that one of its members, Sal Tinejaro, has been publicly accusing the Friends group, whose members he does not even know, of racist motivations in its quest to include rehabilitation of some of the historic Lacy Neighborhood properties within the redevelopment of the area. Councilman Tinejaro's insulting, completely fabricated statements appear to be designed solely to cause division within the community. Fortunately, the members of Friends are known to be advocates who love the community; their goal is not to "gentrify" the neighborhood but to encourage rehabilitation that does not destroy its unique architectural and cultural character.

BHLG-13

Thank you for your consideration. I hope that the City will work with the members of Friends to cooperatively move forward to preserve the Lacy Neighborhood resources to the extent feasible.

Sincerely yours,



Susan Brandt-Hawley

cc: Jose Sandoval

## ■ Response to Letter BHLG: Brandt-Hawley Law Group

### **Response to Comment BHLG-1**

This comment contains introductory or general background information and expresses the commenter's request that the City Council reject demolition of historic properties in the Station District. The comment is not a direct comment on the content or adequacy of the Draft EIR. The comment will be forwarded to the decision makers for their consideration prior to approval or denial of the proposed project. No further response is required.

### **Response to Comment BHLG-2**

This comment contains introductory or general background information and is not a direct comment on environmental issues or the content or adequacy of the Draft EIR. No further response is required.

### **Response to Comment BHLG-3**

This comment contains introductory or general background information and is not a direct comment on environmental issues or the content or adequacy of the Draft EIR. No further response is required.

### **Response to Comment BHLG-4**

Comment BLHG-4 references the "feasibility of adaptive reuse of many of the threatened Lacy Neighborhood homes." This comment appears to relate to the Alternatives contained in the Environmental Impact Report that analyzed specific alternatives to the demolition of existing structures that would occur under the proposed Developer Project. Refer to Alternatives 4, 5, and 6 in EIR Chapter 5 (Alternatives). The commenter states that the City did not adequately acknowledge the feasibility of such adaptive reuse. The concept of "adaptive reuse" generally refers to the process of converting a structure traditionally occupied by one use, such as a house used for residential purposes, to another use, such as house converted to an office. Alternatives 4, 5 and 6 each analyzed scenarios under which the City would retain existing structures in place and provided for their rehabilitation such that they could be used for residential purposes and not for "adaptive reuse." The properties in question were all purchased using 20% Set-Aside Redevelopment Agency funding. This funding source is restricted in its use and may only be used to support projects which result in the production of affordable housing as defined by State law (Health and Safety Code Section 33334.2). Were the Agency to use these funds for any purposes not relating to increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, the Redevelopment Agency would be required to make a finding that there is no longer a need in the community to provide such housing. The Agency has not made such a finding. On the contrary, the City's recently adopted and certified Housing Element details the need for affordable housing the community at all levels of affordability. The scenarios analyzed in Alternatives 4, 5 and 6 all were based on the restriction of this funding source to provide for affordable housing and, as such, provided for continued use of the identified structures for residential purposes, specifically for affordable housing. Adaptive reuse alternatives are found to be legally infeasible due to this funding restriction . Adaptive reuse would result in nonresidential development which is also contrary to both the City and Agency's policy interest in promoting affordable housing in the Project Area. (*California Native Plant Society v. City of Santa Cruz* [2009] 177 Cal.App.4<sup>th</sup> 957;

*City of Del Mar v. City of San Diego* [1982] 133 Cal.App.3d 401) Refer to the City/Agency's Findings on Mitigation Measures Proposed to Reduce Impacts to Cultural Resources in the Findings of Fact and Statement of Overriding Considerations for a further discussion.

### **Response to Comment BHLG-5**

This comment appears to reference Figure 5-1 (Demolitions) contained on p. 5-6 of the Recirculated Chapter 5 (Alternatives) of the EIR. The comment states that “at least 10” of the structures identified in Figure 5-1 should be rehabilitated in place, if feasible, or moved within the Lacy Neighborhood. The comment does not specify which structures should be rehabilitated or moved. Note that there are a very limited number of designated historic resources in the Lacy Neighborhood (see Draft EIR Figure 4.4-1 [Santa Ana Register of Historical Properties within the Transit Zoning Code Area]), and the neighborhood itself has not been designated as historic. Additionally, mitigation measure MM4.4-3 would reduce impacts to historic resources throughout the Transit Zoning Code Area to the extent feasible. Preservation of ten of the existing structures proposed for demolition in the Lacy Neighborhood is not feasible because it will inhibit the City's ability to meet its affordable housing goals. Construction of affordable housing units is critical to meeting the City's Regional Housing Needs Assessment (RHNA) for 2006-2014, and the City has an adopted policy to “maximize affordable housing on Agency-owned properties that is of high quality, sustainable, and available to various income levels.” (Refer to Santa Ana Housing Element [2006–2014], Policy HE-2.8.) Additionally, preservation of certain properties within the Lacy Neighborhood may inhibit the City's ability to “encourage the construction of rental housing for Santa Ana's residents and workforce, including a commitment to very low, low and moderate income residents and moderate income Santa Ana workers” (Policy HE-2.3) and to fulfill its policy to “facilitate and encourage a diversity and range in types, prices, and sizes of housing, including single-family homes, apartments, town homes, mixed/multiuse housing, transit-oriented developments, and live/work housing” (Policy HE-2.4). (Refer to Santa Ana Housing Element [2006-2014].) Further, preservation of all of ten of the existing structures proposed for demolition in the Lacy Neighborhood would be inconsistent with the primary objectives of the proposed Developer Project to “redevelop all of the Agency-owned properties” and “provide new affordable housing for families in furtherance of the City's affordable housing goals established in the Housing Element, the Implementation Plan for the Santa Ana Merged Redevelopment Project Area, and the City of Santa Ana Consolidated Plan.” The infeasibility of Alternatives 4, 5 and 6 is discussed in the City/Agency's Findings Regarding Project Alternatives in the Findings of Fact and Statement of Overriding Considerations.

### **Response to Comment BHLG-6**

It is unclear from this comment what is meant by the properties not having been “inspected.” All of the properties currently owned by the Redevelopment Agency have been inspected numerous times to determine their safety and suitability, as well as to allow for the salvage of architectural details by volunteer groups. Most recently the properties were inspected for purposes of determining estimated rehabilitation costs that were used in Appendix J, the Keyser Marston Analysis, which analyzed the economic feasibility of Alternatives 4, 5, and 6. Further, the properties identified for demolition on parcels currently owned by the Agency have been the subject of “windshield” surveys to determine their potential eligibility for listing as a historic resource. (Refer to Draft EIR Section 4.4 and Appendix D.) Specifically, in 2006, HRG conducted a reconnaissance-style survey and historic research project in

support of the Santa Ana Renaissance Specific Plan prepared by Moule & Polyzoides (HRG 2006). This project aimed to provide recommendations for historic preservation planning on about 400 acres, including many of the properties found within the Transit Zoning Code project area. Subsequent property-specific studies were conducted by Jones and Stokes (2006 and 2007), which resulted in the full recordation and evaluation of many of the properties within the Transit Zoning Code project area. These evaluations included determinations of eligibility for the National Register of Historic Properties (NRHP), the California Register of Historic Resources (CRHR), and the Santa Ana Register of Historic Properties (SARHP). An additional historic resources memorandum for the record was then prepared for several properties in Santa Ana by Sapphos Environmental, Inc. This memorandum provided recommendations about the eligibility of 30 properties for inclusion in the SARHP. All of these surveys are included in Appendix D of the EIR. Additionally, mitigation measure MM4.4-3 would require a qualified professional to conduct site-specific historical resource investigations for future developments within the project area that would demolish or otherwise physically affect buildings or structures 50 years old or older or affect their historic setting.

The moratorium on 'additional purchases would significantly constrain the ability of the Development Project to be accomplished. This would result in fewer units of affordable housing as stated in the previous paragraph.

This comment is not a direct comment on environmental issues or the content or adequacy of the Draft EIR. The comment will be forwarded to the decision makers for their consideration prior to approval or denial of the proposed project. No further response is required.

**Response to Comment BHLG-7**

This comment is not a direct comment on environmental issues or the content or adequacy of the Draft EIR. The comment will be forwarded to the decision makers for their consideration prior to approval or denial of the proposed project. No further response is required.

**Response to Comment BHLG-8**

Refer to Response to Comments BHLG-4 and BHLG-5.

Further, rehabilitating ten of the twenty properties under consideration for potential acquisition would substantially limit the opportunity to provide new affordable housing for families in furtherance of the City's affordable housing goals established in the Housing Element, the Implementation Plan for the Santa Ana Merged Redevelopment Project Area, and the City of Santa Ana Consolidated Plan. Further it would not enhance the streetscape and urban form of the area, particularly along Santa Ana Boulevard, with the construction of new buildings that meet the standards contained in the Transit Zoning Code and that support future transit planning. Nor would it secure provision of public open space or facilitation of a joint use arrangement with SAUSD for a new community center. Finally, it would not provide an economically viable redevelopment scenario for the Agency-owned properties. Additionally, it would result in the elimination of an opportunity to provide new quality housing. As a result, if demolition of the properties that may be acquired by the Agency were precluded, the Redevelopment Agency would not pursue their acquisition, and the benefits of the Developer Project, including the

creation of new public open space, the elimination of blight, and an enhancement of the streetscape, would not be realized.

### ***Response to Comment BHLG-9***

The comment appears to infer that relocating rehabilitated structures to 5<sup>th</sup> and 6<sup>th</sup> Streets within the Lacy Neighborhood would serve to mitigate impacts to historic resources. Whereas there are a number of designated Historic Districts within the City, 5<sup>th</sup> and 6<sup>th</sup> Streets within the Lacy neighborhood have not been designated as historic, and there is no evidence that the creation of a historic district within the Lacy Neighborhood would reduce the significant impacts of the proposed project. Further, the creation of a historic district within the City is a separate process requiring adoption of a local preservation ordinance and cannot be accomplished through the CEQA process for the proposed project. (Refer to Santa Ana Municipal Code, Part II, Chapter 30.) Therefore, it is not feasible to adopt and implement this measure as part of the project. Refer to Response to Letter JD: Jeff Dickman, Response to Comment JD-1 for further explanation, and to Findings on Mitigation Measures Proposed to Reduce Impacts to Cultural Resources, p. 3-16 in Findings of Fact and Statement of Overriding Considerations.

### ***Response to Comment BHLG-10***

This comment is not a direct comment on environmental issues or the content or adequacy of the Draft EIR. The comment will be forwarded to the decision makers for their consideration prior to approval or denial of the proposed project. No further response is required.

### ***Response to Comment BHLG-11***

Within the Lacy neighborhood, there are a limited number of designated historical resources, only one of which would be demolished under the proposed Developer Project (501 E. Fifth Street) (refer to Recirculated EIR, Figure 5-1). An additional property eligible for listing on the California Register of Historic Resources (CRHR) (615 E. Fifth Street) would also be demolished under the proposed project. Refer to Response to Letter JD: Jeff Dickman, Response to Comment JD-1 for further explanation.

### ***Response to Comment BHLG-12***

The comment states that implementation of the proposed project would result in the loss of “resources,” which appears to be a reference to historic resources. As stated in Response to Comment BHLG-11, there are a limited number of designated historical resources existing within the project area. The comment requests that the City “consider the feasible rehabilitation of only a third” of the properties identified in the comment as subject to demolition by the proposed project, which is identified as 60. Although it is unclear what this number refers to and specific properties are not identified, this comment appears to suggest an alternative that conforms to the parameters described in Alternatives 4 and 5. The comment states that such an alternative would be “feasible” as it accomplishes “most of the project objectives.” A full analysis of the feasibility of each of the Alternatives to the Developer Project has been provided in the Findings of Fact and Statement of Overriding Considerations, as well as in Appendix J – Keyser Marston Analysis. Each of the Alternatives analyzed was found to be infeasible for specific economic, legal, social, or other considerations, including their inability to meet the project objectives, as well as their inability to significantly reduce environmental impacts. Refer to the Findings of Fact and

Statement of Overriding Considerations for a full discussion of the feasibility of the Project Alternatives. In addition, the EIR acknowledged that, even with mitigation, the impacts to historic resources would remain significant and unavoidable and a Statement of Overriding Considerations has been prepared for the project.

**Response to Comment BHLG-13**

This comment is not a direct comment on environmental issues or the content or adequacy of the Draft EIR. The comment will be forwarded to the decision makers for their consideration prior to approval or denial of the proposed project. No further response is required.

# BRIGGS LAW CORPORATION

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*BLC File(s): 1479.04*

5 June 2010

 **ORIGINAL**

City Council  
c/o City Clerk  
20 Civic Center Plaza,  
Santa Ana, California 92702

Re: Item 80A on City Council Agenda for June 7, 2010 (Transit Zoning Code)

Dear Santa Ana City Council:

On behalf of Citizens for Responsible Equitable Environmental Development, I am writing to urge you to deny the project that is the subject of the above-referenced matter. In general, approval of the project would violate the California Environmental Quality Act, the Planning and Zoning Law, and other laws. The specific reasons for denying the project are set forth on Attachment 1 to this letter and supported by evidence in the administrative record for the project and by other evidence provided on the accompanying CD/DVD.

If you do not make a decision on the tonight, please provide me with written notice of the next public hearing or other meeting at which you will consider this project. Additionally, please provide me with written notice of whatever action you do take tonight.

Thank you for your attention to this matter.

Sincerely,

BRIGGS LAW CORPORATION

  
Mekaela M. Gladden

Attachment & DVD



**I. Necessary Findings and Sufficiency of the Evidence**

- 1.01. The draft EIR states on page 5-61 that the No Project/Reasonably Foreseeable Development Alternative is the environmentally superior alternative. However, you have not made the findings required under Public Resources Code Section 21081(a) and (b) to approve the project generally and as they relate to the environmentally superior alternative.
- 1.02. To the extent that you have attempted to make all findings required under Public Resources Code Section 21081(a) and (b), such findings have not been supported by substantial evidence in the record.
- 1.03. You have not made all of the necessary findings to support the General Plan Amendment, Specific Plan Amendment, Site Plan Permit, Architectural Permit, Minor Exception Permit, Variance, Conditional Use Permit, Sign Permit or Sign Exception Permit. Alternatively, such findings are not supported by substantial evidence.

**II. Air Quality**

- 2.01 CARB guidelines state that siting sensitive land uses within 500 feet of a freeway should be avoided when possible. See Ex. 2X. The proposed project identifies residential uses, a sensitive land use, next to Interstate 5.
- 2.02 Mitigation measure MM4.2-7 is not sufficient. The mitigation measure is too vague to be enforceable because the requirement that diesel-powered equipment be retrofitted with after-treatment products only applies "to the extent that they are readily available in the South Coast Air Basin." Mitigation measures MM4.2-8 and -9 suffer the same defect in that they only apply when "readily available" and are "cost effective."
- 2.03 Many of the mitigation measures are designed so that they will not be subject to public scrutiny. For example, mitigation measures MM4.2-7 through -17 all require that the specifications be provided prior to the issuance of the grading permit or building permit, but do not require that the specifications be identified prior to approval of future projects.
- 2.04 Mitigation measures MM4.2-2 through-6 are unenforceable because they only say what the contractor "should" do.

**III. Air Quality-Greenhouse Gas Emissions**

- 3.01 Because the project's cumulative greenhouse gas emission impact is significant, all feasible mitigation measures must be adopted. Many of the mitigation measures proposed are unenforceable. For example, MM4.13-21 calls for "consideration" of installation of solar roofs and MM4.13-22 and MM4.13-24 call for measures to be implemented "where feasible," but do not define "feasible."

3.02 There are feasible mitigation measures that can implement to reduce greenhouse gas emissions.<sup>1</sup>

- Street lights must be replaced with more efficient lighting. *See Exs. 3c-3d.*
- Traffic signal lights must be replaced with LED lights. *See Exs. 3e-3f.*
- Install energy efficient exit signs and other lighted signs in public buildings.
- Install Energy Star rated vending machines. *See Ex. 3g.*
- Directional and shielded LED lights for exterior lighting and install exterior and security lights with motion detectors ([www.nightwise.org](http://www.nightwise.org))
- Install filters on public drinking fountains to cut down on the use of plastic water containers
- Preferential parking for hybrid vehicles
- Solar panels could be installed on public buildings. *See Ex. 3h.*

3.03 There are a number of feasible mitigation measures that the City of Santa Ana could incorporate regarding other development.

- You should include a mitigation measure saying that only no- or low-VOC paint be used.
- You should prohibit against continuous all-night outdoor lighting in sports stadiums, construction sites, and other similar uses unless required for security reasons. As an alternative to continuous all-night outdoor lights, motion detectors should be used for outdoor lighting where necessary.
- You should require energy audits for residential and commercial buildings prior to the completion of sale, and that audit results and information about opportunities for energy efficiency improvements be presented to the buyer.
- All new or substantially rehabilitated buildings could be constructed to allow for easy, cost-effective installation of solar systems in the future using “solar-ready” features such as limiting obstructions on the south sloped roof.

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<sup>1</sup> Even though you chose to make the changes through a zoning code instead of the general plan process, the CAPCOA “Model Policies for GHGs in General Plans” is a great resource for developing more specific and enforceable measures. Ex. 3b.

- All new commercial or industrial development or major rehabilitation can incorporate renewable energy generation on-site to the maximum extent feasible from an engineering standpoint.
  - All new or substantially rehabilitated residential project over a 100 units must generate electricity on site to the maximum extent feasible from an engineering standpoint. *See Exs. 3k-3n.*
  - Any new or replaced parking lots should be required to use “cool pavement.” *See Ex. 3o.*
  - There are a number of opportunities relating to providing solar panels and solar water heaters for residential use, including opportunities targeted to affordable housing. *See Exs. 3p-3x.*
- 3.07 The EIR does not include any alternatives that significantly reduce the impacts associated with greenhouse-gas emissions.
- 3.08 Additional evidence supporting the conclusion that the project may have a significant environmental impact due to greenhouse gas emissions can be found in the GHG folder.

#### IV. Water Supply

- 4.01 The WSA for the proposed project acknowledges that the final WSA must be adopted by the City Council, and its conclusion adopted into other environmental documents as necessary. The WSA is dated January 2010, but there is no evidence that the WSA was adopted by the City Council as required under Water Code Section 10910(g). *See Minutes and Agenda Folder.*
- 4.02 The EIR and WSA fail to account for the uncertainty and impediments to water supply as a result of climate change. *See Exs. 4a-4f.*
- 4.03 Even if future water supplies are available for the project, the EIR fails to provide enough information about the environmental consequences of supplying that water. The informational purposes of an EIR are not satisfied unless decision-makers and the public are provided with enough information to evaluate the pros and cons of supplying the amount of water that the project will need. The critical issue to be considered, especially with respect to groundwater, is not simply whether an adequate supply is available, but whether there is an adequate discussion of the project’s foreseeable impacts. While the EIR includes a discussion about water supply, it does not provide information about the impacts of supplying water such as the effect that the project’s water use will have on water infrastructure or the availability of water for other purposes.

**V. Alternatives**

5.01 CEQA Guidelines Section 15162(d)(2) states that if the environmentally superior alternative is the no project alternative, the EIR must identify an environmentally superior alternative from among the other alternatives. Another environmentally superior alternative was not identified in the EIR.

**VI. Notice of Public Hearing**

8.01. To the extent notice was given under Government Code section 65090, it did not satisfy the procedural and substantive requirements of Section 65090. For example, the notice failed to include the planning commission's recommendation and a complete project description.

**VII. Response to Comments**

7.01. The City of Santa Ana did not respond to commenters as required by CEQA Guidelines Section 15088(b).

**VIII. Need to Recirculate**

8.01 Under Public Resources Code Section 21092.1, the EIR should have been recirculated because significant new information was added. For example, around fifty pages of the EIR were revised in some respect and three appendices. Alternatives were added, and while public review was extended to April 12, 2010, the report analyzing the additional alternatives was not recirculated and was not done until May 22, 2010.

8.02 The EIR should have been recirculated because new significant impacts were identified. For example, the final EIR acknowledges that the project will also have a significant air quality impact because of PM-2.5. The public lost the opportunity to identify feasible mitigation measures to reduce this new significant impact during the public review period.

**IX. Description of Project**

9.01 An accurate project description is essential to an adequate analysis of the project's environmental impacts. You have failed to include a complete and consistent project description.

## ATTACHMENT 1: INDEX OF EXHIBITS

<b>Air Quality</b>	
2a	"Highway Pollution and Its Devastating Impacts on Local Communities," November 12, 2009
2b	UCLA Report, "Air pollution from freeway extends further than previously thought," June 10, 2009
2c	<i>Science Daily</i> , "Living Near a Highway Affects Lung Development in Children, Study Shows," January 26, 2007
2d	University of Southern California Urban Initiative, "Road to an Unhealthy Future for Southern California's Children," 2004
2e	"Proximity of Licensed Child Care Facilities to Near-Roadway Vehicle Pollution," September 2006
2f	"Childhood Asthma Linked to Freeway Pollution," September 21, 2005
2g	"People Near Freeways Are Exposed to 30 Times the Concentration of Dangerous Particles," October 21, 2002
2h	California EPA and CARB, "Air Quality and Land Use Handbook: A Community Health Perspective," April 2005
<b>Greenhouse Gas Emissions and Global Climate Change</b>	
3a	Attorney General letter to Tulare County Resource Management Agency dated May 27, 2010
3b	CAPCOA, "Model Policies for Greenhouse Gases in General Plans," June 2009
3c	"Energy Efficient Streetlights," March 18, 2008
3d	<i>GovPro Media</i> , "California municipality shifting to energy-saving LED streetlights," May 18, 2009
3e	City of Portland, Energy Efficiency Success Story, LED Traffic Signals=Energy Savings
3f	US Department of Energy, California Says "Go" to Energy Saving Traffic Lights
3g	Energy Star Vending Machines
3h	SunEdison Government Solutions
3i	Downtown San Diego, Complete Community/Mobility, September 2008

3j	Creative Housing Associates, Neighborhood and Transit-Oriented Builders
3k	"Bringing Home the Benefits of Energy Efficiency to Low-Income Households"
3l	Affordable Housing's Green Future
3m	Greener Policies, Smarter Plans
3n	Green Communities Compliance Manual 2008
3o	Pavement Albedo
3p	"The Economics of Solar Homes in California," December 2004
3q	Del Sur Green Homes
3r	SunPower Case Study
3s	Executive Order S-3-05
3t	AB 32: California Global Warming Solutions Act
3u	Multifamily Affordable Solar Housing Fact Sheet
3v	Multifamily Affordable Solar Housing Fact
3w	CAL SEIA: Solar Water Heating
3x	A Consumer's Guide: Heat Your Water with the Sun
GHG Folder	<ul style="list-style-type: none"> <li>• Office of Planning and Research, "CEQA and Climate Change: Addressing Climate Change through California Environmental Quality Act (CEQA) Review," June 19, 2008</li> <li>• CAPCOA, "CEQA &amp; Climate Change," January 2008</li> <li>• "The California Environmental Quality Act: On the Front Lines of California's Fight Against Global Warming," Center for Biological Diversity Report</li> <li>• California Attorney General's Office, "The California Environmental Quality Act: Addressing Global Warming Impacts at the Local Level"</li> <li>• California Attorney General's Office, "Sustainability and General Plans: Examples of Policies to Address Climate Change"</li> </ul>
<b>Water Supply</b>	
4a	Executive Summary S-06-08
4b	Managing an Uncertain Future, Update 2009
4c	IPCC Technical Paper IV, "Climate Change and Water," June 2008

4d	The State of Climate Change Science for Water Resources Operations, Planning, and Management
4e	Managing an Uncertain Future, October 2008
4f	"Using Future Water Climate Projections to Support Water Resources Decision Making in California," August 2009
Minutes and Agenda	<p> January 4, 2010 City Council Minutes  January 19, 2010 City Council Minutes  February 1, 2010 City Council Minutes  February 16, 2010 City Council Minutes  March 1, 2010 City Council Minutes  March 15, 2010 City Council Minutes  April 5, 2010 City Council Minutes  April 19, 2010 City Council Minutes  April 26, 2010 Special City Council Minutes  May 3, 2010 City Council Minutes  May 17, 2010 City Council Minutes  June 7, 2010 City Council Agenda </p>

From: Origin ID: ONTA (800) 949-7115  
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BILL SENDER

María D. Huizar  
City of Santa Ana  
20 CIVIC CENTER PLZ FL 8  
8TH FLOOR  
SANTA ANA, CA 92701

M-30



Ship Date: 05JUN10  
ActWgt: 0.3 LB  
CAD: 1001669MNET3010

Delivery Address Bar Code



Ref # 1479.99  
Invoice #  
PO #  
Dept #

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## ■ **Response to Letter BLC: Briggs Law Corporation**

The City received a comment letter from Briggs Law Corporation on behalf of Citizens for Responsible Equitable Environmental Development (“CREED”) dated June 5, 2010 and received June 7th, 2010, the day of the City Council and Agency hearing on the Transit Code and Development Project. The comment period on the Recirculated Draft EIR closed on April 12, 2010. The City is therefore under no obligation to respond to late comments. (CEQA Guidelines Section 15088(a)). Nevertheless, the following responses to comments are provided.

### **Response to Comment “1.01”**

CEQA Guidelines Section 15091 states that “No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.” (Refer also to Public Resources Code Section 21081.)

The comment suggests that these findings should have been included in the Draft EIR on page 5-61. As noted in the Public Resource Code cited in the comment and CEQA Guidelines Section 15091, these findings only need to be made prior “approv[ing]” the project. While this information was not included in the Draft EIR, the required findings have been prepared and were included in the Planning Commission’s Staff Report released several days prior to their May, 27, 2010 meeting. The findings have also been included in the City Council’s Staff Report at the following URL (included in Exhibit 6 to Exhibit Q):

[http://www.ci.santa-ana.ca.us/coc/documents/Items/80A\\_JOINT\\_PH\\_TransitCode.pdf](http://www.ci.santa-ana.ca.us/coc/documents/Items/80A_JOINT_PH_TransitCode.pdf)

### **Response to Comment “1.02”**

Comment states “to the extent that you have attempted to make all findings required by Public Resource Code Section 21081(a) and (b), such findings have not been supported by substantial evidence in the record. As noted in Response to Comment “1.01,” the findings have been prepared and are included in the Staff Report. The findings have been prepared in compliance with CEQA and are based upon substantial evidence. Also note that at the time the comment letter was written on June 5, 2010, the Administrative Record/Record of Proceeding was not yet finalized. Furthermore, not all substantial evidence needs to be included in the EIR, as suggested in the comment letter. (Refer to Public Resources Code Section 21167.6(e); see also *San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Ca.App.4<sup>th</sup> 656, 690-691.)

The commenter does not provide any details on why they believe these Findings to be inadequate. Therefore no further response is required (see CEQA Guidelines Section 15088(a) and 15204(a)).

### **Response to Comment “1.03”**

Refer to Response to Comment “1.02.” Refer to the City Council’s Staff Report for the findings.

## **"II. Air Quality"**

### **Response to Comment "2.01"**

Commenter states that siting sensitive uses within 500 feet of a freeway should be avoided. Refer to Response AQMD-2.

### **Response to Comment "2.02"**

Commenter states the MM4.2-7 through MM4.2-7 are not "sufficient." Refer to Response AQMD-5.

### **Response to Comment "2:03"**

Commenter states that MM4.2-7 through MM4.2-17 will not be subject to public scrutiny. MM4.2-7 through MM4.2-17 fully meet CEQA requirements for enforceable mitigation measures. The mitigation measures require that the air emission requirements "shall" be specified in the construction contracts. These contracts will be reviewed by the City staff prior to the issuance of grading permits. The construction contracts will also be approved by the City of Santa Ana. Refer to Chapter 11 (Mitigation Monitoring and Reporting Program).

### **Response to Comment "2:04"**

The commenter states that "MM2.2-2 through -6 are unenforceable because they only say what the contractor "should" do. The commenter is incorrect. MM2.2-2 through MM2.2-6 all state what the contractor "shall" do.

## **"III. Air Quality-Greenhouse Gas Emissions"**

### **Response to Comment "3.01"**

The commenter states that the EIR does not define "feasible." The EIR uses the term "feasible" pursuant to CEQA: Pub. Res. Code § 21061.1 and CEQA Guidelines § 15354 state that "feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." Also refer to Response to Comment AQMD-5.

### **Response to Comment "3.02"**

Commenter proposes additional mitigation measures to reduce greenhouse gas emissions.

- Streetlights replaced with more efficient lighting.
  - > Response: The Transit Zoning Code area contains streetlights that have a mix of ownership between the City and Southern California Edison. The City continuously works with Southern California Edison to ensure that all streetlights are equipped with the most energy efficient and cost effective technology. Most recently the City and Southern California Edison have been exploring the possibility of replacing streetlights with LED technology. In order to determine if this technology can be successfully deployed citywide Southern California Edison has conducted tests on the LED technology. These tests have found that energy savings and equipment longevity are not predictable. The City is also independently testing limited areas

with City-owned street lighting using the LED technology, which is also generating results supporting Southern California Edison's findings. The test results indicate that it is too soon to effectively employ this technology for streetlights.

- > Response: The City currently uses LED lights for all of its traffic lights.
- Install energy efficient exist signs and other lighted signs in public buildings.
  - > Response: Energy efficient signs are included in MM4.13-8.
- Install Energy Star rated vending machines.
  - > Response: Vending machines are not part of the proposed project.
- Directional and shielded LED lights for exterior lighting and install exterior and security lights with motion detectors.
  - > Response: Energy efficient light fixtures are included in MM4.13-8.
- Install filter on public drinking fountains to cut down on the use of plaster water containers.
  - > Response: Public drinking fountains are not part of the proposed project and measure does not address impacts of project.
- Preferential parking for hybrid vehicles.
  - > Response: MM4.13-18 includes a provision for preferential parking for ultra-low emission vehicles and alternative fueled vehicles.
- Solar panels could be installed on public buildings.
  - > Response: MM 4.2-22 and MM4.13-8 identify the incorporation of solar panels into the project's construction.

### ***Response to Comment "3.03"***

Commenter provides mitigation measures that the City of Santa Ana could incorporate into other developments. These measures do not relate to the proposed project.

### ***Response to Comment "3.07"***

Commenter states that the EIR does not include alternatives that reduce the impacts related to greenhouse. The EIR provides that greenhouse gas impacts would be reduced as compared to the proposed project in Alternatives 1, 2, and 3. Refer to Response LULAC-11.

### ***Response to Comment "3.08"***

As "supporting evidence," commenter provides a large number of documents relating to Air Quality and Greenhouse Gas Emissions and Global Climate Change. These documents include specific and general information on these topics. They do not include specific references to the EIR or its adequacy.

### ***Response to Comment "4.01"***

The City is in compliance with all applicable provisions of the Water Code.

### **Response to Comment "4.02"**

The effects of global climate change on water supply were discussed in the Draft EIR in Section 4.13, more specifically starting on page 4.3-7.

### **Response to Comment "4.03"**

Water resource impacts were addressed in EIR Section 4.6, including cumulative projects. Water Supply infrastructure is also addressed in EIR Section 4.12. The comment does not provide any details on what impacts they believe have not been adequately analyzed. (Refer to CEQA Guidelines Section 15204(a).)

### **Response to Comment "5.01"**

The comment states that if the "no project" alternative is the environmentally superior alternative, the CEQA Guidelines require an EIR to identify an environmentally superior alternative among the other alternatives. This requirement is found in CEQA Guidelines section 15126.6 (e)(2), rather than section 15162(d)(2), as cited in the comment. The Final EIR identifies the environmentally superior alternative other than the "no project" alternative. Chapter 9 of the Final EIR states:

Alternatives 4, 5, and 6 would reduce impacts to cultural resources, but not to less-than-significant levels, and all other impact levels would remain the same. Alternative 1 would, therefore, be environmentally superior to the proposed project because the significant environmental impacts to aesthetics, air quality, land use, noise, public services, and utilities and service systems would be lessened to the greatest extent, since this alternative proposes the least amount of future residential and overall development, however, Alternative 1 does not fully meet the project objectives, as noted above. As noted above, if the environmentally superior alternative is the No Project Alternative, CEQA requires that an EIR also identify an environmentally superior alternative from among the other alternatives. Among Alternatives 2, 3, 4, 5 and 6, Alternative 3 is the environmentally superior alternative because the impacts to air quality, global climate change, and transportation would be lessened to the greatest extent, and the significant and unavoidable impact to aesthetics would be reduced to a less-than-significant level.

(Final EIR, p. 9-62; double-underline indicates text additions from Draft EIR.)

### **Response to Comment "6.01"**

The City and the Agency complied with all substantive and procedural noticing requirements for public hearings on the proposed project. Notice of the June 7, 2010 City of Santa Ana City Council Meeting was published in accordance with the procedural requirements of Government Code section 65090 and contained the substantive information required by Government Code section 65094, including: the date, time, and place of the hearing; the identity of the hearing body; a general explanation of the matter to be considered; and a general description of the location of the real property being considered. Government Code section 65090 does not require the planning commission's recommendations or a complete project description to be included in the public hearing notice. Planning commission recommendations are included in the Agenda for the June 7, 2010 City Council Meeting posted on the City of Santa Ana's website.

(Note that there appears to be a typographical error in CREED's comment letter, which identifies the comment under heading VI. Notice of a Public Hearing as 8.01 rather than 6.01.)

### **Response to Comment “7.01”**

The comment states that the City did not respond to comments as required by CEQA Guidelines section 15088(b). Section 15088(b) states that the “lead agency shall provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report.” Written responses were mailed to each commenter, including public agencies, on May 25th, 2010, more than ten days prior to the June 7, 2010 Joint Session of the Santa Ana City Council and Community Redevelopment Agency. A complete set of comments and responses to the comments are also provided in the Final EIR.

The City has also complied with all other CEQA requirements for the evaluation and response to comments on the EIR. Chapter 10 of the Final EIR contains written responses on all environmental issues raised in comments received from persons who reviewed the Draft EIR during the noticed comment period from February 2, 2010 to April 12, 2010, and one late comment received on April 13, 2010.

### **Response to Comment “8.01”**

The comment states that the EIR should have been recirculated because significant new information was added and that the report analyzing the additional alternatives was not recirculated until May 22, 2010. Draft EIR Chapter 5 (Alternatives), which analyzed an additional three project alternatives and clarified the project objectives, was recirculated on February 24, 2010. Appendix J, Alternatives Testing: Financial Analyses, was attached to Draft EIR Chapter 5, and recirculated at the same time. All other changes and modifications made to the EIR in response to comments are merely clarifications to the EIR and do not trigger the need for additional public review (Pub. Res. Code § 21092.1; CEQA Guidelines §15088.5).

### **Response to Comment “8.02”**

The comment states that the EIR should have been recirculated because the Final EIR identified a significant air quality impact from PM<sub>2.5</sub> emissions. Significant air quality impacts resulting from PM<sub>2.5</sub> emissions is not significant new information requiring recirculation under CEQA Guidelines section 15088.5 because these impacts were identified in the Draft EIR. (Draft EIR Section 4.2.)

Impact 4.2-5 identifies PM<sub>2.5</sub> as one of the criteria pollutants that would have a significant impact during construction of the project. (Draft EIR, Section 4.2.3, pages 4.2-28 through 4.2-33.) PM<sub>2.5</sub> was inadvertently left off the list of criteria pollutants included in the Draft EIR discussion of this impact on page 4.2-30, but was clearly analyzed and included in the impact conclusion as evidenced in Table 4.2-7, which includes data for PM<sub>2.5</sub> along with CO, NO<sub>x</sub>, ROG, SO<sub>x</sub>, and PM<sub>10</sub>. The Final EIR was revised to clarify the text as follows:

To the extent that construction of these individual projects overlaps, then the combined emissions from these small, individual projects could exceed the recommended SCAQMD thresholds, particularly for CO, NO<sub>x</sub>, ~~and PM<sub>10</sub>~~ and PM<sub>2.5</sub>, for which the Basin is currently in nonattainment.

(Final EIR, p. 9-16; double-underline indicates text additions from Draft EIR, strikeout indicates deletions from Draft EIR.)

Impact 4.2-6 states that operation of the proposed project would result in a significant and unavoidable air quality impact because it would result in emissions of criteria pollutants in excess of the South Coast Air Quality Management District Thresholds for those pollutants. Although the discussion of Impact 4.2-6 on Draft EIR pages 4.2-33 and 4.2-37 inadvertently omits PM<sub>2.5</sub> from the list of criteria pollutants, Table 4.2-8 on page 4.2-34 clearly identifies PM<sub>2.5</sub> as one of the criteria pollutants that would result in a significant air quality impact. Table 4.2-8 identifies the amount of the proposed project's daily operational emissions of PM<sub>2.5</sub> and the applicable SCAQMD Threshold, clearly showing that the daily operational emissions of PM<sub>2.5</sub> will exceed the SCAQMD Threshold.

The Final EIR was also revised to clarify this error:

Primarily due to the increase in residential uses under the Transit Zoning Code, mobile source (vehicular) emissions associated with the additional development would exceed SCAQMD thresholds of significance for ~~four~~ five criteria pollutants (PM<sub>2.5</sub>, VOC, NO<sub>x</sub>, CO, and PM<sub>10</sub>) for which the air basin is in non-attainment.

(Final EIR, p. 9-3; double-underline indicates text additions from Draft EIR, strikeout indicates deletions from Draft EIR.)

Finally, the Final EIR was revised to include PM<sub>2.5</sub> in the list of criteria pollutants that would contribute to a cumulatively considerable net increase of criteria pollutants for which the region is in non-attainment. (Final EIR, p. 9-3.) Again, PM<sub>2.5</sub> was included in the data and analysis of construction, operation, and cumulative project impacts as evidenced in the data tables, but was inadvertently omitted from the list of criteria pollutants in the textual discussion. (Draft EIR, section 4.2.3.)

### ***Response to Comment "9.01"***

The EIR satisfies all CEQA requirements regarding the description of the proposed project. A master response clarifying the scope and description of the proposed project is included in Final EIR Chapter 10, Section 10.2.

# CITY OF SANTA ANA TRANSIT ZONING CODE (SD 84A AND SD 84B)

## Environmental Impact Report

SCH No. 2006071100

*Amendments to the Findings of Fact*

*Prepared for*  
**City of Santa Ana**  
20 Civic Center Plaza, Ross Annex M-20  
Santa Ana, California 92702

*Prepared by*  
**PBS&J**  
12301 Wilshire Boulevard, Suite 430  
Los Angeles, California 90025

June 2010

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## **Findings on Mitigation Measures and Alternatives Proposed in Comments Received Since the Planning Commission Hearing on May 27, 2010**

- **Proposed Mitigation Measure.** Adaptive reuse of any of the viable Lacy Neighborhood resources. (Letter from Susan Brandt-Hawley, dated June 4, 2010.)

**Finding.** The City finds that specific economic, legal, social, technological, or other considerations make this mitigation measure infeasible.

**Rationale.** The concept of “adaptive reuse” generally refers to the process of converting a structure traditionally occupied by one use, such as a house used for residential purposes, to another use, such as house converted to an office. All Agency-owned parcels within the Lacy Neighborhood were purchased using 20% Set-Aside Redevelopment Agency funding. This funding source is restricted in its use and may only be used to support projects which result in the production of affordable housing as defined by State law. (Health and Safety Code § 33334.2.) Were the Agency to use these funds for any purposes not relating to increasing, improving, and preserving the community’s supply of low- and moderate-income housing available at affordable housing cost, the Redevelopment Agency would be required to make a finding that there is no longer a need in the community to provide such housing. The Agency has not made and cannot make such a finding in light of the demonstrated need for such housing. On the contrary, the City’s recently adopted and certified Housing Element details the need for affordable housing the community at all levels of affordability. The scenarios analyzed in Alternatives 4, 5 and 6 all were based on the restriction of this funding source to provide for affordable housing and, as such, provided for continued use of the identified structures for residential purposes, specifically for affordable housing. Adaptive reuse alternatives are found to be legally infeasible due to this funding restriction. Adaptive reuse would result in nonresidential development, which is also contrary to both the City and Agency’s policy interest in promoting affordable housing in this merged Project Area. (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957; *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401.) Also refer to the Findings on Mitigation Measures Proposed to Reduce Impacts to Cultural Resources in the Findings of Fact and Statement of Overriding Considerations for a further discussion.

- **Proposed Alternative.** Of the 18 structures proposed for demolition (listed in the EIR on 5-1 as 14 demolitions but several parcels have multiple structures), at least 10 should either be rehabilitated in place or, if that is not feasible, moved within the Lacy Neighborhood. Regarding the purchase of an additional 20 properties (listed in the EIR on 3-6 as Potential Acquisitions): there should be a moratorium on additional purchases for 3 months, as these properties have not been inspected; during the 3 month period, city staff should be directed to work with the “Friends of the Lacy Neighborhood” and other neighborhood groups to determine disposition; at least 10 of the additional properties should be rehabilitated place or, if that is not feasible, moved within the neighborhood; and the rehabilitated structures should be on 5th and 6th street. Additionally, a rehabilitation pool should be funded based on savings/cost avoidance from avoidance of moving or purchasing some of the properties. (Letter from Susan Brandt-Hawley, dated June 4, 2010.)

**Finding.** The City finds that specific economic, legal, social, technological, or other considerations make this alternative infeasible.

**Rationale.** Preservation of ten of the existing structures proposed for demolition in the Lacy Neighborhood is not feasible because it would inhibit the City’s ability to meet its affordable housing goals. Construction of affordable housing units is critical to meeting the City’s Regional Housing Needs Assessment (RHNA) for 2006-2014, and the City has an adopted policy to



“maximize affordable housing on Agency-owned properties that is of high quality, sustainable, and available to various income levels.” (Refer to Santa Ana Housing Element [2006-2014], Policy HE-2.8.) Additionally, preservation of properties within the Lacy Neighborhood may inhibit the City’s ability to “encourage the construction of rental housing for Santa Ana’s residents and workforce, including a commitment to very low, low and moderate income residents and moderate income Santa Ana workers” (Policy HE-2.3) and to fulfill its policy to “facilitate and encourage a diversity and range in types, prices, and sizes of housing, including single-family homes, apartments, town homes, mixed/multiuse housing, transit-oriented developments, and live/work housing” (Policy HE-2.4). (Refer to Santa Ana Housing Element [2006-2014].) Further, preservation of ten of the existing structures proposed for demolition in the Lacy Neighborhood would be inconsistent with the primary objectives of the proposed Developer Project to “redevelop all of the Agency-owned properties” and “provide new affordable housing for families in furtherance of the City’s affordable housing goals established in the Housing Element, the Implementation Plan for the Santa Ana Merged Redevelopment Project Area, and the City of Santa Ana Consolidated Plan.”

Regarding the suggested three-month moratorium on additional purchases, the moratorium on additional purchases would significantly constrain the ability of the Developer Project to be accomplished. This would result in fewer units of affordable housing as stated in the previous paragraph.

Further, rehabilitating ten of the twenty properties under consideration for potential acquisition would substantially limit the opportunity to provide new affordable housing for families in furtherance of the City's affordable housing goals established in the Housing Element, the Implementation Plan for the Santa Ana Merged Redevelopment Project Area, and the City of Santa Ana Consolidated Plan. Further it would not enhance the streetscape and urban form of the area, particularly along Santa Ana Boulevard, with the construction of new buildings that meet the standards contained in the Transit Zoning Code and that support future transit planning. Nor would it secure provision of public open space or facilitation of a joint use arrangement with SAUSD for a new community center. Finally, it would not provide an economically viable redevelopment scenario for the Agency-owned properties. Additionally, it would result in the elimination of an opportunity to provide new quality housing. As a result, if demolition of the properties that may be acquired by the Agency were precluded, the Redevelopment Agency would not pursue their acquisition, and the benefits of the Developer Project, including the creation of new public open space, the elimination of blight, and an enhancement of the streetscape, would not be realized.

As explained above, it is not feasible to preserve ten of the existing structures proposed for demolition in the Lacy Neighborhood or to rehabilitate ten of the twenty properties under consideration for potential acquisition. Therefore, it would not be possible to create a rehabilitation pool to be funded based on savings/cost avoidance from avoidance of moving or purchasing some of the properties. However, the Redevelopment Agency has directed its Executive Director to establish a targeted residential loan program for the Lacy Neighborhood and to authorize the expenditure of up to \$100,000, cumulatively from various funding sources. The Agency has also authorized the expenditure of up to \$60,000 for cultural/historical markers to be installed in the public right of way within the Station District.

- **Proposed Mitigation Measure.** Revise mitigation measure MM4.6-1 to require future development projects to adhere to “... the 4<sup>th</sup> term Municipal NPDES Stormwater Permit for the Santa Ana Region of Orange County as adopted on May 11, 2009.” (Letter from Orange County Public Works, dated June 3, 2010, comment OCPW-3.)

**Finding.** The City finds that specific economic, legal, social, technological, or other considerations make this mitigation measure infeasible.

**Rationale.** Because the majority of the future development of the Transit Zoning Code may occur years in the future, requiring development projects to comply with “current National Pollutant Discharge Elimination System (NPDES) requirements” ensures compliance with the most up-to-date standards over a long period of time, since the requirements that are in effect today may differ in the future. Writing the mitigation measure in this way places the responsibility of complying with NPDES regulations on future project proponents, regardless of how the regulations change over time. Therefore, the City will adopt mitigation measure MM4.6-1 as set forth in the EIR.

### ***Finding Related to Clarifications and Updates to the EIR in Response to Comments Received Since the Planning Commission Hearing on May 27, 2010***

**Finding.** Responses to all written and oral comments on the EIR received since the Planning Commission Hearing on May 27, 2010, merely clarify and amplify the analysis presented in the EIR and do not trigger the need to recirculate per CEQA Guidelines §15088.5(b).

### ***Revised Finding on Alternative 5: No Demolition of Agency Properties/Relocate to Agency-Owned Infill Sites/Rehabilitate in Place***

#### **Description**

This alternative would eliminate the demolition on the fourteen parcels within the Station District currently owned by the City of Santa Ana Redevelopment Agency that were slated for demolition under the proposed Developer Project (refer to Figure 5-1 [Demolitions]). Instead, those properties would be rehabilitated in place or moved to vacant lots and rehabilitated, with the exception of the property located at 611 N. Minter Street, which would be demolished. Of the properties identified for demolition on parcels currently owned by the Agency, and those that may potentially be acquired in the future, only one is currently listed on the Santa Ana Register of Historical Properties—the Whitson-Powelson House located at 501 E. Fifth Street. The remaining houses have primarily been the subject of “windshield” surveys to determine their potential eligibility for listing as a historic resource. (Refer to EIR Section 4.4 and Appendix D.) Following a comprehensive historic survey of the properties, the City’s Historic Resources Commission would evaluate all of the structures to determine their eligibility for listing on the City’s Register of Historical Properties and would make recommendations regarding the selection of houses to be moved and onto which sites they should be moved. Once moved and/or rehabilitated the houses would then be offered as for-sale affordable housing. The proposed Transit Zoning Code would remain the same under this Alternative.

In total, this Alternative would provide approximately 145 units (approximately 124 rental units and approximately 21 for sale units) on the Agency-owned parcels within the Station District. Of these, approximately 121 units would be rented to low, very-low and extremely-low income households. (Refer to EIR Appendix J [Alternatives Testing: Financial Analysis], Table 1, Alternatives Analysis.) This is the same number of units that would be rented to low, very-low and extremely-low income households in the proposed Developer Project. (Id.) Alternative 5 would also offer for sale 16 low income units, one moderate income unit and four market rate units.

## Findings

The Agency hereby finds that specific economic, legal, social, technological, or other considerations make the adoption of this alternative infeasible. Specifically, Alternative 5 would reduce the number of residential units by 11 and would increase costs to the Agency by approximately \$6.62 million, according to the financial analysis prepared by Keyser Marston Associates (KMA) for the City of Santa Ana (as updated on May 22, 2010) and included in Appendix J of the EIR. Additionally, this alternative would cost the Agency approximately \$56,800 more per unit than the proposed Developer Project, due primarily to the substantial rehabilitation and relocation costs that would be involved in this alternative. (Refer to Appendix J (updated).) This represents a 39% increase in per unit costs. This is a significantly less efficient and effective way to spend the funds available for redevelopment of the Agency-owned parcels than the proposed Developer Project. The significant additional cost to the Agency of this Alternative renders it economically infeasible.

Additionally, Alternative 5 does not to meet the City's policy of "maximiz[ing] affordable housing on Agency-owned properties that is of high quality, sustainable, and available to various income levels." (Refer to Santa Ana Housing Element [2006-2014], Policy HE-2.8.) Nor does it go far enough to meet the City's policy to "encourage the construction of rental housing for Santa Ana's residents and workforce, including a commitment to very low, low and moderate income residents and moderate income Santa Ana workers" (Policy HE-2.3) or its policy to "facilitate and encourage a diversity and range in types, prices, and sizes of housing, including single-family homes, apartments, town homes, mixed/multiuse housing, transit-oriented developments, and live/work housing" (Policy HE-2.4). (Refer to Santa Ana Housing Element [2006-2014].)

Moreover, the California Legislature has enacted Government Code Section 65589.5, the "Housing Accountability Act," which restricts the City's ability to disapprove, or require density reductions, in certain types of residential projects. Specifically, the City may not disapprove a housing development project for very low, low-, or moderate-income households unless it makes certain findings set forth in Government Code section 65589.5, subsection (d). The City is unable to make any of these findings at this time. Therefore, disapproval of the proposed Developer Project is legally infeasible.

Further, under Alternative 5, the proposed park identified in the Developer Project would no longer be included as a project component. The park was one element of several in the overall vision for development of the Agency-owned properties. The selection of Alternative 5 effectively eliminates the ability to construct a park on the block on which it is currently envisioned given that the three structures currently located on the Agency-owned properties within that block would remain under Alternative 5.

Finally, Alternative 5 would not meet the objective of the Developer Proposal to redevelop all of the Agency-owned properties. Nor would it meet the objective of providing an economically viable redevelopment scenario for Agency-owned properties, as explained above or the objective of providing new affordable housing for families in furtherance of the City's affordable housing goals to the same extent as the proposed project.

In light of these considerations, the Agency rejects this alternative as infeasible.

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## CHAPTER 13 Text Changes

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### Changes to the Draft EIR

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#### Page 4.2-31, Impact 4.2-5, second paragraph

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MM4.2-7(a) With respect to the Transit Zoning Code area as a whole, the City shall, to the extent feasible, require all on-site construction to meet EPA Tier 2, or higher, emissions standards according to the following:

- April 1, 2010, to December 31, 2011: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 2 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.
- January 1, 2012, to December 31, 2014: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 3 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.
- Post-January 1, 2015: All off-road diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.
- A copy of each unit's certified tier specification, BACT documentation, and California ARB or AQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.

MM4.2-7(b) With respect to the Developer Project analyzed in the EIR for the Transit Zoning Code, the City shall require all on-site construction to meet EPA Tier 2, or higher, emissions standards according to the following:

- April 1, 2010, to December 31, 2011: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 2 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.
- January 1, 2012, to December 31, 2014: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 3 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what

could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.

- Post-January 1, 2015: All off-road diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.
- A copy of each unit's certified tier specification, BACT documentation, and California ARB or AQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.

Changes to the Final EIR

Page 11-4, following fourth row

Table 11-1 Mitigation Monitoring and Reporting Program Matrix						
Mitigation Measure	Action Required	Monitoring Phase	Responsible Agency/Party	Compliance Verification		
				Initial	Date	Comments
...						
Air Quality						
...						
MM4.2-7 Project applicants shall require by contract specifications that all diesel-powered equipment used will be retrofitted with after-treatment products (e.g., engine catalysts) to the extent that they are readily available in the South Coast Air Basin. Contract specifications shall be included in project construction documents, which shall be reviewed by the City of Santa Ana prior to issuance of a grading permit.	<ul style="list-style-type: none"> <li>■ Inclusion in project-specific contract specifications</li> <li>■ Review of project-specific construction documents</li> <li>■ Monitor construction activities</li> </ul>	<ul style="list-style-type: none"> <li>■ Prior to issuance of grading permits</li> <li>■ During project construction</li> </ul>	<ul style="list-style-type: none"> <li>■ Project Applicant</li> <li>■ City of Santa Ana Planning and Building Agency</li> </ul>			
<p><u>MM4.2-7(a) With respect to the Transit Zoning Code area as a whole, the City shall, to the extent feasible, require all on-site construction to meet EPA Tier 2, or higher, emissions standards according to the following:</u></p> <ul style="list-style-type: none"> <li>■ <u>April 1, 2010 to December 31, 2011: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 2 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.</u></li> <li>■ <u>January 1, 2012 to December 31, 2014: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 3 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.</u></li> </ul>	<ul style="list-style-type: none"> <li>■ <u>Inclusion in project-specific contract specifications</u></li> <li>■ <u>Review of project-specific construction documents</u></li> <li>■ <u>Monitor construction activities</u></li> </ul>	<ul style="list-style-type: none"> <li>■ <u>Prior to issuance of grading permits</u></li> <li>■ <u>During project construction</u></li> </ul>	<ul style="list-style-type: none"> <li>■ <u>Project Applicant</u></li> <li>■ <u>City of Santa Ana Planning and Building Agency</u></li> </ul>			

**Table 11-1 Mitigation Monitoring and Reporting Program Matrix**

Compliance Verification		Initial	Date	Comments	Mitigation Measure	Action Required	Monitoring Phase	Responsible Agency/Party
					<ul style="list-style-type: none"> <li>Post-January 1, 2015: All off-road diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.</li> <li>A copy of each unit's certified tier specification, BACT documentation, and California ARB or AQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.</li> </ul>			
					<p>MM4.2-(b) With respect to the Developer Project analyzed in the EIR for the Transit Zoning Code, the City shall require all on-site construction to meet EPA Tier 2, or higher, emissions standards according to the following:</p> <ul style="list-style-type: none"> <li>April 1, 2010 to December 31, 2011: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 2 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.</li> <li>January 1, 2012 to December 31, 2014: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 3 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.</li> <li>Post-January 1, 2015: All off-road diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by California ARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by California ARB regulations.</li> <li>A copy of each unit's certified tier specification, BACT documentation, and California ARB or AQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.</li> </ul>	<ul style="list-style-type: none"> <li>Inclusion in project-specific contract specifications</li> <li>Review of project-specific documents</li> <li>Monitor construction activities</li> </ul>	<ul style="list-style-type: none"> <li>Prior to issuance of grading permits</li> <li>During project construction</li> </ul>	<ul style="list-style-type: none"> <li>Project Applicant</li> <li>City of Santa Ana Planning and Building Agency</li> </ul>