



# LAGUNA NIGUEL CITY CENTER MIXED-USE PROJECT FINAL EIR

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STATE CLEARINGHOUSE NO. 2019110083



CITY OF LAGUNA NIGUEL

June 2022





June 2022 | Final Environmental Impact Report  
State Clearinghouse No. 2019110083

# LAGUNA NIGUEL CITY CENTER MIXED-USE PROJECT

for City of Laguna Niguel

*Prepared for:*

**City of Laguna Niguel**

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# 1. Introduction

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## 1.1 INTRODUCTION

This Final Environmental Impact Report (FEIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) as amended (Public Resources Code §§ 21000 et seq.) and CEQA Guidelines (California Code of Regulations §§ 15000 et seq.).

According to the CEQA Guidelines, Section 15132, the FEIR shall consist of:

- (a) The Draft Environmental Impact Report (DEIR) or a revision of the DEIR;
- (b) Comments and recommendations received on the DEIR either verbatim or in summary;
- (c) A list of persons, organizations, and public agencies comments on the DEIR;
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process; and
- (e) Any other information added by the Lead Agency.

This document contains responses to comments received on the DEIR for the Laguna Niguel City Center project (proposed project) during the public review period, which began March 15, 2022, and closed April 29, 2022. This document has been prepared in accordance with CEQA and the CEQA Guidelines and represents the independent judgment of the Lead Agency. This document and the circulated DEIR comprise the FEIR, in accordance with CEQA Guidelines, Section 15132.

## 1.2 FORMAT OF THE FEIR

This document is organized as follows:

***Section 1, Introduction.*** This section describes CEQA requirements and content of this FEIR.

***Section 2, Response to Comments.*** This section provides a list of agencies and interested persons commenting on the DEIR; copies of comment letters received during the public review period, and individual responses to written comments. To facilitate review of the responses, each comment letter has been reproduced and assigned a number (A-1 through A-2 for letters received from agencies, O-1 through O-3 for letters received from organizations, and I-1 through I-5 for letters received from individuals). Individual comments have been numbered for each letter and the letter is followed by responses with references to the corresponding comment number.

## 1. Introduction

***Section 3. Revisions to the Draft EIR.*** This section contains revisions to the DEIR text and figures as a result of the comments received by agencies and interested persons as described in Section 2, and/or errors and omissions discovered subsequent to release of the DEIR for public review.

The responses to comments contain material and revisions that will be added to the text of the FEIR. City of Laguna Niguel staff has reviewed this material and determined that none of this material constitutes the type of significant new information that requires recirculation of the DEIR for further public comment under CEQA Guidelines Section 15088.5. None of this new material indicates that the project will result in a significant new environmental impact not previously disclosed in the DEIR. Additionally, none of this material indicates that there would be a substantial increase in the severity of a previously identified environmental impact that will not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15088.5.

### 1.3 CEQA REQUIREMENTS REGARDING COMMENTS AND RESPONSES

CEQA Guidelines Section 15204 (a) outlines parameters for submitting comments and reminds persons and public agencies that the focus of review and comment of DEIRs should be “on the sufficiency of the document in identifying and analyzing possible impacts on the environment and ways in which significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible. ...CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.”

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

In accordance with CEQA, Public Resources Code Section 21092.5, copies of the written responses to public agencies will be forwarded to those agencies at least 10 days prior to certifying the environmental impact report. The responses will be forwarded with copies of this FEIR, as permitted by CEQA, and will conform to the legal standards established for response to comments on DEIRs.



## 2. Response to Comments

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Section 15088 of the CEQA Guidelines requires the Lead Agency (City of Laguna Niguel) to evaluate comments on environmental issues received from public agencies and interested parties who reviewed the DEIR and prepare written responses.

This section provides all written responses received on the DEIR and the City's responses to each comment.

Comment letters and specific comments are given letters and numbers for reference purposes. Where sections of the DEIR are excerpted in this document, the sections are shown indented. Changes to the DEIR text are shown in underlined text for additions and ~~strikeout~~ for deletions.

The following is a list of agencies and persons that submitted comments on the DEIR during the public review period.

Number Reference	Commenting Person/Agency	Date of Comment	Page No.
<b>Agencies</b>			
A1	Orange County Fire Authority	3/30/22	2-3
A2	Orange County Public Works	4/21/22	2-7
A3	California Department of Transportation (Caltrans)	4/28/21	2-11
<b>Organizations</b>			
O1	Juaneño Band of Mission Indians, Acjachemen Nation (Joyce Perry)	4/18/22	2-27
O2	Lozeuu Drury on behalf of SAFER	4/29/22	2-31
O3	Mitchell M. Tsai, Attorney, on behalf of Southwest Carpenters	4/29/22	2-35
<b>Individuals</b>			
I1	Carol Maillet	3/20/22	2-91
I2	Susan Staebell	4/1/22	2-95
I3	K.J. Dreifus	4/3/22	2-99
I4	Peter Burdon	4/29/22	2-103
I5a	Richard Leone	4/24/33	2-107
I5b	Richard Leone	4/29/22	2-125

## 2. Response to Comments

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## 2. Response to Comments

LETTER A1 – Orange County Fire Authority (2 page[s])



### ORANGE COUNTY FIRE AUTHORITY

P. O. Box 57115, Irvine, CA 92619-7115 • 1 Fire Authority Road, Irvine, CA 92602-0125

Brian Fennessy, Fire Chief

(714) 573-6000

[www.ocfa.org](http://www.ocfa.org)

A1

March 30, 2022

John Morgan, Development Services Manager  
City of Laguna Niguel  
Community Development Department  
30111 Crown Valley Parkway, Laguna Niguel, CA 92677  
Email: [jmorgan@cityoflagunaniguel.org](mailto:jmorgan@cityoflagunaniguel.org)

Subject: Draft Environmental Impact Report – City Center Mixed-Use Project

Dear John Morgan:

Thank you for the opportunity to review the subject document. The Orange County Fire Authority (OCFA) provides fire protection and emergency medical services response to 23 cities in Orange County and all unincorporated areas. OCFA protects over 1.9 million residents via 77 fire stations throughout Orange County, three (3) within Laguna Niguel, which includes the project area (*Updated information for Page 5.13-2 of Draft EIR*). Services include: structural fire protection, emergency medical and rescue services, education and hazardous material response. OCFA also participates in disaster planning as it relates to emergency operations, which includes high occupant areas and school sites and may participate in community disaster drills planned by others. Resources are deployed based upon a regional service delivery system, assigning personnel and equipment to emergency incidents without regard to jurisdictional boundaries. The equipment used by the department has the versatility to respond to both urban and wildland emergency conditions.

A1-1

This project is adjacent to OCFA Fire Station 5. Currently OCFA Fire Station 5 houses Engine 5 which responds to an average of 1,930 calls per year. This call volume has increased 17% over the past 5 years. This call volume is expected to will continue to increase with the completion of this mixed-use project.

A1-2

Serving the Cities of: Aliso Viejo • Buena Park • Cypress • Dana Point • Garden Grove • Irvine • Laguna Hills • Laguna Niguel • Laguna Woods  
Lake Forest • La Palma • Los Alamitos • Mission Viejo • Rancho Santa Margarita • San Clemente • San Juan Capistrano • Santa Ana  
Seal Beach • Stanton • Tustin • Villa Park • Westminster • Yorba Linda • and Unincorporated Areas of Orange County

RESIDENTIAL SPRINKLERS AND SMOKE ALARMS SAVE LIVES

## 2. Response to Comments

March 30, 2022

Page 2

OCFA's comment to ensure this project would have "Less Than Significant Impact" on emergency response to the Laguna Niguel community, are as follows:

- All Project construction activities that could impede and/or delay emergency response shall be coordinated with OCFA
- OCFA would need final rights of approval for any and all Fire Station 5 alterations and proposed improvements to ensure changes do not impede or delay emergency services.
- Currently all charges for water and sewer at the Project area are the responsibility of OCFA. Prior to occupancy of the Project, only Fire Station 5 charges to remain, other charges to be separated and transferred to the Project.
- The existing Fire Station security perimeter wall will need to be upgraded as the slopes are modified to provide proper security.
- All entering and exiting impedances should not be placed in areas that will delay emergency response to and from Fire Station 5. This precludes the use of raised medians on Pacific Island Drive.
  - Include OCFA approved beacon lighting & striping in front of Fire Station 5 to ensure emergency access
- A water supply system to supply public fire hydrants and automatic fire sprinkler systems is required. Fire flow and hydrant spacing shall meet the minimums identified in the codes.
- Fire department access shall be provided all around the buildings.
- If the project includes the installation of new traffic signals on Pacific Island, these improvements shall include the installation of signal preemption devices. Consider signal preemption on the existing signal at Alicia Parkway and Pacific Island to aid in Fire Station emergency calls.
- All electrically operated gates within the Project shall have emergency opening devices as approved by the OCFA.
- It is unlawful to occupy any portions of these Project buildings until City building department and OCFA have conducted final inspection and sign off.
- Amenity/Sky decks will be considered Assembly occupancies
- As a condition of approval, the site developer shall enter into a Secured Fire Protection Agreement with the OCFA. This Agreement shall specify the developer's pro-rata fair share funding of capital improvements necessary to establish adequate fire protection facilities and equipment, and/or personnel

A1-3

In addition, we would like to point out that all standard conditions with regard to the Project Development, including water supply, built in fire protection systems, road grades/slopes and width, access, building materials, and the like will be applied to this project at the time of plan submittal. Thank you for providing us with this information. Please contact me at 714-573-6253 if you have any questions.

A1-4

Sincerely,



Robert J. Distaso PE, Fire Safety Engineer, Planning and Development  
[robertdistaso@ocfa.org](mailto:robertdistaso@ocfa.org)  
[www.ocfa.org](http://www.ocfa.org)

## 2. Response to Comments

### A1. Response to Comments from Orange County Fire Authority, dated March 30, 2022.




- A1-1 This comment provides details about the Orange County Fire Authority, including its service area and responsibilities. In response to the comment, the text in Section 5.13, *Public Services*, of the DEIR has been updated. The changes are shown in Section 3.3 of this FEIR.
- A1-2 The comment provides average service calls per year and the call volume increase over the past five years. This comment notes that the call volume is expected to increase with the completion of the proposed project.
- This comment does not raise a substantive issue on the content of the DEIR. The comment will be forwarded to decision makers for consideration.
- A1-3 The comment states that the development of the proposed project must comply with the list of requirements provided set forth by the OCFA. The comment specifies that the site developer shall enter into a Secured Fire Protection Agreement with the OCFA. The specific items identified by the OCFA either have been incorporated into the proposed project, required as conditions of approval, or are required consistent with applicable law.
- A1-4 The comment explains that the standard conditions will be applied to the proposed project at the time of plan submittal. The City acknowledges and understands OCFA's comment.

## 2. Response to Comments

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## 2. Response to Comments

LETTER A2 – Orange County Public Works (1 page[s])

	
<b>A2</b>	
April 21, 2022	NCL-22-0001
<p>City of Laguna Niguel, Community Development Department 30111 Crown Valley Parkway Laguna Niguel, CA 92677 Attn: John Morgan, Development Services Manager</p>	
<p><b>Subject:</b> Draft Environment Impact Report for the Laguna Niguel City Center Mixed Use Project</p>	
<p>Dear John,</p>	
<p>Thank you for the opportunity to comment on the Draft Environment Impact Report for the Laguna Niguel City Center Mixed Use Project. The County of Orange offers the following comments for your consideration.</p>	
<p><b>Flood Programs/Floodplain Management Section:</b></p>	
<p>1. Section 5.9.1.2 states that the existing JO3PO7 storm drain is an Orange County Flood Control District Facility. Please revise to indicate that JO3PO7 is a local drainage system.</p>	A2-1
<p><b>Infrastructure Programs/Traffic Engineering Section:</b></p>	
<p>1. Since Orange County Fire Authority (OCFA) is adjacent/within this project and their main entrance/exit is on Pacific Island Drive, any changes to this roadway will have an impact to their ingress/egress. Therefore, the Traffic Impact Analysis Report should be shared with OCFA.</p>	A2-2
<p>If you have any questions regarding these comments, please contact Penny Lew at (714)-647-3990 or Alison Camara at (714) 647-3961 in OC Floods Programs, Paul Lee at (714) 647-3995 in OC Infrastructure Programs/Traffic Engineering, or Yuritzy Randle at (714) 667-8816 in OC Development Services.</p>	
<p>Sincerely,</p>	
	
<p>Justin Kirk, Planning Division Manager OC Public Works Service Area/OC Development Services 601 North Ross Street Santa Ana, California 92701 <a href="mailto:Justin.Kirk@ocpw.ocgov.com">Justin.Kirk@ocpw.ocgov.com</a></p>	
<p>cc: Cindy Salazar, OC Development Service Paul Lee, OC Infrastructure Programs/Traffic Engineering Penny Lew, OC Flood Programs Alison Camara, OC Flood Programs</p>	
<p>601 North Ross Street, Santa Ana, CA 92701 P.O. Box 4048, Santa Ana, CA 92702-4048</p>	
<p><a href="http://www.OCPublicWorks.com">www.OCPublicWorks.com</a> (714) 667-8800   <a href="mailto:Info@OCPW.ocgov.com">Info@OCPW.ocgov.com</a></p>	



## 2. Response to Comments

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## 2. Response to Comments

### A2. Response to Comments Orange County Public Works, dated April 21, 2022.

- A2-1 This comment specifies that the storm drain No. J03P07 is a City-owned storm drain. In response to the comment, the text in Section 5.9, *Hydrology and Water Quality*, of the DEIR has been updated. The changes are shown in Section 3.3 of this FEIR.
- A2-2 Comment acknowledged. The project's Traffic Impact Analysis and project site driveway details have been provided to OCFA for review. As noted in the responses to the comment letter from OCFA (letter A2), the City will coordinate with OFCA and comply with applicable requirements/conditions to ensure that the proposed project does not adversely affect OCFA operations.

## 2. Response to Comments

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## 2. Response to Comments


### LETTER A3 – California Department of Transportation (Caltrans) (1 page[s])

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

**DEPARTMENT OF TRANSPORTATION**  
DISTRICT 12  
1750 EAST FOURTH STREET, SUITE 100  
SANTA ANA, CA 92705  
PHONE (657) 328-6000  
FAX (657) 328-6522  
TTY 711  
[www.dot.ca.gov/calttrans-near-me/district12](http://www.dot.ca.gov/calttrans-near-me/district12)

A3

GAVIN NEWSOM, Governor



Making Conservation  
a California Way of Life.

April 28, 2022

Mr. John Morgan  
Development Services Manager  
City of Laguna Niguel  
30111 Crown Valley Parkway  
Laguna Niguel, CA 92677

File: LDR/CEQA  
SCH#: 2019110083  
12-ORA-2019-01918  
SR 1, PM 5.358

Dear Mr. Morgan,

Thank you for including the California Department of Transportation (Caltrans) in the review of the Laguna Niguel City Center Mixed Use Project for the City of Brea (City). The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment.

The project proposes the development of approximately 175,000 square feet of commercial and civic uses and 275 multifamily residential units. Regional access to the project is provided by State Route 73 (SR 73), Interstate 5 (I-5), and State Route 1 (SR 1/Pacific Coast Highway). Caltrans is a responsible agency for this project and upon review, we have the following comments:

**Transportation Planning**

1. Caltrans recognizes our responsibility to assist communities of color and under-served communities by removing barriers to provide a more equitable transportation system for all.

The Department firmly embraces racial equity, inclusion, and diversity. These values are foundational to achieving our vision of a cleaner, safer, and more accessible and more connected transportation system.

Please consider including a discussion on equity.

2. According to the California Department of Housing and Community Development per the Regional Housing Needs Allocation (RHNA), local governments are required to adequately plan to meet the housing needs of all residents in the community.

Although the project is not located in a low vehicle miles traveled (VMT) area nor a transit priority area, please provide further discussion on the exclusion of any proposed affordable housing units to meet the 550 target units for the Extremely

"Provide a safe and reliable transportation network that serves all people and respects the environment"

Intro.

A3-1

A3-2

## 2. Response to Comments

City of Laguna Niguel  
April 28, 2022  
Page 2

Low-, Very Low-, and Low-income household categories, as referenced in table 5.12-4 City of Laguna Niguel RHNA Allocation 2021-2029 of the DEIR.

A3-2 (cont.)

3. The project is to increase housing and infill development, which may increase traffic congestion and the number of Single Occupancy Vehicle (SOV) trips. As Caltrans seeks to promote safe, accessible multimodal transportation (i.e. walking, biking, and transit) options, please encourage the use of transit among future residents and visitors of the development.

A3-3

Providing improved multimodal transportation to mixed-use housing can encourage residents to utilize alternative transportation options, thus improving public health by reducing Greenhouse Gas (GHG) emissions, reduction to congestion, and Vehicle Miles Traveled (VMT).

4. Caltrans encourages the City to continue coordination with the Orange County Transportation Authority (OCTA) for opportunities to enhance multimodal transit strategies.

A3-4

5. Caltrans supports the project's inclusion of providing short- and long-term bike parking. We recommend that bicycle storage facilities be designed to accommodate a range of bicycle styles, sizes, and weights, particularly with the growing popularity of electric bikes, and cargo/utility bikes (which tend to be bigger and heavier).

A3-5

For additional guidance on providing bike parking for a range of bicycle style & sizes, see the attached "Essentials of Bike Parking" guidance created by the Association of Pedestrian and Bicycle Professionals (link to online PDF: <https://www.apbp.org/Publications>).

Please continue to keep us informed of this project and any future developments that could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to contact Joseph Jamorain at (657) 328-6276 or [Joseph.Jamorain@dot.ca.gov](mailto:Joseph.Jamorain@dot.ca.gov)

A3-6

Sincerely,



SCOTT SHELLEY  
Branch Chief, Regional-LDR-Transit Planning  
District 12

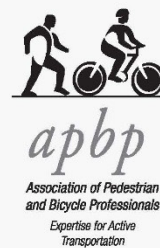
*"Provide a safe and reliable transportation network that serves all people and respects the environment"*

## 2. Response to Comments

### ESSENTIALS OF

# BIKE PARKING

Selecting and installing bicycle parking that works



## 2. Response to Comments

### Essentials of Bike Parking

Revision 1.0, September 2015

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Bicycle Professionals (APBP).



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### Acknowledgments

Lead author - Nathan Broom

Contributors - Eric Anderson, Vince Caristo, Ryan Dodge, Jennifer Donlon-Wyant, Sarah Figliozzi, Elco Gauw, Dan Jatres, David Loutzenheiser, Heath Maddox, Brian Patterson, Cara Seiderman



Alta Planning + Design donated their expertise in the design and illustration of this guide. Cat Cheng, lead designer, Jillian Portelance, production designer.

**Cover image:** Sign D4-3 from Standard Highway Signs, 2004 Edition, [http://mutcd.fhwa.dot.gov/ser-shs\\_millennium\\_eng.htm](http://mutcd.fhwa.dot.gov/ser-shs_millennium_eng.htm)

Bicycle parking manufacturers and distributors shall not use APBP's logo or imply product endorsement by APBP without express written permission from APBP.

APBP is an association of professionals who plan, implement and advocate for walkable and bicycle-friendly places.

Association of Pedestrian  
and Bicycle Professionals

bikeparking@apbp.org  
[www.apbp.org](http://www.apbp.org)





## 2. Response to Comments

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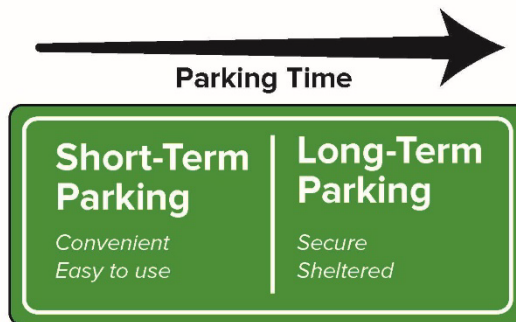
- 01 INTRODUCTION**
- 02 SHORT-TERM PARKING**
  - Site planning
  - Bike corrals
- 03 LONG-TERM PARKING**
  - Site planning
  - Special considerations for long-term parking
- 04 INSTALLATION**
  - Installation surface
  - Installation fasteners
  - Installation techniques
- 05 BICYCLE RACK SELECTION**
  - Performance criteria for bike parking racks
  - Rack styles
  - Rack materials and coatings
- 10 PLACEMENT**

### INTRODUCTION

Among the necessary supports for bicycle transportation, bike parking stands out for being both vital and easy. Still, it requires some attention to get it right. Bike parking may go unused if it's not more appealing to users than the nearest sign post. A minor mistake in installation can make a quality rack unusable. The variety of bicycle sizes, shapes, and attachments continues to increase, and good bike parking should accommodate all types.

The Association of Pedestrian and Bicycle Professionals (APBP) prepared this guide for people planning to purchase or install bike parking fixtures on a limited scale. It is a brief overview of APBP's comprehensive *Bicycle Parking Guidelines* handbook, available at [www.apbp.org](http://www.apbp.org).

This guide divides bike parking into short-term and long-term installations. These two kinds of parking serve different needs, and the starting point for most bike parking projects is recognizing whether the installation should serve short-term users, long-term users, or both. If users will typically be parking for two hours or longer, they are likely to value security and shelter above the convenience and ease that should characterize short-term parking.





## 2. Response to Comments

### SHORT-TERM PARKING

*Effective bike parking for short-term users depends on two main factors: 1) proximity to the destination and 2) ease of use.*

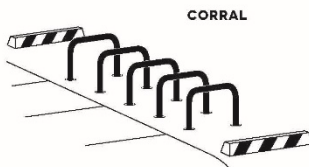
*Short-term parking is designed to meet the needs of people visiting businesses and institutions, and others with similar needs—typically lasting up to two hours. Short-term users may be infrequent visitors to a location, so the parking installation needs to be readily visible and self-explanatory.*



INVERTED U



POST & RING



CORRAL

#### SITE PLANNING

##### Location

Short-term bike parking should be visible from and close to the entrance it serves—50' or less is a good benchmark. Weather-protected parking makes bicycle transportation more viable for daily and year-round use, and it can reduce the motivation for users to bring wet bicycles into buildings. Area lighting is important for any location likely to see use outside of daylight hours.

##### Security

All racks must be sturdy and well-anchored, but location determines the security of short-term parking as much as any other factor. Users seek out parking that is visible to the public, and they particularly value racks that can be seen from within the destination. Areas with high incidence of bicycle theft may justify specific security features such as specialty racks, tamper-proof mounting techniques, or active surveillance.

##### Quantity

Many jurisdictions have ordinances governing bike parking quantity. APBP's full *Bicycle Parking Guidelines* offers complete recommendations for the amount and type of parking required in various contexts. In the absence of requirements, it's okay to start small—but bear in mind that perceived demand may be lower than the demand that develops once quality parking appears.

#### BIKE CORRALS

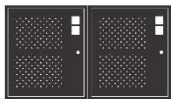
Some cities with limited sidewalk space and strong bicycle activity place bike parking in on-street "bike corrals" located in the street area adjacent to the curb. Bike corrals can sometimes make use of on-street areas that are unsuitable for auto parking. When replacing a single auto parking space, a corral can generally fit 8 to 12 bicycles. APBP's full *Bicycle Parking Guidelines* provides details about designing and siting bike corrals. ➔ [apbp.org](https://apbp.org)

## 2. Response to Comments

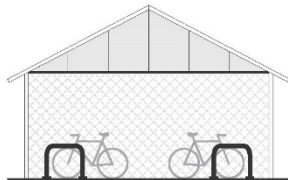
### LONG-TERM PARKING

Users of long-term parking generally place high value on security and weather protection. Long-term parking is designed to meet the needs of employees, residents, public transit users, and others with similar needs. These users typically park either at home or at a routine destination such as a workplace. They often leave their bicycles unmonitored for a period of several hours or longer, so they require security and weather protection that let them park without unreasonable concern for loss or damage.

Long-term parking can take a variety of forms, including a room within a residential building or workplace, a secure enclosure within a parking garage, or a cluster of bike lockers at a transit center. Some long-term parking is open to the public—such as a staffed secure enclosure at a transit hub—and some of it is on private property with access limited to employees, residents, or other defined user groups.



BIKE LOCKERS



SHELTERED SECURE ENCLOSURE

#### SITE PLANNING

##### Location

Appropriate locations for long-term parking vary with context. Long-term parking users are typically willing to trade a degree of convenience for weather protection and increased security. Long-term installations emphasize physical security above public visibility. Signage may be needed for first-time users.

##### Security

Security is paramount for quality long-term parking. Access to parked bicycles can be limited individually (as with lockers) or in groups (as with locked bike rooms or other secure enclosures). Options for access control include user-supplied locks, keys, smart cards, and other technologies.

##### Quantity

Refer to local ordinances or the comprehensive APBP *Bicycle Parking Guidelines* to determine the amount and type of parking required for various contexts.

#### SPECIAL CONSIDERATIONS FOR LONG-TERM PARKING

In many ways, short-term and long-term parking function similarly and are served by the same guidelines. Some exceptions are noted below.

##### Density

The competition of uses for high-security and sheltered locations creates particular pressure on long-term parking to fit more bicycles in less space. When parking needs cannot be met with standard racks and spacing recommended in this guide, consider rack systems designed to increase parking density. See the high-density racks table on page 7. Note that increasing density without careful attention to user needs can create parking that excludes people because of age, ability, or bicycle type. This may result in people parking bicycles in other less desirable places or choosing not to bike at all.

##### Bicycle design variety

Long-term parking facilities should anticipate the presence of a variety of bicycles and accessories, including—depending on context—recumbents, trailers, children's bikes, long-tails, and others. To accommodate trailers and long bikes, a portion of the racks should be on the ground and should have an additional 36" of in-line clearance.

##### Performance criteria

The bike rack criteria in the next section apply to racks used in any installation, regardless of its purpose. Long-term installations often use lockers and group enclosures not discussed in this guide. Such equipment raises additional considerations that are discussed in detail in APBP's full *Bicycle Parking Guidelines*. ➔ [apbp.org](https://apbp.org)

## 2. Response to Comments

### INSTALLATION

*Selecting an appropriate installation surface and technique is key to creating bicycle parking that remains secure and attractive over time.*

#### INSTALLATION SURFACE

A sturdy concrete pad is an ideal surface for installing bicycle parking. Other surfaces often encountered include asphalt, pavers, and soft surfaces such as earth or mulch. These surfaces can accommodate in-ground mounting or freestanding bike racks such as inverted-U racks mounted to rails. See APBP's *Bicycle Parking Guidelines* for details. [apbp.org](https://apbp.org)

#### INSTALLATION FASTENERS

When installing racks on existing concrete, consider the location and select appropriate fasteners. Drill any holes at least three inches from concrete edges or joints. Some locations benefit from security fasteners such as concrete spikes or tamper-resistant nuts on wedge anchors. Asphalt is too soft to hold wedge and spike anchors designed for use in concrete. Installing bike parking on asphalt typically requires freestanding racks and anchor techniques specific to asphalt.

##### FASTENERS

###### CONCRETE SPIKE



Installs quickly in concrete with a hammer. Tamper-resistant. Removal may damage concrete and/or rack.

###### CONCRETE WEDGE ANCHOR



Allows for rack removal as needed. Not tamper-resistant, but can accommodate security nuts (below).

###### SECURITY NUTS



Use with concrete wedge anchors. Security nuts prevent removal with common hand tools.

#### INSTALLATION TECHNIQUES

When installing racks on existing concrete, choose those with a surface-mount flange and install with a hammer drill according to the specifications of the mounting hardware selected. When pouring a new concrete pad, consider bike parking fixtures designed to be embedded in the concrete. Because replacing or modifying an embedded rack is complicated and costly, this installation technique requires particular attention to location, spacing, rack quantity, and material.

## 2. Response to Comments



# BICYCLE RACK SELECTION

## PERFORMANCE CRITERIA FOR BIKE PARKING RACKS

*These criteria apply to any rack for short- or long-term use.*

CRITERIA	DETAILS
<b>Supports bike upright without putting stress on wheels</b>	The rack should provide two points of contact with the frame—at least 6" apart horizontally. Or, if a rack cradles a bicycle's wheel, it must also support the frame securely at one point or more. The rack's high point should be at least 32".
<b>Accommodates a variety of bicycles and attachments</b>	The racks recommended on page 6 ("racks for all applications") serve nearly all common bike styles and attachments—if installed with proper clearances (see placement section). Avoid designs and spacing that restrict the length, height, or width of bicycles, attachments, or wheels.
<b>Allows locking of frame and at least one wheel with a U-lock</b>	A closed loop of the rack should allow a single U-lock to capture one wheel and a closed section of the bike frame. Rack tubes with a cross section larger than 2" can complicate the use of smaller U-locks.
<b>Provides security and longevity features appropriate for the intended location</b>	Steel and stainless steel are common and appropriate materials for most general-use racks. Use tamper-resistant mounting hardware in vulnerable locations. Rack finish must be appropriate to the location (see materials and coatings section).
<b>Rack use is intuitive</b>	First-time users should recognize the rack as bicycle parking and should be able to use it as intended without the need for written instructions.



## 2. Response to Comments

### RACK STYLES

The majority of manufactured bike racks fall into one of the categories on pages 6-8. Within a given style, there is wide variation among specific racks, resulting in inconsistent usability and durability. APBP recommends testing a rack before committing broadly to it.

#### RACKS FOR ALL APPLICATIONS

When properly designed and installed, these rack styles typically meet all performance criteria and are appropriate for use in nearly any application.

##### INVERTED U also called staple, loop



Common style appropriate for many uses; two points of ground contact. Can be installed in series on rails to create a free-standing parking area in variable quantities. Available in many variations.

##### POST & RING



Common style appropriate for many uses; one point of ground contact. Compared to inverted-U racks, these are less prone to unintended perpendicular parking. Products exist for converting unused parking meter posts.

##### WHEELWELL- SECURE



Includes an element that cradles one wheel. Design and performance vary by manufacturer; typically contains bikes well, which is desirable for long-term parking and in large-scale installations (e.g. campus); accommodates fewer bicycle types and attachments than the two styles above.

## 2. Response to Comments

*This guide analyzes the most common styles of bike racks, but it is not exhaustive. Use the performance criteria on page 5 to evaluate rack styles not mentioned. Custom and artistic racks can contribute to site identity and appearance, but take care that such racks don't emphasize appearance over function or durability.*

### HIGH-DENSITY RACKS

These rack styles do not meet all performance criteria but may be appropriate in certain constrained situations.

High-density rack systems can maximize the use of limited parking space, but they don't work for all users or bicycles. If installing these racks, reserve additional parking that accommodates bicycles with both wheels on the ground for users who are not able to lift a bicycle or operate a two-tier rack, or for bikes that are not compatible with two-tier or vertical racks.

#### STAGGERED WHEELWELL- SECURE



Variation of the wheelwell-secure rack designed to stagger handlebars vertically or horizontally to increase parking density. Reduces usability and limits kinds of bikes accommodated, but contains bikes well and aids in fitting more parking in constrained spaces.

#### VERTICAL










Typically used for high-density indoor parking. Not accessible to all users or all bikes, but can be used in combination with on-ground parking to increase overall parking density. Creates safety concerns not inherent to on-ground parking.

#### TWO-TIER



Typically used for high-density indoor parking. Performance varies widely. Models for public use include lift assist for upper-tier parking. Recommend testing before purchasing. Creates safety concerns not inherent to on-ground parking, and requires maintenance for moving parts.

## 2. Response to Comments

BICYCLE RACK SELECTION	<b>RACKS TO AVOID</b>		Because of performance concerns, APBP recommends selecting other racks instead of these.
	<b>WAVE</b> also called undulating or serpentine		Not intuitive or user-friendly; real-world use of this style often falls short of expectations; supports bike frame at only one location when used as intended.
	<b>SCHOOLYARD</b> also called comb, grid		Does not allow locking of frame and can lead to wheel damage. Inappropriate for most public uses, but useful for temporary attended bike storage at events and in locations with no theft concerns. Sometimes preferred by recreational riders, who may travel without locks and tend to monitor their bikes while parked.
	<b>COATHANGER</b>		This style has a top bar that limits the types of bikes it can accommodate.
	<b>WHEELWELL</b>		Racks that cradle bicycles with only a wheelwell do not provide suitable security, pose a tripping hazard, and can lead to wheel damage.
	<b>BOLLARD</b>		This style typically does not appropriately support a bike's frame at two separate locations.
	<b>SPIRAL</b>		Despite possible aesthetic appeal, spiral racks have functional downsides related to access, real-world use, and the need to lift a wheel to park.
	<b>SWING ARM SECURED</b>		These racks are intended to capture a bike's frame and both wheels with a pivoting arm. In practice, they accommodate only limited bike types and have moving parts that create unneeded complications.

## 2. Response to Comments

**RACK MATERIALS  
& COATINGS**

Most bicycle parking racks are made of carbon steel or stainless steel. Carbon steel requires a surface coating to resist rust while appropriate grades of stainless steel need no coating. Not all materials and coatings with the same name perform equally. Square tubing provides a security advantage as round tubing can be cut quietly with a hand-held pipe cutter. Before purchasing racks, talk to suppliers about your particular conditions and choose a material and coating that suit your needs. The following are common choices, depending on local considerations and preferences.

RACK MATERIAL – COATING	RELATIVE PURCHASE COST	DURABILITY	CAUTIONS
Carbon steel - galvanized	Usually lowest	Highly durable and low-maintenance; touch-up, if required, is easy and blends seamlessly	Utilitarian appearance; can be slightly rough to the touch
Carbon steel - powder coat* (TGIC or similar)	Generally marginally higher than galvanized	Poor durability	Requires ongoing maintenance; generally not durable enough for long service exposed to weather; not durable enough for large-scale public installations
Carbon steel - thermoplastic	Intermediate	Good durability	Appearance degrades over time with scratches and wear; not as durable as galvanized or stainless
Stainless steel - no coating needed, but may be machined for appearance	Highest	Low maintenance and highest durability; most resistant to cutting	Can be a target for theft because of salvage value; maintaining appearance can be difficult in some locations

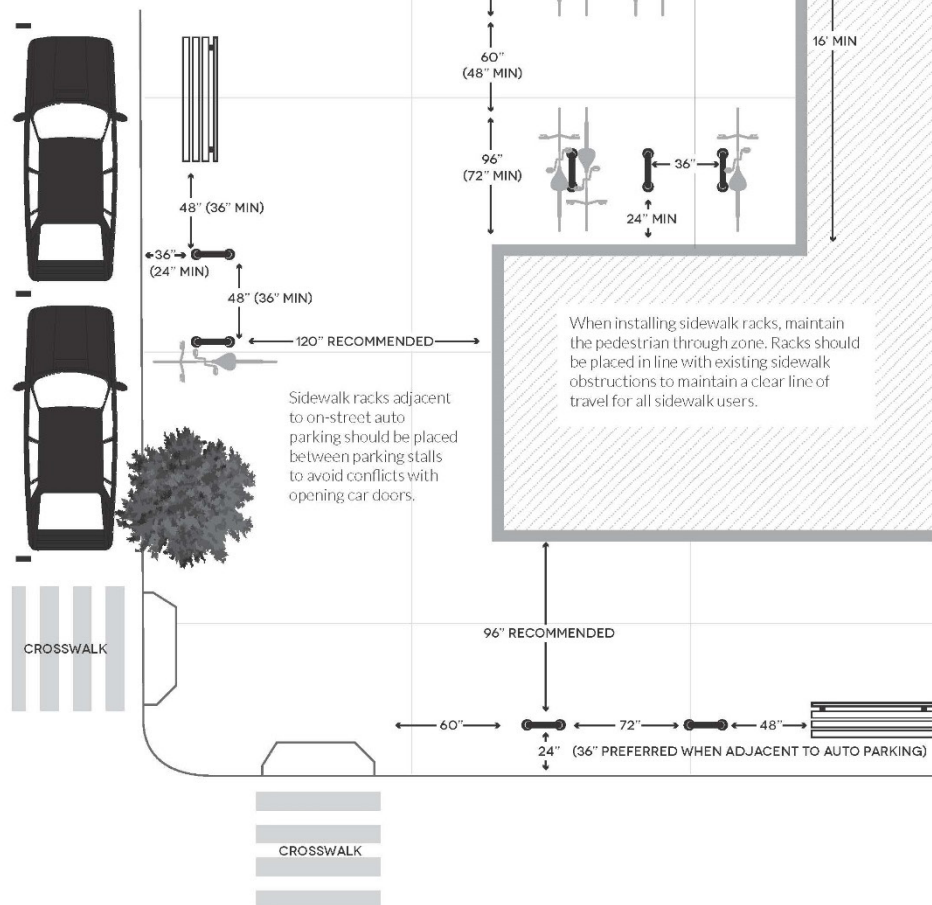
\* When applied to carbon steel, TGIC powder coat should be applied over a zinc-rich primer or galvanization to prevent the spread of rust beneath the surface or at ricks in the finish.



## 2. Response to Comments

### PLACEMENT

The following minimum spacing requirements apply to some common installations of fixtures like inverted-U or post-and-ring racks that park one bicycle roughly centered on each side of the rack. Recommended clearances are given first, with minimums in parentheses where appropriate. In areas with tight clearances, consider wheelwell-secure racks (page 6), which can be placed closer to walls and constrain the bicycle footprint more reliably than inverted-U and post-and-ring racks. The footprint of a typical bicycle is approximately 6' x 2'. Cargo bikes and bikes with trailers can extend to 10' or longer.



## 2. Response to Comments

### A3. Response to Comments Department of Transportation, Scott Shelley, dated 4/28/22.

- Intro This comment introduces Caltrans and provides a summary of the proposed project. No response is required.
- A3-1 The commenter notes their agency's responsibility to assist communities of color and under-served communities by removing barriers to provide a more equitable transportation system. A discussion on equity is suggested by the commenter. The City of Laguna Niguel shares Caltrans' commitment to racial equity, inclusion and diversity. Transportation improvements associated with the Laguna Niguel City Center project will reflect these values. Since no specific concerns regarding equity are raised, it is not necessary to supplement the EIR with a discussion regarding transportation equity.
- A3-2 Citing the 550 target affordable units for the City identified by the California Department of Housing and Community Development per the Regional Housing Needs Allocation (RHNA), the commenter questions the exclusion of affordable housing units in the proposed project. The project proponent has not proposed affordable housing. Opportunity sites to achieve the RHNA are described in the City of Laguna Niguel's Housing Element (2021-2029).
- A3-3 The commenter suggests that the proposed project may increase traffic congestion and Single Occupancy Vehicle (SOV) trips and requests that the use of transit be encouraged among future project residents and visitors. As described in the DEIR, Section 5.15, *Transportation*, based on the VMT analysis included in DEIR Appendix L2, the proposed project's residential and non-residential components are estimated to generate a lower rate of VMT than the Citywide average. The project site is served by OCTA Routes 85 and 87, and the proposed project would include enhancements to bicycle lanes and pedestrian crosswalks within the project site's vicinity (see DEIR Figure 5.15-2, *Pedestrian, Bicycle, and Public Transit Routes*). As the project is a locally-serving mixed-use project, it would provide more options to live and work locally that can reduce VMT and GHG emissions.
- A3-4 Comment noted. The City will continue to coordinate with the Orange County Transportation Authority (OCTA) for opportunities to enhance multimodal transit strategies.
- A3-5 As described in DEIR Appendix L1, *Traffic Impact Assessment (TIA)*, additional project access and enhancement features will be provided for pedestrians and bicyclists. These features include buffered bike lanes along the project frontage, bicycle detection at traffic signals, short and long-term bicycle on-site parking, electric bicycle on-site charging stations, and traffic signal timing review. TIA Figure 33 (DEIR Appendix L1), illustrates some of these additional bicycle parking and intersection enhancements.

The City appreciates the additional bike parking guidance provided by the commenter (see Letter A3 Attachment). Pursuant to the detailed requirements included in Mitigation

## 2. Response to Comments

Measures GHG-2, bicycle parking will be subject to specific requirements and installation verification by the City prior to issuance of a Certificate of Occupancy:

### Mitigation Measure GHG-2

Prior to issuance of building permits for residential and nonresidential development buildings, the project applicant shall indicate on the building plans that the following features shall be incorporated into the design of the building(s). Proper installation of these features shall be verified by the City prior to issuance of a Certificate of Occupancy.

- For residential and nonresidential buildings, electric vehicle charging shall be provided as specified in Section A4.106.8.2 (Residential Voluntary Measures) and A5.106.5.3 (Nonresidential Voluntary Measures) of the 2019 CALGreen Code as applicable.
- Bicycle parking shall be provided as specified in Section A4.106.9 (Residential Voluntary Measures) and A5.106.5.4 (Nonresidential Voluntary Measures) of the 2019 CALGreen Code and reproduced below.
  - *Short-term bicycle parking.* Permanently anchored bicycle racks shall be provided within 100 feet of the visitor's entrance to the residential building, readily visible to passers-by, for 5 percent of visitor motorized vehicle parking capacity for the multifamily units, with a minimum of one 2-bike capacity rack.
  - *Long-term bicycle parking for multifamily buildings.* Provide on-site bicycle parking for at least one bicycle for every two dwelling units. Acceptable bike parking facilities shall be conveniently reached from the street.

A3-6      Comment noted. The City will inform Caltrans of any future project developments that could potentially impact State transportation facilities.

## 2. Response to Comments

LETTER O1– Juaneño Band of Mission Indians, Acjachemen Nation (1 page[s])

O1

**From:** [John Morgan](#)  
**To:** [JoAnn Hadfield](#)  
**Cc:** [Brianna Bernard](#); [Arabesque Said-Abdelwahed](#)  
**Subject:** FW: Tribal Response to Laguna Niguel City Center Mixed Use Project – DEIR  
**Date:** Monday, April 18, 2022 4:51:19 PM  
**Attachments:** [Resolution County of Orange JBMJ.pdf](#)  
[Juaneno Acjachemen Homeland Boundaries.png](#)

Please see email below and attached for response to City Center NOA from Joyce Perry. Thanks!

**From:** Joyce Perry <kaamalam@gmail.com>  
**Sent:** Monday, April 18, 2022 1:31 PM  
**To:** John Morgan <JMorgan@cityoflagunaniguel.org>  
**Subject:** Tribal Response to Laguna Niguel City Center Mixed Use Project – DEIR

Good Afternoon,

I am writing on behalf of the Juaneno Band of Mission Indians, Acjachemen Nation- Belardes in response to the NOA for the DEIR for the Laguna Niguel City Center Mixed Use Project. After reviewing the DEIR, our comments are as follows:

1. We ask that section **5.4.1.2- Cultural Setting** is amended to correct the omission of the Jaueneo/Acjachemen. This project is taking place within our traditional territory which stretches from coastal Long Beach to the north, to Camp Pendleton to the south and includes all of Orange County as well as parts of western Riverside County. Please see the attached map of our traditional homeland boundaries, as well as the attached resolution from the County of Orange recognizing the Juaneno Band of Mission Indians as the Indigenous people of Orange County.
2. Because of the sensitive nature of the project are to our tribe, and the presence of cultural resources within and adjacent to the APE, we ask that Mitigation Measure **CUL-1** is amended to include monitoring by representative of Juaneno Band of Mission Indians, Acjachemen Nation- Belardes.

O1-1

O1-2

Thank you, and I look forward to hearing from you.

Húu'uni 'óomaqati yáamaqati.

Teach peace

Joyce Stanfield Perry  
Payomkawichum Kaamalam - President  
Juaneño Band of Mission Indians, Acjachemen Nation  
Tribal Manager, Cultural Resource Director

## 2. Response to Comments

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## 2. Response to Comments

### **O1. Response to Comments from Juaneño Band of Mission Indians, Joyce Perry, dated 4/18/22.**

- O1-1 In response to this comment, Section 5.4, *Cultural Resources*, of the DEIR has been updated to indicate that the project site is in a shared use area between the Luiseño, Gabrieleño and the Juaneño/Acjachemen. An ethnographic subsection pertaining to the Juaneño/Acjachemen has been added. The changes are shown in Chapter 3 of the FEIR.
- O1-2 Mitigation Measure CUL-1 has been revised to include and clarify participation of a Native American monitor from the Juaneño Band of Mission Indians, Acjachemen Nation, as requested in the comment. This includes both archaeological and Native American monitoring where warranted, and inclusion of both the archaeologist and Native American representative in discussions regarding the determination of significance and treatment for inadvertently discovered resources. The changes are shown in Chapter 3 of this FEIR.

## 2. Response to Comments

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## 2. Response to Comments

LETTER O2 – Lozeau Drury on behalf of SAFER (1 page[s])



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Oakland, CA 94612

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Amalia@lozeaudrury.com

O2

*Via Email*

April 29, 2022

John Morgan, Development Services Manager  
Community Development Department  
City of Laguna Niguel  
30111 Crown Valley Parkway  
Laguna Niguel, CA 92677  
[jmorgan@cityoflagunaniguel.org](mailto:jmorgan@cityoflagunaniguel.org)

**Re: Comment on Draft Environmental Impact Report, Laguna Niguel City Center  
Mixed-Use Project (SCH 2019110083)**

Dear Mr. Morgan:

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Draft Environmental Impact Report ("DEIR") prepared for the Laguna Niguel City Center Mixed-Use Project (SCH 2019110083), including all actions related or referring to the development of approximately 175,000 square feet of commercial and civic uses and 275 multifamily residential units, located on an approximately 25-acre site bounded by Pacific Island Drive to the north, Alicia Parkway to the east, Crown Valley Parkway to the south, and multifamily residential communities to the west, in the City of Laguna Niguel ("Project").

After reviewing the DEIR, we conclude that the DEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. SAFER requests that the Community Development Department address these shortcomings in a revised draft environmental impact report ("RDEIR") and recirculate the RDEIR prior to considering approvals for the Project.

We reserve the right to supplement these comments during review of the Final EIR for the Project and at public hearings concerning the Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

O2-1

Sincerely,

Amalia Bowley Fuentes  
Lozeau Drury LLP



## 2. Response to Comments

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## 2. Response to Comments

### **O2. Response to Comments from Lozeau Drury on behalf of SAFER, dated 4/29/22.**


- O2-1 The commenter concludes that the DEIR “fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project’s impacts.” The commenter further requests that a revised EIR be prepared and recirculated. However, because the commenter provides no specific examples or evidence that the Draft EIR is deficient, it is not possible to address the assertion. No further response is required.

## 2. Response to Comments

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## 2. Response to Comments

LETTER O3 – Mitchell M. Tsai, Attorney at Law on behalf of Southwest Carpenters (34 page[s]).

<div>O3</div>	 <b>Mitchell M. Tsai</b> Attorney At Law	139 South Hudson Avenue Suite 200 Pasadena, California 91101
<p>P: (626) 381-9248 F: (626) 389-5414 E: <a href="mailto:info@mitchtsailaw.com">info@mitchtsailaw.com</a></p>		
<p><b><u>VIA E-MAIL</u></b></p>		
<p>April 29, 2022</p>		
<p>John Morgan, Development Services Manager Community Development Department, City of Laguna Niguel 30111 Crown Valley Parkway, Laguna Niguel, CA 92677 Em: <a href="mailto:jmorgan@cityoflagunaniguel.org">jmorgan@cityoflagunaniguel.org</a></p>		
<p>Deborah Harrington, Interim City Clerk City of Laguna Niguel 30111 Crown Valley Parkway Laguna Niguel, CA 92677 Em: <a href="mailto:cityclerk@cityoflagunaniguel.org">cityclerk@cityoflagunaniguel.org</a></p>		
<p>RE: <u>Draft Environmental Impact Report for the Laguna Niguel City Center Mixed Use Project (SCH# 2019110083).</u></p>		
<p>Dear John Morgan and Deborah Harrington:</p>		
<p>On behalf of the Southwest Regional Council of Carpenters (“<b>SWRCC</b>” or “<b>Southwest Carpenters</b>”), my Office is submitting these comments on the Draft Environmental Impact Report (“<b>Draft EIR</b>” or “<b>DEIR</b>”) for the Laguna Niguel City Center Mixed Use Project (“<b>Project</b>”) and requesting various approvals and actions from the City of Laguna Niguel (“<b>City</b>” or “<b>Lead Agency</b>”).</p>		
<p>The Southwest Carpenters is a labor union representing more than 50,000 union carpenters in six states, including California, and has a strong interest in well-ordered land use planning, addressing the environmental impacts of development projects and equitable economic development.</p>		
<p>Individual members of the Southwest Carpenters live, work and recreate in the area and surrounding communities and would be directly affected by the Project’s environmental impacts.</p>		
<p>SWRCC expressly reserve the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this</p>		

O3-1

## 2. Response to Comments

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Project. Cal. Gov’t Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

03-1  
cont’d

SWRCC incorporate by reference all comments raising issues regarding the Project and its CEQA compliance, submitted prior to the Project approvals. *Citizens for Clean Energy v. City of Woodland* (2014) 225 Cal.App.4th 173, 191 (finding that any party who has objected to the Project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, SWRCC request that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“CEQA”), Cal Public Resources Code (“PRC”) § 21000 *et seq.*, and the California Planning and Zoning Law (“Planning and Zoning Law”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

03-2

The City should require community benefits such as requiring local hire and use of a skilled and trained workforce to build the Project. The City should require the use of workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program or who are registered apprentices in an apprenticeship training program approved by the State of California.

03-3

Community benefits such as local hire and skilled and trained workforce requirements can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project Site can reduce the length of vendor trips, reduce greenhouse gas emissions and providing localized economic benefits. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

03-4

[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the

## 2. Response to Comments

City of Laguna Niguel – City Center Mixed Use Project  
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reduction would vary based on the location and urbanization level of the project site.

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling.

Skilled and trained workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the UC Berkeley Center for Labor Research and Education concluded:

... labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.<sup>1</sup>

03-4  
cont'd

Recently, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component” can result in air pollutant reductions.<sup>2</sup>

Cities are increasingly adopting local skilled and trained workforce policies and requirements into general plans and municipal codes. For example, the City of Hayward 2040 General Plan requires the City to “promote local hiring . . . to help achieve a more positive jobs-housing balance, and reduce regional commuting, gas consumption, and greenhouse gas emissions.”<sup>3</sup>

In fact, the City of Hayward has gone as far as to adopt a Skilled Labor Force policy into its Downtown Specific Plan and municipal code, requiring developments in its Downtown area to require that the City “[c]ontribute to the stabilization of regional

<sup>1</sup> California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, available at <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>.

<sup>2</sup> South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, available at <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.

<sup>3</sup> City of Hayward (2014) Hayward 2040 General Plan Policy Document at p. 3-99, available at [https://www.hayward-ca.gov/sites/default/files/documents/General\\_Plan\\_FINAL.pdf](https://www.hayward-ca.gov/sites/default/files/documents/General_Plan_FINAL.pdf).

## 2. Response to Comments

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construction markets by spurring applicants of housing and nonresidential developments to require contractors to utilize apprentices from state-approved, joint labor-management training programs, . . .”<sup>4</sup> In addition, the City of Hayward requires all projects 30,000 square feet or larger to “utilize apprentices from state-approved, joint labor-management training programs.”<sup>5</sup>

Locating jobs closer to residential areas can have significant environmental benefits. As the California Planning Roundtable noted in 2008:

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.<sup>6</sup>

03-4  
cont'd

In addition, local hire mandates as well as skill training are critical facets of a strategy to reduce vehicle miles traveled. As planning experts Robert Cervero and Michael Duncan noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions since the skill requirements of available local jobs must be matched to those held by local residents.<sup>7</sup> Some municipalities have tied local hire and skilled and trained workforce policies to local development permits to address transportation issues. As Cervero and Duncan note:

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing. The city’s First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than

<sup>4</sup> City of Hayward (2019) Hayward Downtown Specific Plan at p. 5-24, *available at* <https://www.hayward-ca.gov/sites/default/files/Hayward%20Downtown%20Specific%20Plan.pdf>.

<sup>5</sup> City of Hayward Municipal Code, Chapter 10, § 28.5.3.020(C).

<sup>6</sup> California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, *available at* <https://cprroundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf>.

<sup>7</sup> Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? *Journal of the American Planning Association* 72 (4), 475-490, 482, *available at* <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

## 2. Response to Comments

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3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

O3-4  
cont'd

The City should consider utilizing skilled and trained workforce policies and requirements to benefit the local area economically and mitigate greenhouse gas, air quality and transportation impacts.

Also, the City should require the Project to be built to standards exceeding the current 2019 California Green Building Code and 2020 County of Los Angeles Green Building Standards Code to mitigate the Project's environmental impacts and to advance progress towards the State of California's environmental goals.

O3-5

### **I. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

#### **A. Background Concerning the California Environmental Quality Act**

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. CEQA Guidelines § 15002(a)(1). "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR 'protects not only the environment but also informed self-government.' [Citation.]" *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal. App. 4th 1344, 1354 ("Berkeley Jets"); *County of Inyo v. Yorty* (1973) 32 Cal. App. 3d 795, 810.

O3-6

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal. 3d 376, 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to "identify ways that environmental damage can be avoided or significantly reduced." CEQA Guidelines §



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15002(a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA Pub. Res. Code § 21081. CEQA Guidelines § 15092(b)(2)(A–B).

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position.’ A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” *Berkeley Jets*, 91 Cal. App. 4th 1344, 1355 (emphasis added) (quoting *Laurel Heights*, 47 Cal. 3d at 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. Cnty. of Fresno* (2018) 6 Cal. 5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 102, 131. As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.

“The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been taken into account. [Citation.] For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made.” *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 449–450).

CEQA imposes a duty to support findings of impacts or mitigation measures and alternatives and their feasibility with substantial evidence. “The purpose of the statutory requirement for findings is to ensure that the decision making agency actually considers mitigation measures.” *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1034–1039.

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The duty to support CEQA findings with substantial evidence is also required by the Code of Civil Procedure and case law on administrative or traditional writs. Under Code of Civil Procedure (“CCP”) § 1094.5(b), an abuse of discretion is established if the decision is not supported by the findings, or the findings are not supported by the evidence. CCP § 1094.5(b). In *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal. 3d 506, 515 (“*Topanga*”), our Supreme Court held that “implicit in [Code of Civil Procedure] section 1094.5 is a requirement that the agency which renders the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order.” The agency’s findings may “be determined to be sufficient if a court ‘has no trouble under the circumstances discerning the analytic route the administrative agency traveled from evidence to action.’” *West Chandler Blvd. Neighborhood Ass’n vs. City of Los Angeles* (2011) 198 Cal.App.4th 1506, 1521- 1522. However, “mere conclusory findings without reference to the record are inadequate.” *Id.* at 1521 (finding city council findings conclusory, violating *Topanga*).

Finally, CEQA procedures reflect a preference for resolving doubts in favor of environmental review. *See*, Pub. Res. Code § 21080(c) [dispose of EIR only if “there is no substantial evidence, in light of the *whole record* before the lead agency, that the project *may* have a significant effect on the environment” or “revisions in the project .... Would avoid the effects or mitigate the effects to a point where *clearly* no significant effect on the environment would occur, *and* ....” Emph. added.]; Guidelines §§ 15061(b)(3) [common sense exemption only “where it can be seen with certainty ....”]; 15063(b)(1) [prepare an EIR “if he agency determines that there is substantial evidence that *any* aspect of the project, either *individually* or *cumulatively*, *may* cause a significant effect on the environment, *regardless* of whether the overall effect of the project is adverse or beneficial”]; 15064(h) [need to consider cumulative impacts of past, other current and “probable future” projects]; 15070 [prepare a negative declaration only if “no substantial evidence, *in light of the whole record* before the agency, that the project *may* have a significant effect on the environment,” or project “revisions would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, *and* (2) there is no substantial evidence, in light of the whole record before the project, that the project as revised *may* have a significant effect on the environment” emph. added]; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83-84 [interpret “significant impacts” so as “to afford the fullest possible protection”].

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B. Due to the COVID-19 Crisis, the Lead Agency Must Adopt a Mandatory Finding of Significance that the Project May Cause a Substantial Adverse Effect on Human Beings and Mitigate COVID-19 Impacts.

CEQA requires that an agency make a finding of significance when a Project may cause a significant adverse effect on human beings. PRC § 21083(b)(3); CEQA Guidelines § 15065(a)(4).

Public health risks related to construction work require a mandatory finding of significance under CEQA. Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupational Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.<sup>8</sup>

Southwest Carpenters recommend that the Lead Agency adopt additional CEQA mitigation measures to mitigate public health risks from the Project's construction activities. Southwest Carpenters request that the Lead Agency require safe on-site construction work practices as well as training and certification for any construction workers on the Project Site.

In particular, based upon Southwest Carpenters' experience with safe construction site work practices, Southwest Carpenters recommend that the Lead Agency require that while construction activities are being conducted at the Project Site:

**Construction Site Design:**

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.
- A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.

<sup>8</sup> Santa Clara County Public Health (June 12, 2020) COVID-19 CASES AT CONSTRUCTION SITES HIGHLIGHT NEED FOR CONTINUED VIGILANCE IN SECTORS THAT HAVE REOPENED, available at <https://www.sccgov.org/sites/covid19/Pages/press-release-06-12-2020-cases-at-construction-sites.aspx>.

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- The perimeter fence directly adjacent to the entry points will be clearly marked indicating the appropriate 6-foot social distancing position for when you approach the screening area. Please reference the Apex temperature screening site map for additional details.
- There will be clear signage posted at the project site directing you through temperature screening.
- Provide hand washing stations throughout the construction site.

### **Testing Procedures:**

- The temperature screening being used are non-contact devices.
- Temperature readings will not be recorded.
- Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.
- Screening will be performed at both entrances from 5:30 am to 7:30 am.; main gate [ZONE 1] and personnel gate [ZONE 2]
- After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.
- If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.

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- If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the individual to promptly notify his/her supervisor and his/her human resources (HR) representative and provide them with a copy of Annex A.

### **Planning**

- Require the development of an Infectious Disease Preparedness and Response Plan that will include basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches) communication and training and workplace controls that meet standards that may be promulgated by the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health or applicable local public health agencies.<sup>9</sup>

The United Brotherhood of Carpenters and Carpenters International Training Fund has developed COVID-19 Training and Certification to ensure that Carpenter union members and apprentices conduct safe work practices. The Lead Agency should require that all construction workers undergo COVID-19 Training and Certification before being allowed to conduct construction activities at the Project Site.

Southwest Carpenters has also developed a rigorous Infection Control Risk Assessment (“ICRA”) training program to ensure it delivers a workforce that understands how to identify and control infection risks by implementing protocols to

03-7  
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<sup>9</sup> See also, The Center for Construction Research and Training, North America’s Building Trades Unions (April 27 2020) NABTU and CPWR COVID-19 Standards for U.S. Construction Sites, available at [https://www.cpwrt.com/sites/default/files/NABTU\\_CPWR\\_Standards\\_COVID-19.pdf](https://www.cpwrt.com/sites/default/files/NABTU_CPWR_Standards_COVID-19.pdf); Los Angeles County Department of Public Works (2020) Guidelines for Construction Sites During COVID-19 Pandemic, available at [https://dpw.lacounty.gov/building-and-safety/docs/pw\\_guidelines-construction-sites.pdf](https://dpw.lacounty.gov/building-and-safety/docs/pw_guidelines-construction-sites.pdf).

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protect themselves and all others during renovation and construction projects in healthcare environments.<sup>10</sup>

ICRA protocols are intended to contain pathogens, control airflow, and protect patients during the construction, maintenance and renovation of healthcare facilities. ICRA protocols prevent cross contamination, minimizing the risk of secondary infections in patients at hospital facilities.

The City should require the Project to be built using a workforce trained in ICRA protocols.

03-7  
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### II. THE DRAFT EIR IS LEGALLY INADEQUATE AS IT OMITTS CRITICAL INFORMATION.

The Draft EIR suffers from several procedural flaws. These omissions preclude information and public participation by providing inaccurate information about the Project's scope and resultant impacts. As such, the Draft EIR's omissions are prejudicial, as detailed below.

03-8

#### A. The Project Description Is Not Accurate to Enable Meaningful Evaluation of Project Impacts.

The EIR indicates that it is a "Project" EIR, as such, it is a final EIR that does not contemplate any future EIRs or environmental documents. For a Project EIR, however, the description of the Project is incomplete and unstable.

For example, the EIR indicates:

As shown on Figure 3-4, *Proposed Site Plan*, the proposed project would include development of approximately 175,000 square feet of new architecturally distinctive commercial space (restaurant, retail, office and library), 275 residential apartments in two separate locations, and extensive outdoor courtyards and community gathering areas.

03-9

(DEIR, p. 3-9.)

Further, the EIR notes the following uses and sizes (all emphasis added):

- **Daily Needs Retail.** The Crown Valley entrance would include approximately **19,920 square feet** of daily needs retail and

<sup>10</sup> For details concerning Southwest Carpenters's ICRA training program, see <https://icrahealthcare.com/>.



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convenient surface parking for uses such as **a gourmet market, specialty foods, culinary supplies, and restaurants**. All buildings would be **single** story.”

- **“Retail Village Core.** The Crown Valley and Alicia Parkway entrances would converge at the main retail village. The overall village comprises approximately **57,210 square feet** of **single-story** retail built around a central open space plaza area (Town Green) . . . . The Town Green would be open to the public and be improved with outdoor performance/event spaces and other spaces **to be programmed by the applicant** and others for **open air farmers markets, art shows, live music, food and wine festivals, yoga in the park, outdoor movie nights, and more**. Potential tenant uses in the Retail Village Core include **restaurants; markets;** wine stores; breweries; cooking schools; independent-chef-driven food concepts and **restaurants;** hand-crafted coffee house; specialty markets such as wine, cheese stores, and butchery; retail shops; small artisanal food purveyors; kiosks; educational space; and **performance/event space.**”
- **“Health/Wellness-Focused Retail and Medical Office.** Directly adjacent to the retail village would be a two-story building totaling **37,899 square feet** dedicated to **health** and **wellness** that provides for uses such as spin classes, yoga, Pilates, cross-training, stretch/meditation classes, medical office, physical therapy, health food cafes, and **active lifestyle shops.**”
- **Creative Office Space.** Directly adjacent to the retail village would be **two** creative office buildings totaling **43,522 square feet** in **two-** and **three-story** structures. The buildings would feature creative spaces with **high loft ceilings,** skylights, exposed plenum mechanical systems, operable windows, and overhead vertical-lift exterior doors that open to **outdoor patios** offering soft seating areas with indoor-**outdoor** collaborative workspaces and **recreation areas.** . . .

(DEIR, p. 3-9 to 3-10.)

03-9  
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As described and emphasized above, the Project EIR provides a mix of incompletely identified uses, making it impossible to determine their impacts. For example, some buildings include restaurants, without identifying the square footages of same or their hours of operation. Restaurants, as compared with office space, markets, or other type of retail, require more water, sewage, energy and generate associated impacts, in addition to GHG emissions. Also, the restaurant descriptions do not mention hours of operation and therefore may include more extended hours than just markets or office space. Hence, restaurants will attract more people at various times of the day and even nights and result in more impacts. Due to their involved activity and number of people, restaurants may also have impacts on police, fire, or public services to attend in case of emergencies, such as fire hazards. The EIR does not disclose whether those restaurants will allow alcohol use; if so, then that may also add to the impacts on public services, including police to control alcohol-related problems. The EIR's failure to specify the sizes of restaurants, their hours of operation, and the potential of alcohol use at the restaurants makes the EIR's project description unstable and incomplete and deprives the public of information to meaningfully evaluate the Project's impacts based on the project description.

O3-9  
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Further, the EIR's project description as emphasized above notes night shows, performance events, outdoor recreation events; however, their location and hours of operation are not disclosed to enable the public to evaluate their impacts. As shown in the Draft EIR's baseline section, the Project site bounds City Hall to the south and numerous residential uses on the west, involving sensitive receptors:

### *Surrounding Uses*

Surrounding land uses directly adjacent to the project site include the City Hall to the south; OCFA Fire Station No. 5 to the north; and Niguel Summit Apartments, El Niguel Terrace townhomes, and Charter Terrace single-family homes to the west.

O3-10

(DEIR, p. 4-4.)

Hence, the Draft EIR with unspecified location of performance areas and hours of operation provides an incomplete project description precluding meaningful evaluation of impacts, such as noise, traffic, GHG, or public services (police/fire).

In addition, the Project description is incomplete as it does not provide the mass and scale of associated buildings. Thus, the EIR identifies one-, two-, three- and four-story



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buildings and mentions that some of the buildings will have high ceilings; however, the EIR does not provide the height of those buildings, except for the residential two buildings.<sup>11</sup> Neither does the EIR provide information about the floor area ratio (FAR) of the buildings<sup>12</sup> and the amount of open space or green space the Project provides. This incomplete description of the mass and scale of buildings and especially their height is also critical in view of the 40-50 feet slope of the Project site and the fact that (per public comments) the City has a 35-foot-limit. (DEIR, p. 2-3.) In fact, one of public comments noted that the Project will be as close as 150 feet from their residential patio and the commenter was concerned about the fumes and other impacts of a 600-car parking structure that will be built under the Project. (DEIR, p. 2-4.) Yet, the Draft EIR's project description provides no information about the allowable height and FAR or required amounts of open and green space, to allow meaningful information about the mass and scale of the Project and associated impacts.

03-10  
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Further, the EIR seems to suggest the Project may be further expanded. For example, the EIR at a different section provides: "The three commercial/office buildings and the library would be 'Type I steel buildings.'" (DEIR, p. 3-32.) Since the tallest buildings were the four-story two residential buildings, a question then rises why would that the three office buildings and the new library be built in steel. Is it to accommodate a later vertical expansion in piecemeal fashion? Or does this suggest that the height of those buildings may be actually more than the residential buildings?

03-11

In addition, the Project description is ambiguous as to the residential component or uses and the potential expansion of the Project, in view of amendments the Project applicant seeks. Thus, for example, the EIR provides:

<sup>11</sup> The EIR's project description is not accurate as to the height of the two residential buildings either and in fact it is misleading. It mentions that the height will not exceed 50 feet "above the nearest finished grade." (DEIR, p. 1-9.) In view of the 40-50 feet slope of the site and the ambiguity of where the "finished grade" is located (on the higher or lower elevation), this 50-ft height may well translate into a 100-feet total.

<sup>12</sup> The EIR's baseline and alternatives discussion appears to be misleading as to the mass and scale of buildings allowed on the Project site. For example, they mention that, without the Project and under the existing zoning, the Project site can be developed with more intensive uses: "The development of the site would include a maximum of 130,680 square feet of commercial/retail space and a maximum of 217,800 square feet of office space." (DEIR, p. 7-5.) The EIR thus suggests that the site can be developed with about 400,000 sq. ft. building mass in total, without considering the FAR restrictions of the site and open space requirements and apparently calculating the library's gross square footage as part of its allowable buildable area.

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Anticipated development of the County-owned property includes up to 159,000 sq. ft. of Community Commercial/Professional Office and a new library (approximately 16,3000 square feet in area), which would replace the existing library. **Future redevelopment** that achieves the projected sub profile area commercial growth **may also** include development of **additive residential** dwelling units at a **maximum ratio of one (1) unit per 10,000 sq. ft. of commercial development. Bonus** additive residential uses up to a **total of 275** dwelling units may be developed provided that specific findings are achieved, as described below:...

03-11  
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(DEIR, p. 3-14 &<sup>13</sup> 3-17.)

The above-quoted passage is an amendment to the General Plan (“GP”) text that the Applicant seeks. As written, the EIR distinguishes between “additive residential dwelling units” with a 1 unit per 10,000 sq. ft. ratio, and “bonus additive residential uses up to a total of 275 units.” This GP amendment if approved will allow the Applicant to expand the Project into at least 159 additional residential units, in view of the projected 159,000 sf. commercial development proposed. Certification of this EIR with this GP amendment will foreclose any future EIR to analyze any future expansion of the Project.

Lastly, the Draft EIR’s Project description is evasive as to the *relocation* of the Library and misleads about its scope by offering benefits of such relocation. It states:

- **“Library.** The existing Laguna Niguel branch of the Orange County Library system would be **replaced** with a larger, architecturally significant and modern new library. The existing library is approximately **14,400** gross square feet while the project’s proposed library would be approximately **16,290 gross square feet**. The total usable square footage would be increased from about 11,100 square feet in the current library to about 13,100 square feet in the new library and would also include approximately 2,600 square feet of outdoor programmable space, expanding the useable area.

03-12

<sup>13</sup> The EIR inserts a map and one blank page in between the pages discussing the General Plan amendment, which makes the EIR inaccurate and unstable. (DEIR, pp. 3-15 to 3-16.)

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The proposed library would **be located** in the **heart** of the proposed project's commercial experience. This would provide **several benefits** to both library patrons and the new commercial uses. By **relocating** the library, the **commercial center** would have important drive-by exposure and **frontage** along Crown Valley Parkway, which is **imperative** to attracting and maintaining the types of commercial tenants envisioned for the proposed project. **Relocating** the library within the boundaries of the commercial core would also allow **library patrons easier access** to the restaurants, retail shops, and community gathering areas, and would enhance library experience and accessibility to community event spaces. Finally, the new library would provide a **better** designed and more functional library space equipped with modern technologies and improved space planning to support the needs of the broader library community and allow for more programming during the year.”

03-12  
confd

(DEIR, p. 3-10.)

The above-noted description shows the Draft EIR is evasive: it does not mention about the relocation until the second paragraph. It is also misleading: the only place where it mentions about relocation it also offers a discussion of “benefits” of such relocation. As such, the EIR improperly acts as a document of advocacy, not of information and deviates from its true purpose. “It [an EIR] is a document of accountability, “an ‘environmental “alarm bell” whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.’” (*Laurel Heights, supra*, 47 Cal.3d at p. 392.)” *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1392. The Draft EIR’s project description is also legally misleading and inaccurate as focuses on the benefits, which are irrelevant for the EIR and are only relevant at a later stage when the City considers statement of overriding considerations. Guidelines § 15063(b)(1) (“(1) If the agency determines that there is **substantial evidence** that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, **regardless** of whether the overall effect of the project is adverse or **beneficial**...”)

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In fact, only when reading the public's Notice of Preparation (“**NOP**”) Comments of the EIR, does it become clear that the relocation of the library leaves numerous impacts unaccounted for: (1) the new library or Project description does not provide the existing library's 93 parking spaces plus 10 spaces adjacent to the library to enable access to the public; (2) the new library under the Project is moved far away from the street and parking structure and will require patrons not only to walk a long distance from the Project's parking structure but also to cross the street to get there. (DEIR, pp. 2-2 to 2-3.) Thus, the EIR project description is inaccurate as to the library relocation and its implications and misleadingly portrays the same as exclusively beneficial.

03-12  
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For the noted reasons, the Draft EIR's project description is legally flawed and prejudicial for depriving the public and decisionmakers of adequate information to make informed and meaningful determination about the project and its impacts. The above-noted flaws, omissions, and ambiguities in the Project description make the EIR inaccurate, incomplete, and non-finite as a matter of law and require to recirculate it with respective clarifications and changes.

Recently, a similar project and its EIR was struck down by the court for an inaccurate project description. The court stated:

03-13

In this case, Millennium's failure to present any concrete project proposal, instead choosing concepts and “impact envelopes” rather than an accurate, stable, and finite project, was an obstacle to informed public participation, “even if we cannot say such input would have changed the project ultimately selected and approved.” (*Washoe Meadows, supra*, 17 Cal.App.5th at p. 290, 225 Cal.Rptr.3d 238.) Accordingly, the trial court correctly invalidated the EIR and granted the CEQA writ petition.

*Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 20

The Draft EIR suffers from the flaws as the one in *StoptheMillenniumHollywood.com, supra*.

**B. The Draft EIR's Alternatives Are Legally Inadequate and Impermissibly Leave Out Feasible Alternatives.**

The Draft EIR's alternatives are legally inadequate as they omit feasible alternatives, reject alternatives by legally misconstruing CEQA's feasibility requirement, and providing inaccurate descriptions of certain alternatives.

03-14

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### 1. No Residential Development Alternative Is Legally Feasible and Was Improperly Rejected as Infeasible

The EIR improperly rejected an alternative without residential units as infeasible; yet such infeasibility was improper and unsupported under CEQA. The Draft EIR provides:

Comments received during the public scoping meeting expressed concern about developing additional multifamily residential units in Laguna Niguel, particularly given the recent residential development approved in the Gateway Specific Plan area near Interstate 5. Under this alternative, the project site would be developed as proposed minus the 275 residential units.

The project site would be developed under a lease arrangement with the County of Orange, which owns the property. The project applicant has indicated that the residential component of the project is required for economic feasibility. The multifamily residential component provides economic support for the commercial development, which enables the development of an extensive network of open plaza and public gathering spaces possible. A No Residential Development Alternative (with the exception of the Existing General Plan alternative) was not considered because it was determined to be economically infeasible by the County (owner of the property) and would not be pursued by the County if the commercial project did not have a significant residential component.”

03-15

(DEIR, p. 1-10.)

The public especially objected to the residential component in the Project because of cumulative impacts of traffic along with another project the City approved. Yet, the City rejected it and did not even include it among its range of reasonable alternatives to ultimately choose from.<sup>14</sup> This was prejudicial error on the part of the City. As stated in *Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087, “While the lead agency may ultimately determine that the potentially feasible alternatives are not actually feasible due to other considerations, the actual infeasibility of a potential

<sup>14</sup> The City included such an alternative only under the “No Project: Development Under Existing General Plan Designation,” which included far more commercial development, removal of library, and was essentially doomed to be rejected, as described further below.

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alternative does not preclude the inclusion of that alternative among the reasonable range of alternatives. [Cit. omit.]”

Moreover, the City’s justification for rejecting the alternative – even if it had been included – is premised on the erroneous finding of infeasibility. In defense, the EIR states that the residential component is required to make the project economically feasible. This is contrary to the “feasibility” standard in CEQA which is about *legal* feasibility or some kind of legal hardship. While Courts allowed economic profitability of the Project to be considered for infeasibility, it was only part of the balancing and had to be supported by evidence of actual economic infeasibility. Here, the Project involves massive commercial development and it is unclear why those developments do not make the Project economically feasible. Moreover, it is unclear why substituting the residential component with more commercial development would not make the Project economically feasible.

In sum, the City doubly erred on this Alternative: (1) by not even including it as part of its range of alternatives, and (2) ruling it out as infeasible based on the erroneous assumption that feasibility under CEQA is about economic feasibility and further not supporting the Project Applicant’s economic infeasibility claim with substantial evidence.

03-15  
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### 2. Alternative Site Was Improperly Rejected as Infeasible

The EIR improperly rejected an alternative site by providing incomplete justification for same. (DEIR, p. 1-11.) First, the EIR improperly claimed that some of the impacts will be the same even with selecting a different site. However, the DEIR seems to acknowledge that some other impacts, such as hazards, biological impacts, may be lessened. So an alternative site could lessen certain impacts and was a reasonable alternative to consider.

03-16

Second, the DEIR noted that there is no other 25-acre site that the applicant can lease to accommodate the entire residential and non-residential uses. The EIR does not explain, however, why the Project Applicant could not site its residential uses at a different place. Neither does it show that the City or the Applicant actually tried looking at other locations. As noted in the non-residential alternative above, the residential component of the project at the Project’s site was objected to by the public. Hence, the DEIR had to investigate an alternative site for at least the residential component of it, but there is no substantial evidence that it did.

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### 3. The City Failed to Consider an Alternative Without Relocating the Library.<sup>15</sup>

Public comments to NOP specifically objected to the relocation of the library and listed a number of reasons, including but not limited to the library's accessibility, parking availability, and safety of patrons to cross the street and walk to the library. (DEIR, 2-2, 2-3 & 2-7.) Hence, the library relocation may have significant impacts on human beings, requiring mandatory findings of significance. Guidelines § 15065(a)(4). It also appears that the library location is recorded as a "prehistoric site" and the place where a creek used to be (DEIR, p. 5.4-4); hence, development at the library site may have also impacts on archaeological resources and geology/soil stability. Finally, as discussed below, the library may be a historical resource as being over 50 years old, but the EIR is silent about it and neither confirms nor negates this. Hence, demolition and relocation of the library may present another cultural impact.

03-17

Yet, all alternatives, except for the no project/no development, seem to include the relocation of the library. The City offers no justification for relocating the library beyond presenting it as a benefit to the commercial center or to the public. It did not even consider and reject an alternative with no library relocation.

The City's failure to consider an alternative without library relocation is prejudicial as it precluded information about the feasibility of such alternative in general and failed to mitigate the above-noted impacts of library relocation to the extent feasible which CEQA requires.

### 4. The EIR's No Project: Development Under Existing General Plan Land Use Designation Alternative Is A Misnomer and Is Manifestly Inaccurate.

The EIR includes an essentially development alternative but labels it "no project." The definition is a misnomer and inaccurate. Unlike the no project/no development alternative, this *is* a development alternative, since it: (1) includes development on the vacant site of the project; (2) includes library relocation. (DEIR, p. 7-6.) Also, since the EIR expressly rejects a no residential component alternative, it is unclear if this Alternative may have residential uses. In any event, the EIR provides:

03-18

<sup>15</sup> The Residential Only alternative mentions that the existing library will remain but does not clarify on its location. Since

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The development of the site would include a maximum of **130,680** square feet of commercial/retail space and a maximum of **217,800** square feet of office space. As with the proposed project, it is **assumed** that a **new library** within the commercial portion of the development would **replace** the existing library. It is **unlikely** this alternative would include a **publicly accessible** town green because of space limitations given the amount of commercial development.

(DEIR, p. 7-6.)

The description above is flawed and misleading. First, it suggests that the site could be developed with around 400,000 sf. of commercial development in total, without taking account of the floor area ratio, building height, setback, open space, and other development restrictions. The EIR provides no reference as to how that square footage under this alternative is calculated and fails to note that the commercial and office space developments are *alternative* maximums. Instead, by describing a 400,000 sf. development, the EIR presents the Alternative as involving more mass and scale than the Project or its other Alternatives provide and mislead the public into rejecting that alternative from the outset. In addition, the EIR speculates about the publicly accessible town green space or open space claiming it is “unlikely” “given the amount of commercial development” it assumes the site would allow; but speculation about the availability of open space is improper in the EIR much less in the alternative. Neither does such speculation suffice as substantial evidence.

In sum, the EIR’s alternative as described above is misleading, inaccurate, and legally inadequate. Its overestimation of the buildable mass and speculation about it, as well as omission of the residential component, where the EIR also claimed it had rejected a no residential development alternative as infeasible, shows this alternative was merely hypothetical and included so it can be easily eliminated, in violation of law. As stated in *Watsonville, supra*:

The purpose of an EIR is *not* to identify alleged alternatives that meet few if any of the project’s objectives so that these alleged alternatives may be readily eliminated. Since the purpose of an alternatives analysis is to allow the decisionmaker to determine whether there is an environmentally superior alternative that will meet most of the project’s objectives, the key to the selection of the range of alternatives is to identify alternatives that

03-18  
cont’d



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meet most of the project's objectives but have a reduced level of environmental impacts.

(*Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1088–1089 [emph. orig].)

O3-18  
cont'd

### 5. The EIR's Residential Development Only Alternative Is Ambiguous.

The EIR's residential development only alternative is unclear. The EIR describes this alternative as:

**Residential Development Only Alternative.** Under this alternative, nonresidential development would be eliminated, and the number of residences would increase to 400 units. The **existing library** and fire station **would remain**. This alternative would not include a parking structure. Resident and guest parking would be provided by surface parking and spread throughout the project site. The **maximum number** of **400** units was determined by the **approximate threshold** with the potential to reduce the greenhouse gas emissions impact of the proposed project to **less than significant**. In addition, 400 units is a reasonable estimate of the number of units that could be developed on the site without also constructing structured parking. This alternative would introduce approximately 1,024 residents. This alternative **would likely not** include a publicly accessible town green because the residences would be distributed throughout the site.

O3-19

(DEIR, pp. 1-12 [summary of alternatives], 7-6, emph. added.)

It suggests the existing library and fire station would remain, but it is silent as to the relocation of the library and the location of residential units around it. Also, the EIR's explanation of why 400 units were chosen and the speculation that 400 units addition to what is now mostly vacant land, inoperative buildings, and a library is unavailing: it involves speculation that with 400 units addition to the site will reduce the project's GHG impacts to the level of insignificance. In addition, this alternative includes the same speculative language suggesting it "would likely not include a publicly accessible town green because the residences would be distributed throughout the site."

In sum, this alternative leaves out critical details about issues that the public specifically noted (library location, scale of residential development, open space) and thereby

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precludes evaluation of impacts under this alternative. It is also based on a speculation that 400 units will not have GHG impacts, without explaining why.

03-19  
cont'd

### 6. The EIR's Reduced Commercial Development Alternative Is Ambiguous.

The EIR marks this alternative as the environmentally superior one. (DEIR, p. 7-19.) The DEIR describes this alternative as:

**Reduced Commercial Development Alternative.** This alternative would **retain 275 residential units** but **reduce** the square footage of nonresidential uses as needed to reduce greenhouse gas emissions **to less than significant**. Office uses would be **eliminated**, and commercial (retail and restaurant uses) would be reduced to 23,750 square feet—a reduction of almost 137,000 square feet of commercial in comparison to the proposed project (see Table 7-1). This alternative would introduce approximately 704 residents and 62 employees. The limited commercial for this alternative would not support the expensive, podium style construction for apartments. With the exception of the Crown Valley commercial frontage, the entire site would be developed with garden style, wood frame walk up apartments with surface parking. This alternative **would likely not** include a publicly accessible town green because of financial feasibility.

03-20

(DEIR, p. 7-6.)

However, this alternative appears to be based on the same flawed and unsupported assumption that reducing development to only 23,750 sq. ft., eliminating office space, and keeping 275 residential units will reduce GHG impacts to the level of insignificance. The EIR's conclusion about reducing GHG impacts to less than significant also fail to consider the cumulative impacts of this project along with other residential projects the public was concerned about. And notably, the Alternative reduces all *office* spaces but keeps restaurants, which appear to be more impactful and include more intensity and hours of operation, with attendant impacts. Lastly, the EIR includes the same speculation about the availability of open green space.

In sum, the EIR's alternative is flawed in that it is based on speculation and incomplete description, precluding public information or meaningful comment as to its impacts.

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### 7. The EIR Does not List a Preferred Alternative.

The EIR’s discussion of alternatives is also incomplete as it does not list a preferred alternative, while providing a number of inaccurately-described alternatives. While the EIR mentions the reduced commercial alternative as environmentally superior, it also lists a number of disadvantaged leaving the public doubting whether it is the City’s preferred alternative. As in *Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277, 288-289 (“Washoe Meadows”), the EIR here with five alternatives presents a “moving target” (*id.*) typical of a scoping plan, which usually has to be prepared before the EIR is drafted.

03-21

In view of the above-noted, the EIR’s range of alternatives is legally inadequate and it must be recirculated to provide a preferred alternative and an accurate range of alternatives, to allow the public’s meaningful evaluation of their impacts and enable a choice.

### C. The Draft EIR Does Not Adequately Disclose the Project’s Significant Impacts and Its Findings of Less Significant Impacts or No Impacts, Along with Mitigation Measures, Are Not Supported by Substantial Evidence.

The EIR reviewed a number of potentially significant impacts but eventually finds that the only significant and unavoidable impact is GHG. The findings lack substantial evidence for several reasons. First of all, because of the curtailed project description and alternatives description, as discussed *supra*, the impacts of the project have been derivatively understated. There is no clarity as to the intensity of uses of commercial space and no restriction, as such, for the Project Applicant to choose more intensive uses (e.g., restaurants, extended hours of operation) over the less impacting ones (e.g., office space).

03-22

Second, a close look at the EIR’s discussion reveals that its findings of no impacts or less than significant impacts with or without mitigation are unsupported and omit critical information, as discussed below:

#### 1. Air Quality Impacts

The EIR admits that the site has a number of hazardous conditions and hence potentially contaminated soil. It also admits that the Project requires massive amount of export of such potentially hazardous materials and contaminated soil:

03-23

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The project requires a total of approximately 98,000 cubic yards of export. Approximately 83,000 cubic yards of export would occur during the site preparation and rough grading phase, and the remaining 15,000 cubic yards would occur during the fine grading and street paving phase.

03-23  
cont'd

(DEIR, p. 3-35, fn. 1)

Yet, it concludes that the air quality impacts of the Project will be less than significant by proposing several ineffective mitigation measures.

For example, the DEIR (at p. 1-19) provides:

- AQ-1 The construction contractor(s) shall, at minimum, use equipment that meets the United States Environmental Protection Agency's (EPA) Tier 4 (Final) emissions standards for off-road diesel-powered construction equipment with more than 50 horsepower for demolition, site preparation and grading/earthwork, and utilities trenching, construction activities. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by Tier 4 emissions standards for a similarly sized engine..."

03-24

(DEIR, p. 1-19.)

There is no discussion about the feasibility of this alternative and especially the availability of Tier 4 standard equipment. Further, there is no evidence that Tier 4 equipment or their equivalent usage will reduce air quality impacts to the level of insignificance, in view of the Project site's conditions.

The DEIR continues (at p. 1-20):

- AQ-2 The construction contractor(s) shall implement the following measures to reduce construction exhaust emissions during demolition and soil hauling activities associated with demolition and site preparation:
  - Demolition activities shall be prohibited from overlapping with site preparation and grading activities. Ground disturbing activities shall commence following the demolition of the existing structures onsite.

03-25

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- Hauling of soil generated from rough grading activities shall be limited to a maximum of **3,626 miles per day**. Air quality modeling was based on the **assumption** that the **3,626 miles per day** would consist of **98 one-way haul trips** per day with **14 cubic-yard** trucks and a one-way haul distance of approximately **37 miles**.

(Emph. added.)

Again, the EIR does not explain why having so many trips per day will reduce the air quality impacts to less than significant. This is especially the case where elsewhere the EIR admitted to the intensity and duration of these trips far exceeding what is assumed here:

03-25  
cont'd

### *Demolition*

Demolition is anticipated to last approximately three months. A total of 18 workers would be on-site each day, on average. A total of four water trucks would be on-site each day on average. There would be approximately 2,700 tons demolished, which would necessitate a total of approximately 169 round-trip truck trips with 16-ton truck-carrying capacity for noncrushed material. There would be approximately **20 daily round-trip truck trips**, assuming a duration of approximately **8.5 days**.

### *Site Preparation, Grading, and Utilities*

Site preparation, rough grading, and utilities work are anticipated to last approximately seven months. A total of 30 workers would be on-site each day on average. A total of four water trucks would be on-site each day on average. Site preparation and rough grading would require approximately 83,000 cubic yards of exported fill.<sup>1</sup> This phase would result in a total of **5,929 truck round-trips with 14 cubic yards** of carrying capacity. Assuming a maximum of **3,626 miles/day** and **35 miles** to the land fill, truck trips would be approximately 51 daily round-trips for **116 days**.

03-26

(DEIR, p. 3-35.)

The EIR also notes:

During all construction activities, the construction contractor shall limit onsite vehicle speeds on unpaved roads to no more than 15 miles per hour.

03-27

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(DEIR, p. 1-21.)

This adds more time of the trucks on the road, apart from mileage.

Lastly, the DEIR's last mitigation measure AQ-3 particularly to reduce air pollutants from transporting of hazardous materials to the level of insignificance shows that the measure is timed *after* the demolition and grading occurs. AQ-3 measure does not include the time of demolition and even grading, including export of debris, starts only after grading, and is limited to a preparation of a dust control plan, and elimination of construction dust and watering the surface areas:

03-27  
cont'd

The construction contractor shall prepare a **dust control plan** and implement the **following** measures during ground-disturbing activities—in addition to the existing requirements for fugitive dust control under South Coast Air Quality Management District (AQMD) Rule 403—to further reduce PM10 and PM2.5 emissions...

(DEIR, p. 1-21.)

In sum, the Project may have air quality impacts including because of the amount of potentially contaminated soil and the mass and scale of development. Yet, the EIR offers ineffective and illusory mitigation measures and concludes that the impacts will be less than significant.

03-28

### 2. Biological Resources

The EIR underreports impacts to biological resources. For example, the EIR (at DEIR, p. 1-23) identifies biological impacts, but provides that with BIO-1 mitigation measure the impact will be less than significant, where BIO-1 proves to be a plan that the Applicant has to prepare in case of certain conditions.

03-29

The findings of no impact or less than significant impacts also conflicts with the comment of the California Department of Fish and Wildlife (in NOP comments) which identifies issues and advises to mitigate the impact to biological resources by reducing the area of development.

### 3. Cultural Resources

The EIR underreports impacts to cultural resources and critically omits information about potential historical resources on and around the site which may be impacted by the Project. For example, the EIR omits discussion about any historical resources at the site or next to it. Yet, it admits that buildings that are over 50 years old may be

03-30

The

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potentially deemed as historical resources. This indicates that the Library that the Project proposes to relocate may be a significant historical resource as it mentions it was built around 1976. Moving the Library into the center of the Project and away from its existing frontage on the street will reduce the significance of that resource. The Project site is also next to the City Hall which may be another historical resource.

Neither are the mitigation measures to reduce impacts adequate. Thus, the EIR lists only CUL-1 measure. The description of CUL-1, however, shows that the EIR conflates historical resources and archaeological resources and responds to both with just CUL-1 on archaeological resources. (DEIR, p. 1-24 to 1-25):

This, DEIR creates the illusion of adequacy, where in reality it manifestly skips the first question in Guidelines, Appendix G, Section VI re “Cause a substantial adverse change in the significance of a historical resource pursuant to 15064.5.” The pro forma reference to historical resources in the EIR does not cure the omission.

03-30  
cont'd

### 4. Geology Impacts

The EIR (DEIR, p. 1-25) concludes that the Project will not subject people to landslides. Yet, the EIR elsewhere mentions about the fact that the Project site is in landslide liquefaction area and at 40-50 foot ascending slope:

#### *Earthquake-Induced Landslides*

Slope failures in the form of landslides are common during strong seismic shaking in areas of steep hills. The ground surface elevation across the site varies from an elevation of about 305 to 370 feet. A **40- to 50-foot-high** ascending slope extends along the western and southwestern property lines and is a landslide hazard identified by the CDC, and the project site **is in a landslide hazard zone** (CDC 2015).

03-31

(DEIR, p. 5.6-6, emph. added.) This raises significant landslide hazards and soil instability issues.

In addition, the EIR mentioned that the library site is where previously a creek was located and hence the soil underneath may be further prone to landslides.

Yet, the EIR concludes:

**Impact 5.6-1:** Project occupants would be subject to strong ground shaking, however, project development would not subject people or

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structures to seismic-related ground failure including liquefaction and landslides.”

(DEIR, p. 1-25.)

**Impact 5.6-3:** The proposed project would not result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse and is located on expansive soils that would not create a direct or indirect risk to life and property.

(DEIR, p. 1-26.)

Because of findings of no impacts the EIR does not propose any mitigation either. The only mitigation measure the EIR proposes is GEO-1 which deals with paleontological issues, and tellingly ignores the critical soil instability and landslide problem at the Project site.

The EIR’s findings of no impacts are legally inadequate since they ignore the actual issues at the Project site.

03-31  
cont'd

### 5. GHG Impacts

As noted earlier, the Project’s GHG impacts are understated in view of the unstable and incomplete Project description allowing a variety of uses and implicating a variety of intensity and impacts that the EIR does not and cannot estimate. This understatement cuts against CEQA’s mandate to quantify and mitigate GHG impact.

In addition, the EIR’s findings of GHG significant and *unavoidable* impacts is unsupported. The EIR finds GHG impacts significant and unavoidable. Yet, it claims that with reduced commercial development or residential development only it may be possible to reduce GHG impacts to less than significant. Although the EIR’s assumptions of less significant impacts with those alternatives are questionable as mentioned earlier, they show that GHG impacts *may* after all be reduced with less development footprint.

Instead of further reducing the size of the development, however, the EIR concludes the impacts will be significant and unavoidable. The EIR’s conclusions are inadequate under CEQA which requires to quantify the GHG impacts and also with state directives and mandates to reduce the GHG impacts.

The EIR admits that the Project conflicts with state air quality mandates and plans:

03-32



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**Impact 5.7-1:** Development of the proposed project would result in an increase of greenhouse gas (GHG) emissions that **would exceed** South Coast AQMD’s significance criteria. The project is estimated to generate **11,651 metric** tons of CO<sub>2</sub>-equivalent annually from operational activities and would exceed South Coast AQMD’s **bright-line** screening threshold of **3,000 metric** tons of CO<sub>2</sub>-equivalent.

(DEIR, p. 2-9.)

Yet, the EIR suggests that those impacts are significant and unavoidable and a statement of overriding considerations may be prepared for those. The EIR’s analysis is inconsistent with CEQA’s requirement to mitigate impacts to the extent feasible under Pub. Res. Code § 21002, as well as the mandate under Pub. Res. Code § 21002.1(c) to not adopt a statement of overriding considerations unless “the project is otherwise permissible under applicable laws and regulations.”

In sum, the EIR’s GHG analysis is inadequate. It only reflects a pro forma consideration which courts and CEQA disfavor.

03-32  
cont’d

### 6. Hazards and Hazardous Materials Impacts.

As another illustration of pro forma analysis, the EIR’s discussion and findings on impacts of hazards is legally inadequate. (DEIR, p. 1-29 to 1-30.)

It is undisputed that the Project Site has significant hazardous issues: a Phase I and Phase II site assessments were prepared for the Project and found significant RECs and potential soil contamination issues exceeding the level of safety for residential development:

Soil gas sampling beneath the project site was performed on October 16 and 17, 2019. **Soil gas concentrations** detected on-site were evaluated for future vapor intrusion into indoor air at the proposed buildings. The **predicted future** air concentration for tetrachloroethylene (PCE)<sup>2</sup> and trimethylbenzene<sup>3</sup> at the VMF **exceed** the Department of Toxic Substances Control (DTSC) **residential screening** level.

(DEIR, p. 5.8-9.)

03-33

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In addition, the Phase II assessment<sup>16</sup> reveals that the site has significant asbestos issue and the library was not evaluated for such even though it is to be demolished under most (if not all) development alternatives.

Even though the Draft EIR identifies hazards impacts, especially on future occupants and nearby residents, as potentially significant, it provides no palpable mitigation to reduce those, beyond an evasive list of mitigation measures. Thus, the Draft EIR mentions HAZ 1 to HAZ 3, where HAZ 1 and HAZ 2 are preparation of a site management plan for hazardous materials disposal and HAZ 3 is just a soil vapor survey. This raises an issue of deferred mitigation, which does not meet the requirements of Guidelines § 15126.4(a)(1)(B): the EIR does not explain why it is infeasible or impractical for the EIR to prepare a site management plan. Neither does the City commit to such site management plan or provide specific standards.

O3-33  
cont'd

HAZ 3 is even more questionable as it proposes only a soil vapor survey and does not explain how a soil vapor survey, without more, can reduce hazards to the level of insignificance. Further, the EIR requires only IIAZ 1 and IIAZ 2 for hazards to public and workers. (DEIR, p. 1-30.)

In addition, the EIR (at pp. 1-30 to 1-31) fails to identify and mitigate impacts to emergency response times and routes, while it admitted that those routes will be busy with slow moving construction equipment for several months.

Neither does the EIR provide mitigation for wildfire, where it admits: “The project site is in adjacent to a Very High Fire Hazard Severity Zone and could expose structures and/or residences to fire danger.” DEIR, p. 1-31.

O3-34

This conflicts with the EIR’s findings in other sections:

The topography, vegetation, and development patterns in Laguna Niguel make the City susceptible to fire hazards. The City is marked by rolling

<sup>16</sup> We note that Phase II assessment is also incomplete as it acknowledges that it has not evaluated the library site for soil samples or asbestos. It also concludes without any evidence that the leaks that occurred at the site or 450 feet away and for which no further action was taken present no environmental concern. This conclusion, beyond being unsupported and speculative, does not take into account the fact that the Project site is at the ascending slope of 40-50 feet and any release of oil or hazardous materials could have easily gravitated to the Project site under the laws of physics. A more thorough analysis of the Project site is also required in view of the fact that the Project is proposed within close proximity to two schools and City Hall and may therefore have a large impact on human beings.

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hills and valleys, and development is on/within the many ridgelines and valleys. Vegetation in the City, including native plant communities (chaparral and ruderal vegetation), is highly combustible. The fire hazard is at its peak during the summer months when plant material that has built up during the spring dies and becomes fuel (Laguna Niguel 1992).

(DEIR p. 5.8-10)

A Very High FHSZ encompasses parts of the western side of the City and covers residential and open space areas. The project site borders, but is located outside, the Very High FHSZ in a local responsibility area to the east (see Figure 5.8-1, *Very High Fire Hazard Severity Zone in Laguna Niguel*). Local responsibility areas are areas where local governments have the primary responsibility for preventing and suppressing fires.

(DEIR, p. 5.8-10 to 5.8-11.)

In sum, there is no explanation or support for why the Project's hazards are less than significant or require no mitigation. A possible mitigation for these hazards may be a smaller development footprint or more green space. Yet, the Project or its Alternatives are not even clear on the amount of green space the Project will provide.

O3-34  
cont'd

### 7. Land Use Impacts

The EIR claims that the Project complies with all applicable land use plans and yet proposes numerous amendments to the general plan and zoning. In addition, the EIR does not mention the applicable height or floor area ratio or any developmental standards under the general plan or zoning, to allow any meaningful evaluation of land use impacts. Only the public comments mention that the City has 35-foot height limit, the zoning code reveals that the floor area ratio for commercial sites is 1:1. But this information needs to be in the EIR to enable evaluation of land use impacts.

O3-35

In addition, as noted before, the EIR omits the heights of numerous buildings and is unclear about the 50-foot height of residential buildings in view of the 40-50 slope and "nearest finished grade" location. These omissions in the project description further preclude assessment of Project's conflicts with applicable land use standards.

In sum, the EIR's conclusion of no land use impacts is clearly erroneous and its analysis is remarkably deficient as it omits comparative information to allow the public or decisionmakers to evaluate the Project's land use impacts.

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In sum, there is no explanation or support for why the Project's hazards are less than significant or require no mitigation. A possible mitigation for these hazards may be a smaller development footprint or more green space. Yet, the Project or its Alternatives are not even clear on the amount of green space the Project will provide.

03-35  
cont'd

In sum, the EIR's findings of no impacts or less than significant impacts are unsupported and its mitigation measures are improperly deferred or illusory. Neither does the EIR establish that there are no feasible mitigation measures to reduce GHG impacts. The EIR's findings and mitigation are legally inadequate in violation of CEQA.

### 8. Traffic, Emergency, and Cumulative Impacts

In view of the above noted inadequate project description, the EIR's conclusion about insignificant traffic or emergency impacts is understated and unsupported. Similarly, the EIR's findings of no significant cumulative impacts is unsupported as a matter of law. This finding is also clearly erroneous where the public and several public agencies (e.g., City of Mission Viejo, Orange County, DTSC, CDFW, DEIR, pp. 2-5 and 2-6) alerted the City about cumulative issues, including on traffic, hazards, and others.

03-36

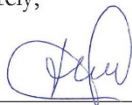
### III. CONCLUSION.

In view of the above-noted concerns, we respectfully request that the EIR be recirculated to include the omitted information and provide meaningful analysis, identification, and mitigation of impacts as CEQA requires. We also request that a Phase III ESA be conducted to resolve and investigate issues Phase II skipped, including but not limited soil sampling and asbestos evaluation of the library site. "CEQA contemplates *serious* and not superficial or pro forma consideration of the potential environmental consequences of a project." (*Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1347, 272 Cal.Rptr. 372; emphasis added; *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 593, fn. 3.)

03-37

If the City has any questions or concerns, please feel free to contact my Office.

Sincerely,



Naira Soghatyan

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Attorneys for Southwest Regional  
Council of Carpenters

**Attached:**

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and  
Considerations for Greenhouse Gas Modeling (**Exhibit A**);

Air Quality and GHG Expert Paul Rosenfeld CV (**Exhibit B**); and

Air Quality and GHG Expert Matt Hagemann CV (**Exhibit C**)

## 2. Response to Comments

**NOTE: Due to its size, Exhibits A, B, and C of comment letter O3 is provided as Appendix A of this FEIR.**

## 2. Response to Comments

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## 2. Response to Comments

### O3. Response to Comments from Mitchell M. Tsai, 4/29/22

- O3-1 Comment acknowledged. This comment summarizes the Southwest Regional Council of Carpenters (SWRCC) organization and reserves their right to supplement their comments prior to public hearings on the Laguna Niguel City Center Mixed Use Project. This comment does not provide a specific comment regarding the DEIR and no further response is needed.
- O3-2 This comment requests that the SWRCC be included on notification lists and receive notices related to the proposed project. The commenter, Mitchell M. Tsai, Attorney at Law, has been added to the distribution list for project updates and hearings.
- O3-3 The commenter recommends that the City require local hire and use of skilled and trained workforce to build the proposed project. The comment does not provide a specific comment regarding the DEIR, and therefore no further response is required. The comment will be forwarded to decision-makers for consideration.
- O3-4 This comment summarizes various sources to support the recommendation that the City implement policies to utilize a skilled and trained workforce for project construction. The commenter asserts that these requirements would generally result in economic benefits to the local area as well as mitigate greenhouse gas, air quality, and transportation impacts. However, the comment does not contain any specific concerns related to the adequacy or accuracy of the environmental analysis in the DEIR or explain how such measures relate specifically to the proposed project and the CEQA environmental analysis; therefore, no further response is required, and no additional analyses or changes to the DEIR are required. The comment is acknowledged and will be taken into consideration by the City's decision makers as part of the FEIR.

The commenter references other cities that have implemented programs to hire local and trained work forces, and references publications to support economic and environmental benefits of these practices. The commenter, however, does not identify any analysis deficiencies or inaccuracies in the proposed project's DEIR. Moreover, the potential benefits of local, skilled labor requirements/policies have not been quantified, and are caveated in the commenter's references (e.g., the GHG reduction associated with a local hire requirement and anticipated decreased worker trip length would vary based on the location and urbanization level of the project site."). The potential benefits of the recommended requirements, therefore, are speculative and would be difficult to quantify. Furthermore, as noted in the City of Hayward example, such policies have been promoted in general plans and municipal codes (not as CEQA mitigation).

The LNCC DEIR analyses were conducted in accordance with the impact methodologies described in the City of Laguna Niguel CEQA Manual (May 2021) (City's CEQA Manual). Potential air quality and VMT impacts were determined to be less than significant with applicable mitigation measures.



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The City's CEQA Manual relies on the South Coast Air Quality Management District's (AQMD) Air Quality Significance Thresholds and Localized Significance Thresholds for evaluating both short-term construction emissions and long-term operational emissions from a proposed project. The VMT analysis was based on the City's adopted Transportation Assessment guidelines adopted in November 2020, which establishes thresholds for VMT. The DEIR did not identify a significant impact related to VMT analysis or other transportation impacts. Thus, no mitigation was required and project impacts were considered less than significant.

Likewise, with respect to air quality, the DEIR identifies that the potentially significant impact identified during certain phases of construction would be mitigated to a less than significant level with implementation of identified mitigation. Thus, no new mitigation is required.

The DEIR's GHG methodology is in accordance with the City's CEQA Manual. Project-related GHG emissions are concluded to be significant and unavoidable. However, the majority of the project's emissions are attributable to operations of the project, with construction emissions representing approximately 2 percent of the project's GHG emissions. The commenter does not specify how requiring local hire or the other recommendations would achieve further reductions in GHG emissions during construction, nor does the commenter explain whether it is feasible or identify evidence supporting any implied conclusion that reductions would be achieved. For instance, the commenter does not provide any evidence that construction worker trip distance would be reduced through implementation of such measures. It should also be noted that, operationally, the project would have substantially less than the baseline VMT thresholds, which is consistent with the goal of reducing VMT through mixed-use, local development and, as a result, reducing GHG emissions. Thus, the comment does not present any evidence or assertions that undermine the analysis or conclusions of the DEIR.

- O3-5 The proposed project would be built in accordance with the current Building Energy Efficiency Standards (Title 24) at the time building permit applications are submitted for approval. Title 24 includes robust requirements for energy efficiency. Moreover, as discussed in the DEIR, as a means to address the project's identified GHG impacts, Mitigation Measures GHG-2 and GHG-3 *mandate* compliance with CALGreen Code measures that would otherwise be *voluntary*. The commenter does not specify what specific "standards exceeding the current" CBC (or the County of Los Angeles Green Building Standards Code, which is not applicable to the project) might be implemented to reduce GHG emissions. It should also be noted that, operationally, the project would have substantially less than the baseline VMT thresholds, which is consistent with the goal of reducing VMT through mixed-use, local development and, as a result, reducing GHG emissions.

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O3-6 This comment provides background on CEQA. It does not provide any specific comment regarding the DEIR and no further response is necessary.

O3-7 The commenter asserts that the lead agency must adopt a mandatory finding of significance that the project may cause a substantial adverse effect on human beings and mitigate COVID-19 impacts. The commenter cites Public Resources Code Section 21083(b)(3) and CEQA Guidelines Section 15065(a)(4). These sections require the significance findings if the following exist: “The environmental effects of a project will cause substantial adverse effect on human beings, either directly or indirectly.”

As reiterated by Mr. Tsai in Comment 6, CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. And second, CEQA directs public agencies to avoid and reduce the environmental damage when possible, by requiring alternative or mitigation measures. CEQA focuses on the impacts of a proposed project on the environment. COVID-19 is not an impact of the proposed project. The two cited CEQA sections (statutes and Guidelines, above) clearly state the significance findings would be required if “the **environmental effect of a project**” would cause substantial adverse effect on human beings” (emphasis added). COVID-19 is not an environmental effect of the project. Moreover, cities are not the governmental agencies responsible for disease control or related regulations and enforcement. As listed under the ‘Planning’ subheading in this comment, the responsible agencies that promulgate the appropriate standards, policies, and procedures to address infectious disease control include the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health, and local public health agencies. The project will, to the extent applicable, comply with the regulations of various federal, state, and local agencies that are intended to control the spread of COVID-19. The commenter has not substantiated that the environmental effects of the proposed project would result in a significant adverse effect on human beings and therefore, the recommended measures are not required. Implementation of the proposed project would not create or exacerbate an existing environmental hazard or an existing public health hazard, and therefore no mitigation is required.

Policy mandates from public health agencies are constantly updated to address rapidly changing circumstances and provide the most appropriate methods for protecting worker safety. Employers are required by the General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health Act, to provide a safe and healthful workplace free from recognized hazards that are causing or likely to cause death or serious physical harm.

Therefore, compliance with mandatory federal, state, and local public health agency regulations in effect at the time would ensure adequate and appropriate protections for workplace safety, and the proposed project would not create or exacerbate an existing environmental or public health hazard. There is no aspect of the proposed project that

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would prevent or interfere with the United Brotherhood of Carpenters providing their union members with additional trainings related to COVID-19. Therefore, no additional analyses or changes to the Draft EIR are required.

O3-8 The commenter asserts that the Draft EIR has several procedural flaws and omissions and as such, is prejudicial. This is an introductory statement to the following comments. Please refer to the following responses that address the specific comments.

O3-9 The commenter includes a breakdown of uses on the project site with associated square footage for each use, as shown on p. 3-9 of the DEIR. The summary on that page does not distinguish between restaurant, retail, and office use. However, DEIR Table 3-1 does include a breakdown of reasonable assumptions about retail, restaurant, and office use. This constitutes a fair assessment of the proposed project, as required by CEQA. According to *Taxpayers for Accountable School Spending v. San Diego Unified School District* (2013) 215 Cal.App.4th 1013, 1037, a lead agency is required to make a “fair assessment or estimate” regarding the details of a project. A project description should also not include excessive detail beyond that needed for evaluation of the potential project impacts. The square footage for each land use type from this table was used to assess water demand, wastewater generation, and energy use for the proposed project. As noted in DEIR Tables 5.17-3 and 5.17-6, a much higher wastewater generation and water demand rate is used for restaurants than for retail, office, or even residential use. As noted by the commenter, restaurants require more water and generate more wastewater than office space, markets, or other types of retail. The rates used were provided in the Water Supply Assessment prepared for the proposed project (see DEIR Appendix N1) and are based on the Moulton Niguel Water District’s development requirements for establishing and modifying potable water, recycled water, and wastewater service.<sup>1</sup> These rates account for the hours of operation for each land use type and are based on the square footage for each land use type. Using the land use information in Table 3-1 along with rates from the official service provider is the conventional approach to estimate utility demands and is sufficiently detailed to provide meaningful analysis.

Potential environmental impacts on police and fire protection services related to restaurants are addressed in DEIR Section 5-13, *Public Services*. As included in that section, the CEQA significance threshold relates to whether a proposed project would “result in a substantial adverse physical impact associated with the provisions of new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives” for public services. The potential environmental impact that falls under the purview of CEQA, therefore, is the physical impact that could

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<sup>1</sup> Moulton Niguel Water District, January 2019. Development Requirements for Establishing and Modifying Potable Water, Recycled Water, and Wastewater Service. <https://www.mnwd.com/wp-content/uploads/2019/02/Complete-Doc-DEVELOPMENT-REQUIREMENTS-SIG-PAGE-PART-I-APENDICES-AND-PART-II-FINAL.pdf>.

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indirectly result from public service deficiencies related to a proposed project. PlaceWorks staff submitted service information requests and a corresponding service questionnaire to the Orange County Sheriff's Department and the Orange County Fire Authority. The agency responses are included in DEIR Appendix K. The service information request informed both entities of the proposed restaurant use on the site and the proposed hours of operation. As discussed in Section 5.13.1.4 and Section 5.13.2.4 of the DEIR, both service providers do not see the need for new or expanded fire or police protection facilities that could result in adverse environmental impacts.

The project description and the square footages used to evaluate potential impacts were finite and based upon reasonable development assumptions. The project description included the main technical features of the project, including assumed use square footages, massing and location of buildings, and other attributes necessary to evaluate the potential environmental impacts of the proposed project. (*Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1055.)

- O3-10 The commenter summarizes the land uses surrounding the project site as disclosed in the DEIR and contends that the EIR does not provide sufficient information regarding potential special events (night shows, performances, and outdoor recreation events) for the potential impacts related to these uses to be assessed (including noise, traffic, GHG, or public services such as police/fire). The days and hours of proposed project operations are described in DEIR Chapter 3, *Project Description* on page 3-18, *Operations*. As noted, special events, including festivals, movie screenings, performances, and farmers markets, would typically be held on weekends. However, the project does not itself authorize special or temporary events, and temporary permits would be required under the municipal code. The project provides spaces that *could* accommodate events and notes the nature and type of such events. Under CEQA, potential traffic impacts are assessed based on vehicle miles traveled (VMT) (please see DEIR Section 5.15, *Transportation*). DEIR Section 5.15 specifically notes that "Special events, including festivals, movie screenings, concerts, and farmers markets would typically be held on weeks. Small events held weekly could include yoga in the park with approximately 20 people; medium events held monthly could include movies in the park with approximately 100 people; and larger events held quarterly could include craft festivals or larger-scale food and wine events or even community-based seasonal events." GHG is a global impact (not an event-specific impact with direct impacts to surrounding land uses) and has been analyzed according to the City's CEQA Manual. As noted in response O3-09, both the OCFA and OC Sheriff's Department have reviewed the proposed project relative to potential public service impacts and determined that impacts would be less than significant (with conditions as outlined in the DEIR and in this FEIR).

DEIR Section 5.11, *Noise*, addresses the potential special event noise impact to surrounding land uses. As detailed on DEIR pg. 5.11-20, Condition of Approval N-1 (COA N-1), any special event with amplified music or sound will require a Temporary Use

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Permit from the City. Under the permit, the special event noise shall not exceed 65 dBA  $L_{eq}$  at off-site residential property lines. As conditioned, all special events would conclude no later than 10:00 pm. COA N-1 also specifies some of the measures to achieve the standard required.

The commenter also alleges that the project description is incomplete because it does not provide information about the allowable height and floor area ratio of buildings. Further, the comment states that the project description does not provide information about required green space or open space. The commenter asserts that this info is needed to assess the mass and scale of the project.

The DEIR project description (Chapter 3) and supplemental detail provided in *Aesthetics* (Section 5.1) and *Recreation* (Section 5.14) fully describe the applicable information noted in this comment. The maximum building height for the project (all types) is 50 feet from finished grade. As described in the project description, by use the number of building stories would be one story for commercial/retail uses, two stories for the health/wellness/medical office uses, two to three stories for creative offices, and three and four stories for residential uses. DEIR Section 5.1, *Aesthetics*, references the Laguna Niguel Zoning Code sections that will be applicable to the proposed project and the development standards under the MU-TC District (including the maximum building height of 50 feet, minimum perimeter setback of 20 feet). Moreover, Section 5.1 includes eight pages of visual renderings of the proposed project (Figures 5.1-3 through 5.1-10), clearly depicting the mass and scale of the proposed project. The proposed site plan (Figure 3-4) and landscape plan (Figure 3-7) clearly depict open space areas. The specific landscape, open space, and recreation amenity requirements are detailed in DEIR Section 5.14, *Recreation*.

Finally, the commenter includes a footnote suggesting that the alternatives discussion is misleading because of theoretical development allowed under the No Project: Development Under Existing General Plan Land Use Designation. The alternative discussion is clear—the potential buildout of 348,480 square feet is consistent with the square footage identified in the Community Profile Area 14 Statistical Summary. The General Plan specifically identifies that level of buildout, and the alternative was appropriately based on that square footage.

- O3-11 This comment regarding building type and materials (Type 1 steel building) and potential future vertical expansion of the office building and library is speculation. As described in Response O3-10, the proposed project would be governed by the MU-TC zone and development standards. The project's approvals would be consistent with the plans submitted and on file with the City. The commenter has not provided any evidence, but only speculates that project expansion may occur in the future. Moreover, deviation from the project description as analyzed in the EIR would subject the proposed project to additional review under CEQA.

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The commenter also speculates about the potential for additional residential uses to be approved under this project. The General Plan Amendment is clear in that it would allow up to a “total of 275 dwelling units” to be developed. The project approval would be for the proposed 275 residential units and would does not seek to allow an increase over this maximum.

- O3-12 The commenter asserts that the DEIR’s description for the new library in Chapter 3, *Project Description*, is misleading. The commenter states that the language inappropriately focuses on the public benefits of the new library and that it is “legally misleading and inaccurate,” which is irrelevant for the EIR. The City disagrees. The discussion cited in the comment clearly describes that the existing library will be replaced, and a new library will be developed in the center portion of the project site. It is not evasive. It also explains that locating the commercial center along Crown Valley is imperative to attracting and maintaining tenants for this use. The commenter’s objection to sharing the reasons behind this land use decision is unclear. The commenter has not identified any inaccuracies of the description. Moreover, it is not inappropriate to identify project benefits, amenities, or other features in an EIR project description. CEQA Guidelines, Section 15124, Project Description, describe the requirements for an EIR project description, including part (c): “A general description of the project’s technical, economic, and environmental characteristics, considering the principal engineering proposal if any and supporting public service facilities.” The new library, including a comparison to the existing library that will be replaced, is an important public service to the community, and the amenities of the library are relevant not only to considering potential overriding considerations (as noted by the commenter), but also to considering project alternatives and their ability to achieve project objectives.

The DEIR’s exhibits also clearly show and label the location of the existing library (Figure 3-3, *Aerial Photograph*) and the proposed library (Figure 3-4, *Proposed Site Plan*).

Finally, the commenter suggests that only the public concerns documented in Chapter 2 (NOP and Scoping Meeting Comments) identify potential library relocation impacts that are not addressed elsewhere in the DEIR. As noted, these comments include concerns about the loss of library parking spaces and having to walk from the proposed parking structure and cross a street to access the new library. Parking is not an environmental issue addressed in CEQA, and the internal project street is not anticipated to result in a transportation safety issue. The concerns expressed by the public at the scoping meeting are appropriately disclosed and forwarded by means of the DEIR to decision-makers for consideration.

- O3-13 Per responses O3-9 through O3-12, the DEIR project description complies with CEQA requirements. It is not prejudicial, and it does provide the public and decision-makers with comprehensive information on which to base meaningful review and determination about the proposed project and its potential environmental impacts. The commenter has not

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provided any examples of inaccurate information in the project description. Contrary to this commenter's opinion, none of the conditions that require recirculation of the DEIR apply to this project.

O3-14 This comment is an introduction to the following comments. Please refer to the following responses.

O3-15 Pursuant to the CEQA Guidelines, Section 15126.6(a), Consideration and Discussion of Alternatives to the Proposed Project: "An EIR shall describe a range of reasonable alternative to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project."

The commenter does not substantiate why a No Residential Alternative would meet the CEQA criteria for consideration as an alternative. The comment does not suggest that it may have the potential to reduce or eliminate the significant impact of the proposed (greenhouse gas emissions) or attain most of the basic project objectives. On the contrary, the commenter suggests it should be evaluated because of the public concern regarding multifamily residential units in the City of Laguna Niguel and opposition to development in the Gateway Specific Plan area, particularly related to traffic congestion associated with that development. Traffic congestion is no longer an environmental impact pursuant to CEQA. The commenter's reasons for evaluating a No Residential Alternative are not consistent with CEQA criteria for consideration of project alternatives.

Additionally, the commenter asserts that the "No Residential Development Alternative" was improperly rejected as infeasible and notes that the "feasibility" standard in CEQA is about "legal" feasibility. This is incorrect. CEQA Guidelines Section 15126.6(f), Rule of Reason, defines "feasibility."

- (1) Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, **economic viability**, availability of infrastructure, general plan consistency, other plans or regulatory limitation.... (emphasis added)

Furthermore, part (3) of this section states that "An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative."

Since the County of Orange owns the project site and has indicated that it will not pursue a project without a significant residential component, the No Residential Alternative is clearly "remote and speculative." Furthermore, it should be noted that a No Residential Alternative would not achieve many of the basic objectives of the project, including

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Objectives 1 and 2, which seek a diversity of uses, including residential, to create a vibrant City Center.

Finally, as noted by the commenter, the DEIR does include a no-residential development alternative—the No Project: Development Under Existing General Plan Designation Alternative. That alternative includes more nonresidential development than would an alternative that removes the residential uses from the proposed project, but CEQA does not mandate consideration of every conceivable iteration of alternatives. CEQA requires a reasonable range of alternatives, which the DEIR includes. The No Project: Development Under Existing General Plan Designation Alternative is representative of an alternative that does not include a residential component. In conjunction with the other alternatives analyzed, the DEIR presents a reasonable range. Under CEQA, an agency may approve a project that is narrower than the proposed project or a variation of the identified alternatives. Thus, the DEIR’s reasonable range facilitates informed decision-making as it relates to potential environmental impacts.

O3-16 The commenter states that an alternative site was improperly rejected without justification. The commenter fails to substantiate how an alternative site could meet the criteria for alternatives pursuant to CEQA Guidelines Section 15126.6, which, summarized as cited in Response O3-15, notes the factors that may be taken into account when assessing feasibility, including “whether the proponent can reasonably acquire control or otherwise have access to the alternative site.” As noted in the DEIR, the project applicant holds an option to lease the project site from the County of Orange. The DEIR concludes that an alternative site would not have the ability to eliminate or substantially lessen the significant GHG impact of the proposed project. The DEIR also reviews potential sites that could accommodate the proposed uses. In part, this review included the inventory of vacant sites disclosed in the City of Laguna Niguel Housing Element (2021-2029). No sites were found that could accommodate the proposed uses. The commenter further asserts that an alternative site to accommodate at least the residential component of the project should be evaluated in the DEIR. Such an alternative would not have the possibility to attain most of the objectives of the proposed project, including those that seek a diversity of uses, including residential, to create a vibrant City Center. Moreover, as stated in Response O3-15, CEQA alternatives are based on the rule of reason. “An EIR need not consider every conceivable alternative to a project.”

O3-17 The commenter concludes that the DEIR is prejudicial because it does not consider an alternative that does not relocate the library. Following is a discussion regarding the reasons the commenter believes consideration of this alternative is required:

- Impacts related to the new library’s accessibility, parking availability, and pedestrian safety may have significant impacts on human beings per CEQA Guidelines 15065(a)(4).



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The text of CEQA Guidelines 15065(a)(4) sets forth the following as a condition that would result in a significant effect: “The environmental effect of a project will cause substantial effects on human beings, either directly or indirectly.” Project accessibility and parking are not “environmental effects” of a project. Furthermore, project implementation would not result in vehicle or pedestrian safety issues or conflicts. Provisions to ensure transportation safety are summarized in DEIR Section 5.15, *Transportation*, and detailed in the DEIR Appendix L1, *Traffic Impact Analysis* (see L1 Section 8.4, *Multimodal Circulation*).

- The existing library site may be a prehistoric site and relocating the library may result in impacts to archaeological resources and geology/soil stability.

DEIR Section 5.4, *Cultural Resources*, and DEIR Appendix E, *Cultural Resources Technical Memo*, review the potential for the project to impact cultural resources, including prehistoric and historic resources. The technical survey concluded that two previously identified, potential prehistoric resources were covered by the urban built development. The report states that site CA-ORA-131 was destroyed in 1976. As concluded in the DEIR, potential impacts to cultural resources would be mitigated to less than significant with MM CUL-1.

Moreover, relocating the library would not result in impacts to geology/soil stability. Potential geologic and soil stability impacts are addressed in DEIR Section 5.6, *Geology and Soils*, and DEIR Appendix G1, *Geotechnical Evaluation*. The commenter has provided no evidence to support the contention that library relocation would result in adverse geology/soil stability impacts.

- The library may be a historic resource.

The commenter states that the library may be a historic resource because it is over 50 years old. This is incorrect. The library was built in 1987-88. The commenter does not present any evidence that the library should be considered a historic resource under CEQA, such as inclusion on the California Register of Historical Resources or on another list of historic resources, or how any project site structures might meet the criteria for listing on the Register of Historical Resources. Moreover, as explained the California Office of Historic Preservation, “Technical Assistance Series #6,” resources under 50 years old must demonstrate that the passage of time is sufficient to understand its historical importance. Thus, while buildings over 50 years should not automatically be considered historic, buildings less than 50 years old are presumed not to be historic.

In summary, maintaining the library in its existing location is not an alternative that would meet the CEQA criteria for project alternatives. It would not eliminate or substantially lessen a significant impact of the proposed project and would not meet the objectives of the proposed project. One of the project objectives is: “Replace the existing Laguna

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Niguel library with a larger, innovative, and architecturally significant library with modern programming and technologies to better serve residents for decades to come. The new library will be an integral part of the project and designed to facilitate connections to and integrations with surrounding retail, office, and residential uses” (DEIR Section 3.2, *Project Objectives*).

- O3-18 The commenter alleges that the EIR’s “No Project: Development Under Existing General Plan Land Use Designation” is a misnomer and inaccurate, in part because it *is* a development alternative. The commenter has included the name of the alternative in this comment and as noted by the commenter, this alternative is a development alternative. The DEIR is not misleading. It is straight-forward and transparent in identifying this No Project alternative as a development alternative. This approach fully complies with CEQA. This No Project alternative is one of two No Project alternatives evaluated in the DEIR. The first No Project alternative is the “No Project/No Development” alternative. As defined and described in the DEIR, under the “No Project/No Development” alternative, the project site would remain as is, and no development would occur.

The DEIR fully complies with CEQA and has evaluated No Project alternatives per CEQA Guidelines Section 15126.6(e)(2):

A discussion of the “no project” analysis shall discuss the existing conditions at the time the notice of preparation is published, or if not notice of preparation is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

This is exactly how the No Project alternatives were defined and evaluated in the DEIR.

The commenter further disputes the potential development (400,000 square feet total) evaluated for the No Project alternative under the existing General Plan designation. The commenter states the DEIR provides no reference with respect to how this square footage was determined. The commenter is incorrect. First, see Response O3-10, which outlines the source of the square footages as the existing General Plan. As described on DEIR page 7-6, the land use quantities for this alternative specifically assumed development in accordance with the anticipated land use mix in the current General Plan (Community Profile Area 14). A maximum of 130,680 square feet of commercial/retail space and a maximum of 217,800 square feet of office space for the project site were defined in the existing, adopted General Plan for the City of Laguna Niguel. The DEIR’s analysis complies with the mandates of CEQA, which specifies that alternatives need not be analyzed with the same degree of specificity as the project. Thus, relying on the General

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Plan for reasonable development assumptions was appropriate and complies with CEQA's mandates.

The commenter is also referred to Response O3-15, which addresses the commenter's assertions that the DEIR's alternatives analysis is flawed for failure to consider a no-residential alternative.

O3-19 The DEIR clearly explains the reasons for evaluating 400 dwelling units for the Residential Development Only Alternative. The Residential Development Only Alternative also contributes to the diversity of alternatives that foster informed public decision-making with respect to environmental impacts. Based on the technical analysis for GHG emissions, 400 units was determined to be the threshold under which GHG may be reduced to less than significant. The CEQA purpose for alternatives analysis is to evaluate optional scenarios that could eliminate the significant impacts of the proposed project and still meet most of the project's objectives. The inability to accommodate a town green within this alternative concept was determined by land planners. Note that the alternative would not include structure parking, and therefore surface parking would cover much of the project site. The commenter notes that the alternative leaves out "critical details about issue the public specifically noted (library location, scale of residential development, open space) and thereby precludes evaluation of impacts under this alternative." Please review Response O3-15 and CEQA Guidelines, Section 15126.6, Consideration and Discussion of Alternatives to the Proposed Project. DEIR Chapter 7, *Alternative to the Proposed Project*, fully complies with the legal requirements for selection and evaluation of project alternatives. Alternatives are not defined by the issues identified by the public but are focused on the environmental impacts of the proposed project.

O3-20 Contrary to the commenter's assertion, the Reduced Commercial Development Alternative was not based on "flawed and unsupported assumptions" regarding the potential for this alternative to reduce GHG emissions to less than significant. The alternative's description was based on the technical analysis to determine this threshold. Moreover, it is recognized that GHG is a global impact, and the methodology and thresholds for this impact consider cumulative impacts. By definition, if a project falls below the project-specific threshold for GHG emissions, it does not result in a cumulatively significant impact. Note also that the DEIR explains the reason that this alternative would not accommodate a large area of open green space—because of financial feasibility. With the exception of Crown Valley commercial frontage, the entire site would be developed with garden-style, wood-frame apartments with surface parking. It is not speculation.

O3-21 The commenter states that the DEIR is incomplete because it does not list a preferred alternative. CEQA does not require the DEIR to select a preferred alternative. CEQA requires an objective analysis of the potential environmental impacts of a project. The requirements for alternative selection and evaluation have been described in the responses

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above (see Response O3-15 and CEQA Guidelines Section 15126.6). As noted by the commenter, the DEIR is required to identify an environmentally superior alternative among the alternatives reviewed. The commenter is misinformed in the belief that a DEIR is required to identify a “preferred” alternative. The EIR provides decision-makers with the objective analysis and information to meaningfully assess the potential impacts of the proposed project and to determine whether an alternative is a preferred project.

- O3-22 The commenter alleges that the DEIR impact findings are understated and that more intense land uses and impacts may result from implementation of the proposed project. Each of these concerns have been addressed in the foregoing responses. The commenter has provided no substantial evidence to support this general allegation.
- O3-23 Comment acknowledged. This comment notes the amount of materials export during the site preparation, rough grading, and fine grading and street paving construction activities and the impacts to air quality. As noted by commenter, the DEIR explains that the site has potentially contaminated soil and will require soil export. The commenter then asserts that the DEIR’s air quality and mitigation measures are lacking with respect to contaminated soil and export. The commenter is directed to DEIR Section 5.8, *Hazards and Hazardous Materials*, which includes a detailed analysis of potential impacts associated with contaminated soil and its handling and removal, which would be reduced to a less than significant impact with mitigation. To the extent the commenter is suggesting that the DEIR’s air quality analysis did not appropriately consider air quality impacts associated with transport of export materials, that assertion is incorrect. Section 5.2.4.1 of the DEIR outlines the required soil export during phases of project construction and identifies expected haul trips.
- O3-24 The US Environmental Protection Agency (EPA) signed in the final rule to introduce Tier 4 emissions standard on May 11, 2004. Because equipment with these emissions standards were phased in between 2008 through 2015 by the EPA, construction equipment with engines with 50 horsepower and more that meet Tier 4 emissions are readily available in construction fleets throughout California. The City has determined this mitigation measure to be feasible. The emissions reductions associated with use of Tier 4 construction equipment over 50 horsepower were modeled using CalEEMod and were provided in the EIR (see Table 5.2-13 and Table 5.2-14). Therefore, Mitigation Measure AQ-1 is effective at mitigating the project’s potentially significant construction impacts, and commenter’s speculation that it may be infeasible due to the lack of availability of Tier 4 equipment is without support. The mitigation measures in the Draft EIR will be conditions of approval of the project. See Public Resources Code Section 21081.6(b); *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116 (incorporation of mitigation measures into conditions of approval is sufficient to demonstrate that the measures are enforceable); and *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1167 (once incorporated, mitigation measures cannot be defeated by ignoring them or by attempting to render them meaningless by moving ahead with the project in spite of

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them). Thus, the project applicant is required to abide by and implement Mitigation Measure AQ-1 (and all other mitigation measures in the Draft EIR).

O3-25 The commenter notes that Mitigation Measure AQ-2 reflects haul trips that exceed the assumptions detailed in the project description and questions how this can limit air emissions. The commenter's point is acknowledged. Mitigation is required to reduce the pollutant emissions of this project. In this case, the iterative model runs of the project information (haul trips, earthwork quantities, and project phases) were run to determine emission generation relative to the South Coast AQMD significance thresholds. Iterative model runs were also required as the earthwork information was updated and grading plans and details were refined during EIR preparation. Ultimately, the project description was revised to reflect the requirements (haul trip limitations) to achieve a less than significant air quality impact for construction and grading activities. In other words, the project description reflects the mitigated conditions upon implementation of MM AQ-2. Table 5.2-14, *Maximum Daily Regional Construction Emissions with Mitigation Incorporated*, which is supported by the air quality modeling conducted, shows how the project's construction emissions are reduced to below regional South Coast AQMD daily thresholds with implementation of mitigation. The post-mitigation analysis reflects, among other things, the reduction in daily haul trips per MM AQ-2. DEIR Table 5.2-9, *Maximum Daily Regional Construction Emissions*, reflects the project conditions (emissions) without mitigation. For clarity, the following tables compare the unmitigated and mitigated conditions for demolition and construction earthwork and material (haul quantity, truck capacity, total trips, daily trips, and phase duration).

<b>Unmitigated</b>							
<b>PhaseName</b>	<b>Duration (Days)</b>	<b>Haul Amount</b>	<b>Truck Capacity</b>	<b>Hauling Trips Total</b>	<b>Trucks (round trips)</b>	<b>Daily Haul Trips</b>	<b>Round Trips Per day</b>
Demolition Haul	42	2,700 Tons	16 Tons	338	169	9	5
Site Preparation Soil Haul	4	3,000 CY	14 CY	429	215	108	54
Rough Grading/Earthwork Soil Haul	58	80,000 CY	14 CY	11,429	5,929	198	99
Fine Grading Soil Haul	43	25,000 CY (10,000 import + 15,000 export)	14 CY	3,572	1,786	84	42

<b>Mitigated</b>							
<b>PhaseName</b>	<b>Duration (Days)</b>	<b>Haul Amount</b>	<b>Truck Capacity</b>	<b>Hauling Trips Total</b>	<b>Trucks (round trips)</b>	<b>Daily Haul Trips</b>	<b>Round Trips Per day</b>
Demolition Haul	42	2,700 Tons	16 Tons	338	169	9	5
Site Preparation Soil Haul	4	3,000 CY	14 CY	429	215	108	54
Rough Grading/Earthwork Soil Haul With MM AQ-2	116	80,000 CY	14 CY	11,429	5,929	99	50
Fine Grading Soil Haul	43	25,000 CY (10,000 import + 15,000 export)	14 CY	3,572	1,786	84	42

O3-26 Pursuant to Response O3-25, DEIR Section 3.3.2, *Project Phasing and Construction*, was prepared to reflect the construction activities that would take place in accordance with the

## 2. Response to Comments

mitigated condition. As noted in Response O3-25, the DEIR analyzes the premitigation project (see Table 5.2-9), then identifies, incorporates, and analyzes the project with application of the mitigation measures.

- O3-27 As stated in Mitigation Measure AQ-3, the dust control plan will be implemented during ground-disturbing activities, such as demolition, site preparation, rough grading, and fine grading, in addition to any other construction activities that may overlap these ground-disturbing activities. The commenter asserts that limiting trucks to 15 miles per hour would “add more time of the trucks on the road...” Commenter is referred to the language referenced, which states that “*onsite* vehicle speeds on unpaved roads” shall be no more than 15 miles per hour. This is a dust control measure required per South Coast AQMD rules and regulations, as noted in the Draft EIR. By its own terms, the measure applies to unpaved surfaces to reduce dust that could emanate from construction (and more dust is created by higher speeds). The commenter does not provide any evidence that the measure is ineffective. Moreover, MM AQ-3 is clear as to its application and timing. It provides that a dust control plan and specific measures shall be implemented “during ground-disturbing activities....” As noted in the DEIR, ground-disturbing activities shall “commence following” the demolition phase. (DEIR p. 5.2-34.) The measure will be implemented in conjunction with the requirements of South Coast AQMD Rule 403, which requires best available control techniques to be applied to “earth-moving and grading activities,” which are consistent with “ground-disturbing activities.”
- O3-28 As described in Responses O3-23 through O3-27, air quality impacts from construction would be less than significant with implementation of Mitigation Measures AQ-1, AQ-2, and AQ-3.
- O3-29 The DEIR biological resource mitigation measure BIO-01 specifies that vegetation removal be scheduled outside the bird nesting season and sets the conditions required if removal of vegetation cannot be avoided during the nesting seasons for songbirds and raptors. The measure details the requirements, including a survey for nesting birds and buffers to be provided in the event nests are located during the qualified biologist survey. The mitigation measure complies with CEQA requirements. Mitigation measures frequently outline conditions, scenarios, and plans to be implemented to address different findings at the time of project implementation.

The less than significant findings for biological resource impacts in the DEIR do not conflict with the NOP comment letter forwarded by the California Department of Fish and Wildlife (see DEIR Appendix B, *NOP and Scoping Meeting Comments*). The letter identifies general biological concerns and issues and recommends that a complete assessment of flora and fauna for the project site be included in the DEIR. The CDFW did not provide any recommendations specific to the proposed development, and the letter did not include a recommendation to reduce impacts to biological resources by reducing the area of development.

## 2. Response to Comments

- O3-30 Contrary to the commenter's statement, the DEIR does not suggest that any of the buildings on the site may be deemed historical resources. As noted above in Response O3-17, the library is less than 50 years old (built in 1987). The City Hall was constructed in 2011 and is not a historical resource. In addition to the records at the SCCIC, a variety of sources were consulted by Cogstone in January 2016 to obtain information regarding the project area. Sources include the National Register of Historic Places, California Register of Historical Resources, California Historical Resources Inventory, California Historical Landmarks, California Points of Historical Interest, and the Bureau of Land Management's General Land Office. Cogstone conducted a Historic Built Environmental Assessment for the proposed project (see Appendix B to this FEIR). Buildings over 45 years old in the project area were identified and evaluated. Once identified, historic built environment resources were examined to ascertain if the building is recommended as eligible for listing as a historic resource at the local, state, or national level and if the original integrity of the resource remains intact. Seven aspects of integrity were considered as part of the eligibility determination. No buildings on the project site were identified as historical resources. The courthouse is older than 45 years (built in 1970), but did not meet the criterion for historic eligibility. Thus, no potentially significant impacts were identified and no mitigation was required. The commenter is also referred to Response O3-17.
- O3-31 As stated under DEIR Impact 5.6-1, the California Division of Conservation does not identify the project site as a liquefaction hazard zone. The geotechnical study prepared for the project concurred that the potential for liquefaction at the site is low. The commenter acknowledges that the DEIR identifies the existing environmental, geologic conditions of the project site. See DEIR Impact 5.6-1 and Appendix G1 for specific discussion of geologic conditions and risks. The Geotechnical Investigation (Appendix G1) presents the results of expert study to address potential geotechnical and geologic/seismic hazards for the proposed project. The DEIR then analyzed the potential impacts associated with these conditions, relative to the proposed project and applicable regulations and standards, including compliance with the California Building Code and mandatory implementation of recommendations from the preliminary and final geotechnical investigations. The project is mandated by Section 8-1-819 of the Laguna Niguel Municipal Code to incorporate recommendations included in all soil engineering and engineering geology reports approved by the Building Official. Therefore, additional mitigation measures were unnecessary for the issue of off-site landslides because all retaining structures and building setbacks from the toe of the slope would be designed to provide adequate protection from the hazard. The project geotechnical study states that the construction of retaining structures to support the slopes where they extend onto the site and establishing adequate offsets between the base of the slopes and the proposed site structures would be sufficient to mitigate slope instability issues. The City's geotechnical consultant reviewed the project geotechnical study and concluded that the conclusions and recommendations were appropriate for EIR-level geotechnical review approval, and that prior to grading or

## 2. Response to Comments

building plan approval, the proponent shall submit a geotechnical design report, a review of the grading report or letter, and a review of the foundation plan letter. The strict and mandatory adherence to recommendations in all soil engineering and engineering geology reports approved by the Building Official would reduce the potential impacts of landslides and soil instability to less than significant.

- O3-32 This comment asserts that the project's GHG impacts are understated because of the issues previously raised relative to the project description. Please refer to Response O3-9 regarding the accuracy and level of detail of the project description. The DEIR finds that GHG impacts are a significant and unavoidable impact of the proposed project (not alternatives that may reduce GHG impacts) and provides Mitigation Measures GHG-1, GHG-2, and GHG-3 to reduce GHG emissions through use of energy-efficient appliances; providing electric-vehicle charging and bicycle parking; and preferential parking for low-emitting, fuel-efficient, and carpool/van vehicles, respectively. In addition, as stated in the DEIR, GHG emissions would exceed the South Coast AQMD bright-line threshold, and these impacts would be significant and unavoidable, even with implementation of these measures. The commenter correctly notes that a statement of overriding consideration is required for this significant impact of the proposed project.

The commenter questions the DEIR's conclusion that GHG emissions are an unavoidable impact by pointing out that project alternatives (reduced commercial or residential development) may have the potential to reduce GHG impacts to less than significant. The City agrees that GHG emissions could be reduced by changing the project (e.g., reducing the development footprint as suggested by the commenter). Changing the project, however, is not CEQA mitigation. No mitigation measures were determined to mitigate the impact to less than significant, so the impacts of the proposed project are significant and unavoidable. Per CEQA, project alternatives are to be defined and analyzed for their potential to reduce or eliminate significant impacts of the project as proposed. The DEIR appropriately defines and evaluates project alternatives with the capability of reducing GHG emissions as detailed in DEIR Chapter 7, *Alternatives to the Proposed Project*.

- O3-33 The preparation of a Soils Management Plan (SMP) based on the findings of existing environmental assessments is an effective and commonly used tool to guide site workers. SMPs will include the training requirements for construction staffing on the project, how to recognize chemically impacted soils, protocols for when impacted soils are discovered to prevent exposure or mixing of impacted and clean soils, and who to contact at regulatory agencies. As stated in MM HAZ-1, the SMP shall be approved by the City and the appropriate oversight agency, such as Orange County Environmental Health Department or the Department of Toxic Substances Control. The project does not employ deferred mitigation as alleged. The SMP is a condition for approval for the issuance of grading permits, ensuring that any hazardous materials will be handled appropriately under the oversight of the appropriate regulatory agency. The SMP requires identification of impacted soils and measures to ensure safe and appropriate handling and



## 2. Response to Comments

disposal of such soils, and handling and disposal of contaminated soils consistent with law. The activities required by MM HAZ-2 are a condition for approval in the City's plan check process. Also note that the SMP was a recommendation of the Phase II study, which concluded that removal of contaminated soils "will ameliorate vapor phase concentrations of VOCs and mitigate the potential future vapor intrusion conditions..." (DEIR Appendix H2).

The commenter also asserts that the DEIR is inadequate for an alleged failure to consider an asbestos impact associated with the demolition of the library. The DEIR acknowledges that the library was not evaluated for ACMs and, along with identifying the strict regulatory requirements governing demolition, handling, and removal of ACMs, mandates Mitigation Measure HAZ-3. HAZ-3 requires a comprehensive survey of structure for the presence of ACMs and, to the extent ACMs are identified, actions to be taken to ensure ACMs are handled pursuant to applicable law. The commenter provides no evidence that compliance with applicable law is inappropriate or otherwise inadequate.

Regarding the commenter's footnote, the Phase II assessment was conducted appropriately, as was the DEIR's review of potential impacts associated with the library. The commenter's assertion that the Phase II investigation is inadequate for failure to assess soil samples taken at the library fails to acknowledge that the Phase I ESA investigated the entirety of the project site, including the library. The Phase I, while it acknowledged that the library structure was not studied for purposes of ACMs, did not identify any recognized environmental concerns on the library site. Therefore, the Phase I did not recommend further investigation of the library site through soil sampling. The commenter presents no evidence of library site conditions that could result in a significant impact or undermine the analysis in the DEIR. Commenter's speculation that leaks from hazardous conditions that may have occurred elsewhere and the "laws of physics" undermine the DEIR do not constitute substantial evidence.

- O3-34 The commenter references the Executive Summary table (pages 1-30 to 1-31) regarding the conclusion related to the project's potential impacts on emergency response times and routes, and in particular how these routes may be affected by project-related construction traffic. The various regulatory requirements, conditions, and policies that ensure adequate emergency access are described in Section 5.15, *Transportation*, and the substantiation that the project would not result in significant impacts to emergency response times is provided in the discussion of Impact 5.15-4.

The assessment of potential wildfire hazards is provided in DEIR Section 5.18, *Wildfire*. This section does explain and support why the project's hazards are less than significant and CEQA mitigation is not required. The commenter speculates that such hazards may be reduced by a smaller development footprint and more green space. As discussed in previous responses, land use changes to the proposed project would not constitute

## 2. Response to Comments

mitigation (although no mitigation is required for wildfire impacts), but would be considered, as appropriate, under project alternatives.

O3-35 The commenter implies that the DEIR is erroneous because it claims that it complies with applicable land use plans and yet proposes amendments to the General Plan and Zoning. The DEIR appropriately addresses the potential environmental impacts associated with land use. Per the CEQA significance thresholds, a significant land use impact would result if the project would:

LU-1 Physically divide an established community.

LU-2 Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

The DEIR clearly describes the amendments required to the General Plan and Zoning. These amendments are part of the proposed project. Upon approval, the project would be consistent with the General Plan and Zoning. Moreover, the DEIR includes a significant analysis of the project's consistency with General Plan goals and policies. The commenter does not identify any alleged inconsistency or a physical impact that could result from such inconsistency. The project would not physically divide an established community, and DEIR Section 5.10, *Land Use and Planning*, reviews applicable policies of the General Plan to substantiate that the project would not conflict with any policy/regulation adopted to mitigate an environmental effect.

Please refer to Response O3-10 regarding height limits and land development standard information. The DEIR explains in numerous locations that building heights would not exceed 50 feet above the nearest finished grade. In Section 5.1.4.2, the DEIR compares the relative heights of the proposed project's building to surrounding buildings in terms of above mean sea level (to standardize and provide height comparisons with the built surrounding environment). The hillside residences adjacent to the project site are located substantially above the project site, and are set back a substantial distance from project buildings. The proposed buildings are approximately 110 to 220 feet from the closest nearby residential buildings. These offset distances and the elevated location of residences reduce the perception of height and any limited projections associated with project buildings. Residents in neighboring communities would continue to have distant hillside and mountain views over the project site.

The last two paragraphs in Comment O3-35 appear to be copy/pastes or new summaries of earlier summary comments (on hazards or GHGs). The commenter is referred to the earlier responses that address those resource areas (hazards and GHGs).

## 2. Response to Comments

In summary, the commenter has not provided any specific comment substantiating that the public or decision-makers would be deprived of information required to understand the proposed project and its potential environmental impacts.

O3-36 This commenter summarizes that because of the previous alleged DEIR inadequacies (project description), the DEIR's conclusions about insignificant traffic or emergency impacts and findings of no significant cumulative impacts are unsupported. The previous responses address the alleged deficiencies of the DEIR and conclude that the DEIR complies with CEQA requirements and supports the impact conclusions noted. Further, the DEIR analysis addresses any CEQA issues raised in the NOP responses from the agencies listed in this comment. No further response is required.

O3-37 The commenter requests that the DEIR be updated and recirculated to address the comments raised in this letter. The previous responses have addressed each concern raised, and none of the conditions for recirculation of the DEIR apply (see CEQA Guidelines Section 15088.5, Recirculation of EIR Prior to Certification). The commenter also requests that a Phase III ESA be conducted to resolve issues not addressed in the Phase II ESA. Please refer to Response O3-33 regarding the soil sampling, asbestos, and related hazard impacts raised by this commenter. A Phase III ESA is not required for this project. Compliance with the hazard mitigation measures as included in the DEIR would mitigate these impacts to less than significant. Contrary to the commenter's assertion, the DEIR provides a serious and thorough evaluation of the proposed project's potential environmental impacts, as demonstrated in the responses to the comment letter.

The attachment accompanying the commenter's letter is not specific to the project and instead includes general assertions. Therefore, no specific response is required. To the extent the attachment could be construed as including specific comments, the commenter is referred to earlier responses to comments.

## 2. Response to Comments

LETTER I1 – Carol Maillet (1 page[s])

I1

**From:** [Carol Maillet](#)  
**To:** [John Morgan](#)  
**Subject:** response to city center mixed use report  
**Date:** Sunday, March 20, 2022 12:04:37 PM

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As a resident of Marina Hills in Laguna Niguel I am responding to the letter regarding the city center mixed use project.

I am most concerned about the GP Amendment GPA 19-01 adding 275 multifamily residential units in the heart of our community. Laguna Niguel is becoming overbuilt with these large complexes. 864 units have been built or in the process of being built at the entrance to our community in recent years. 284 units at Apex, 233 at Blu, 299 at Vilara, 348 at Broadstone. All of these are at the Crown Valley/Cabot Road and Forbes Road intersections. Traffic has become a nightmare between what was a lovely community and the 5 freeway. We have been a quiet residential suburb. It has become an ugly urban community at that junction. This civic center project will be a disaster for us.

What is this doing to our community? The air quality is affected by the increase in traffic congestion. There is no relief from the amount of trucks and cars. And now you want to add more. Niguel Rd and Crown Valley will be impacted negatively with congestion at the intersection. Noise and smog will increase. Traffic will be terrible. This will lead to even more congestion along all of Crown Valley all the way to the freeway. Aesthetically our lovely town is changing for the worse. Multistory eyesores. Terrible architecture that does not blend in with the community at all. The civic center does not need to be another overbuilt disaster like the Gateway project.

Please rethink the size and scope of the civic center. Keep it low key. Include lots of green areas. Keep the level of the buildings 1 or 2 story at max. Provide plenty of parking for visitors. Do not make it a concrete disaster.

Carol Maillet

## 2. Response to Comments

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## 2. Response to Comments

### **II. Response to Comments from Carol Maillet, dated March 20, 2022.**

I1-1 The commenter's opposition to the proposed project is acknowledged. The comment specifically identifies recent residential development and related traffic congestion at the intersections of Crown Valley/Cabot Road and Forbes Road intersections. Although traffic congestion and auto delay are no longer a CEQA issue, a Traffic Impact Assessment was prepared for the proposed project that addresses other City requirements and is included as DEIR Appendix L1. The comments will be forwarded to decision-makers for consideration.

I1-2 DEIR Section 5.2, *Air Quality*, analyzes the impacts to air quality from development of the proposed project. The analysis concluded that the construction impacts to air quality would be less than significant with the incorporation of Mitigation Measures AQ-1 through AQ-3. The analysis concluded that the operation of the proposed project would result in less than significant impacts to air quality.

The DEIR Section 5.15, *Transportation*, evaluates the potential for implementation of the proposed project to result in transportation impacts. Pursuant to SB 743 and CEQA Guidelines Section 15064.3, the reduction in Level of Service (LOS) standards from a project is no longer defined as a valid CEQA impact, and vehicle miles traveled (VMT) is defined as the most appropriate measure of transportation impacts. The City's Transportation Assessment Guidelines establish procedures, methodology, and thresholds of significance for assessing VMT impacts. The proposed project's residential and nonresidential components were analyzed separately to identify whether any of the project components would have a significant VMT impact. DEIR Table 5.15-1, *Baseline Year 2016 Project and Citywide VMT*, shows the project's residential and nonresidential VMT for the base year scenario and corresponding City average. As shown in Table 5.15-1, both the residential and nonresidential components of the proposed project are estimated to generate a lower rate of VMT than the citywide average, and therefore would not result in a significant impact.

DEIR Section 5.11, *Noise*, evaluates the potential for implementation of the proposed project to result in construction and operational noise impacts. The analysis concluded that the construction noise impacts would be less than significant with the incorporation of Conditions of Approval COA N-1 and COA N-2. The analysis concluded that the operation of the proposed project would result in less than significant noise impacts.

The commenter's general opposition to the scale of the project and potential community impact, and comparison to the Gateway project will be forwarded to decision-makers. The comment does not provide any specific comments on the completeness of accuracy of the DEIR environmental analysis, and therefore, no further response is required.

I1-3 The commenter's request for the City to consider changes to the project will be forwarded to decision-makers. No further response is required.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I2 – Susan Staebell (2 page[s])

I2

**From:** [WJS](#)  
**To:** [John Morgan](#)  
**Subject:** Re: DEIR Report  
**Date:** Friday, April 1, 2022 3:42:55 PM  
**Attachments:** [image001.png](#)

Mr. Morgan –

I realize that the Laguna Niguel City Center Mixed Use Project has been in the works for a number of years so I apologize for asking my questions so late in the process. However, I do notice a change in the proposal presented to the community a number of years ago, ie., condominium and apartment projects combined into just apartments

I2-1

I have many questions but they all come back to the main one – what “group” is the city targeting to live, work and congregate in this area?

Could you explain the zone change 19-01 including special purpose private facilities to provide a variety of government and social services. What exactly are special purpose **private** facilities? Is this considered the “creative office”? Would this be a City run facility?

I2-2

Since the County requires a significant residential component, is 275 units a magic number, or could the quantity be reduced? Will the City/County require 10% or more as affordable?

I2-3

The Gateway Specific Plan is being developed as proposed minus the 275 residential units. Is that to accommodate the 275 units in the Town Center plan and as of 3/22, is this still in place, as its certainly obvious that construction is ongoing at the Blu project.?

I2-4

There does not appear to be any discussion of the residential impact on the local schools. If the average household size is 2.56, then there are probably children.

I2-5

The Water Supply Assessment was not included as Appendix N1. We had another driest year in 2020-2021 and the Governor is talking about reducing usage. How would this impact the project?

I2-6

Thank you for your attention. I have been a resident of Laguna Niguel for 45 years and am interested in its future.

Susan Staebell

On Fri, Mar 18, 2022 at 12:18 PM John Morgan <[JMorgan@cityoflagunaniguel.org](mailto:JMorgan@cityoflagunaniguel.org)> wrote:

Hi Susan,

Please see link below. You should be able to download each chapter of the DEIR. For reference, the DEIR is purposefully broken out by chapter due to the overall file size and total page volume.

<https://www.cityoflagunaniguel.org/CityCenterDEIR>



## 2. Response to Comments

Best,



John Morgan | Development Services Manager

City of Laguna Niguel

30111 Crown Valley Parkway

Laguna Niguel, CA 92677

[jmorgan@cityoflagunaniguel.org](mailto:jmorgan@cityoflagunaniguel.org)

Tel: 949-362-4332

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**From:** WJS  
**Sent:** Thursday, March 17, 2022 5:55 PM  
**To:** John Morgan <[JMorgan@cityoflagunaniguel.org](mailto:JMorgan@cityoflagunaniguel.org)>  
**Subject:** DEIR Report

Mr. Morgan -

Is it possible to download a copy of the report?

Thank you.

Susan Staebell

## 2. Response to Comments

### I2. Response to Comments from Susan Staebell, dated April 1, 2022.

- I2-1 The Laguna Niguel City Center project is intended to have wide-ranging appeal in bringing people together and providing opportunities for interaction and active living, featuring a range of shopping, restaurant, service, employment, civic, entertainment, and leisure activities and uses. Refer to DEIR Section 3, *Project Description*, for a discussion of the project objectives and General Plan goals and policies. For reference, beginning with the City's adoption of the Laguna Niguel General Plan in 1992, the Town Center area was identified as an "Opportunity Area" planned for redevelopment.
- This comment does not include specific comments regarding the adequacy of the DEIR. The comment will be forwarded to decision-makers for consideration.
- I2-2 The description regarding the zoning is the description of the existing Public/Institutional zone for the fire station and library. Typical uses allowable in the Public/Institutional zone include government facilities, schools, churches, etc. The library is proposed to be integrated into the new proposed Mixed-Use Town Center zone. The existing Public/Institutional zone applicable to the fire station would remain. This is not considered the creative office component. Creative office uses would be a part of the Mixed-Use Town Center zone. No portion of the proposed project would be owned or operated by the City. The library and fire station would continue to be operated by the County of Orange and OCFA, respectively.
- I2-3 The number of units proposed is based on a number of factors, including economics. The residential portion is a major contributing factor in the project, featuring expansive outdoor gathering spaces for the community and the new state-of-the-art library. The proposed project is not proposing any affordable housing units. The DEIR analyzes the project as proposed and also assesses a reasonable range of alternatives with the potential to reduce or eliminate significant impact of the proposed project. Decisions regarding changes to the project, including a potential reduction in residential units, are not the venue of CEQA or the DEIR.
- I2-4 The proposed project is entirely separate from the Gateway Specific Plan. No changes to the existing Gateway Specific Plan buildout are proposed as a part of this project.
- I2-5 DEIR Section 5.13.3, *Public Services*, provides an analysis of the project's impacts on school services. The analysis concluded that impacts to schools would be less than significant. The proposed project would be responsible for paying fair-share development fees to the Capistrano Unified School District.
- I2-6 The DEIR and appendices are on the City's website. Please see the links below from the City's website regarding the Water Supply Assessment (Appendices N1 and N2). For further information regarding the project impacts on water supply and distribution, please refer to DEIR Section 5.17.2.

## 2. Response to Comments

- [https://www.cityoflagunaniguel.org/DocumentCenter/View/22120/Appendix-N1\\_Water-Supply-Assessment](https://www.cityoflagunaniguel.org/DocumentCenter/View/22120/Appendix-N1_Water-Supply-Assessment)
- [https://www.cityoflagunaniguel.org/DocumentCenter/View/22121/Appendix-N2\\_Water-Supply-Assessment-Letter](https://www.cityoflagunaniguel.org/DocumentCenter/View/22121/Appendix-N2_Water-Supply-Assessment-Letter)

## 2. Response to Comments

### LETTER I3 – Joseph Dreifus (1 page[s])

I3

From: K.J. DREIFUS  
Sent: Sunday, April 3, 2022 3:03 PM  
To: John Morgan <JMorgan@cityoflagunaniguel.org>  
Subject: City Center Project

Mr. John Morgan  
Develop Services Manager  
Laguna Niguel, CA

Dear John Morgan,

It would be good to see community electric car charging stations be incorporated into the project.

I3-1

Also increase traffic flow on Hillhurst Dr. due to increasing car trips from businesses and residents. Low profile speed bumps to mitigate speed should be considered. Also limiting street parking on Hillhurst Dr. for cars at the Hillhurst Condominiums exits. Curb side parking often blocks views of traffic that is obscured by high profile vehicles.

I3-2

Sincerely,

Joseph Dreifus

## 2. Response to Comments

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## 2. Response to Comments

### I3. Response to Comments from Joseph Dreifus, dated April 3, 2022.

- I3-1 As described in DEIR Section 5.7, *Greenhouse Gas Emissions*, the proposed project would provide electric vehicle charging as part of Mitigation Measures GHG-1 and GHG-2.
- I3-2 This comment provides recommendation related to Hillhurst Drive (on the opposite side of Crown Valley Parkway from the project site's entrance off this arterial). These comments are not specific to the proposed project or DEIR but will be forwarded to decision-makers for consideration.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I4 – Peter Burdon (1 page[s])

I4

**From:** [Peter Burdon](#)  
**To:** [John Morgan](#); [egennaway@cityoflagunaniguel.org](mailto:egennaway@cityoflagunaniguel.org); [Sandy Rains](#); [Fred Minaqar](#); [Rischi Paul Sharma](#); [Kelly Jennings](#)  
**Subject:** town center  
**Date:** Friday, April 29, 2022 12:18:08 PM

During Nov 2019 presentation at city hall the developer on numerous occasions said if the community doesn't want it they'll walk away.  
I have seen zero reports if the community is pro or con. The only thing i saw was a 1/26/2022 facebook posting by the city that eight out of ten are against. Will you please provide me the documents/survey that shows the community wants?  
275 condos/apartments means 500+ cars on daily bases, the majority using pacific island/alicia area. CRAZY!!  
Where is the water coming from to supply housing and the center?  
we're in a megadrought!!  
The noise from cars, traffic, deliveries late at night, air conditioning on top of buildings.  
The parking garage (up to 1100 spaces being built) @100ft from the rear of Via Reata units is so wrong. the visual impact is devastating along with noise, fumes, lighting, any of you want that? then what makes you think its ok to do?  
GREED GREED GREED, SHAME ON YOU!!!!!!  
peter burdon

I4-1



## 2. Response to Comments

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## 2. Response to Comments

### I4. Response to Comments from Peter Burdon, dated April 29, 2022.

I4-1 This letter expresses general opposition to the proposed project and includes some comments that are not related to the DEIR or environmental issues (e.g., community survey and results). These comments are not the purview of CEQA or the DEIR and no further response is required.

The comment also expresses concerns about the project's impact on water supply, traffic, noise, lighting, and air quality (fumes). Each of these topical areas is addressed in detail in the DEIR (see Sections 5.1, *Aesthetics*; 5-2, *Air Quality*; 5.11, *Noise*; and 5.17, *Utilities and Service Systems*).

The DEIR and appendices are on the City's website. Please see the links below from the City's website for Water Supply Assessment (Appendices N1 and N2). For further information regarding the project impacts on water supply and distribution, please refer to DEIR Section 5.17.2.

- [https://www.cityoflagunaniguel.org/DocumentCenter/View/22120/Appendix-N1\\_Water-Supply-Assessment](https://www.cityoflagunaniguel.org/DocumentCenter/View/22120/Appendix-N1_Water-Supply-Assessment)
- [https://www.cityoflagunaniguel.org/DocumentCenter/View/22121/Appendix-N2\\_Water-Supply-Assessment-Letter](https://www.cityoflagunaniguel.org/DocumentCenter/View/22121/Appendix-N2_Water-Supply-Assessment-Letter) Insert text.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I5a – Richard Leone (15 page[s])

I5a

April 24, 2022

**[CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND  
SUGGESTIONS REPORT]**

---

John Morgan  
Development Services Manager  
City of Laguna Niguel  
[JMorgan@cityoflagunaniguel.org](mailto:JMorgan@cityoflagunaniguel.org)  
(949) 362-4332

Dear Mr. Morgan

With respect to the Laguna Niguel City Center project the city of Laguna Niguel has done a great job working toward realizing a long overdue downtown. Please find the attached Opinions and Suggestions report prepared in collaboration with other neighbors all of whom are long-time residents of Laguna Niguel. Those neighbors, as myself, would like the project to reflect the history of Laguna Niguel and the surrounding cities of Laguna Beach, San Juan Capistrano, and San Clemente.

Whereas the project will be a welcome addition to the community a number of items with the concept design are addressed in this report for your consideration and in response to various sections of the Draft Environmental Impact Report (DEIR) with references listed in Appendix A. To date the forum for addressing these items has not been scheduled or advertised and providing suggestions at the earliest point of planning is crucial.

With thoughtful placement of residences, office buildings, parking, and library along with architectural design reflecting the historical significance of the area I am hopeful our Laguna Niguel City center will be admired and talked about by councils and citizens of surrounding cities for years to come.

Best Regards

  
Rich Leone

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Page 1

15a-1

## 2. Response to Comments

April 24, 2022

### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]

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## 2. Response to Comments

April 24, 2022

**[CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND  
SUGGESTIONS REPORT]**

### 1. General Plan Layout

The existing project layout is detailed in the following sections with proposed improvements and rationale. Overall the project might flow better for parking and location of residences if it were simply reversed or mirror imaged. Parking could be located at the existing library location and multi-story residences located at the tow of the slope at the rear of the project as was done for the proposed smaller residence complex; adjacent to existing homes. This suggested location for resident complexes are the same as the original recommendation provided by ULI in 2011. One of the strongest assets of El Niguel Country Club is its site planning. El Niguel Country Club should set a precedent when evaluating the site planning for the City Center. Figure 1 shows the proposed project layout while Figure 2 delineates the proposed re-layout of the project with rationale included in the following paragraphs.

#### 1.1 Location of Larger Condominiums Residences

The larger Multi-story (four level) condominium residence could be better placed away from the corner of Alicia Parkway and Sea Island drive and to the rear (again as was originally proposed by ULI). Since this is the largest building in the complex the current location places it as the centerpiece of the project while we believe the intent is to showcase the retail and restaurant amenities for the public. Additionally, the condominiums will create light pollution after hours along Alicia Parkway. In its current proposed location, the large condominium complex blocks the view of City Center so there is no visual connection to the project from the street. The visitors would never know it is there. The existing plan does place the smaller residential complex at the tow of the slope and at the rear which is optimal. This location connects visually and functionally with the existing Niguel Summit Condominiums and residences of Via Reata. The larger four-story residences might be better served by integrating it with the smaller complex and existing residences along the rear boundary. This location minimizes its visibility from the major streets and provides a more interesting view of City Center for the residents while eliminating traffic noise for them. This location could capitalize on the parking structure and prevent future overspill parking on local side streets rather than major thoroughfares; an existing problem for many of the multi-unit complexes in Laguna Niguel. The single-story office and retail buildings could then be placed along Alicia Parkway where architecturally consistent signage for businesses can provide their identification.

#### 1.2 Traffic and Parking

Traffic flow through the project might be improved or eliminated if access to the parking garage were fed directly from Crown Valley Parkway. The current location for the garage is tucked in the rear of property requiring cars to navigate its full length. Cars must enter from Alicia parkway and traverse the entire project before entering the structure. Cars from West bound Crown Valley Parkway must pass by City hall before turning left and travel half the distance of the project before entering the parking structure. The parking garage would be better served if while maintaining its current orientation was simply shifted to the right all the way to Crown Valley Parkway. This would allow direct primary access to/from Crown Valley Parkway eliminating traffic flow through the project. Secondary entrances could also be provided at the opposite ends of the structure. As previously mentioned the structure could be connected to underground parking for the re-located condominium residences while providing additional

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## 2. Response to Comments

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### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]

acreage for the footprint of those complexes. Parking with direct access would reduce the number of lanes of paving within the project providing more square footage to City Center for public areas and pathways whose design would reach back to early ranch-agrarian sensibilities as will be mentioned in section 2.

#### 1.3 Location of the Library

The proposed Library is located in the middle of the project. It might be better suited behind the proposed office buildings rather than in front.



Figure 1 Existing Project Plan



## 2. Response to Comments

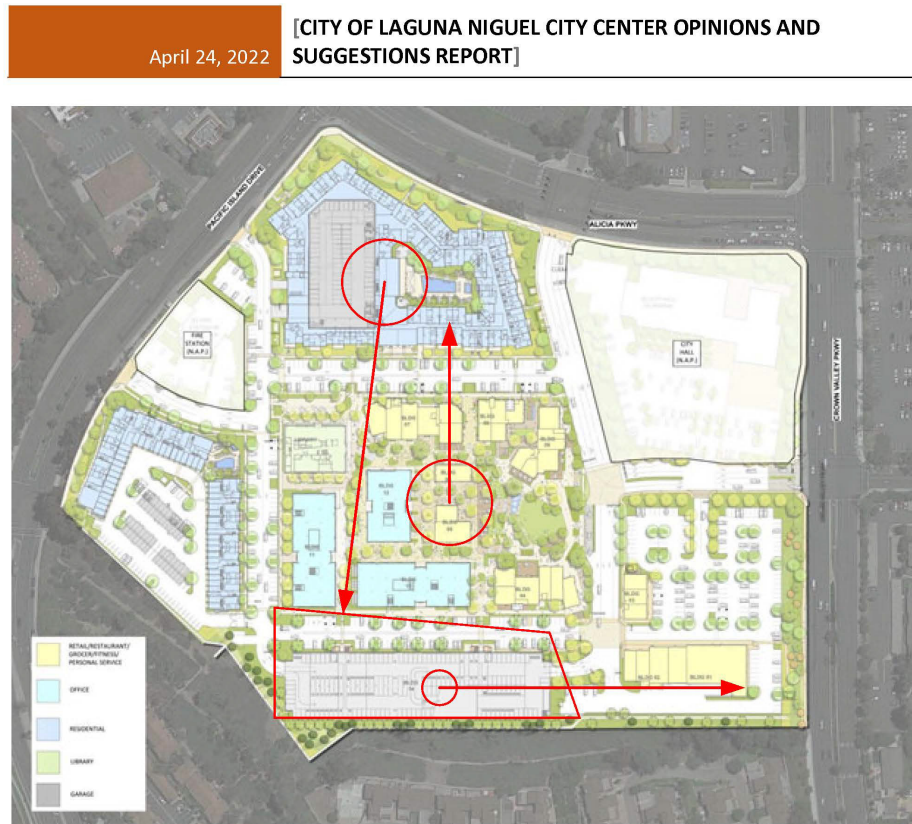


Figure 2 Laguna Niguel City Center Re-Layout

### 2. Building Design and Project Aesthetics

The original architect of the Laguna Niguel, a master planned community, was Victor Gruen from Los Angeles along with many noted architects, landscape architects (Bill Evans), engineers, and artists. At that time Laguna Niguel Corporation required the ranch development plan recognize the natural assets of Southern California and harmonize with the physical features of the terrain. Avco Corporation continued the theme in marketing Laguna Niguel as “Sea Country”. Over the following years, development in the city has not necessarily reflected the original ideas of “Sea Country” resulting in independent retail and office centers that do not establish an identity or focal point for the city. Over 300,000 trees were originally planted a few of which exist on the City Center project. Prior to the King of Spain owning Laguna Niguel the Juaneños indigenous peoples of California lived in the area. Most notably in and around Mission San Jan Capistrano. We feel the Laguna Niguel City Center design should reflect the rich Spanish and ranching history of “Sea Country”. We as residents, live here and still feel and



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### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]

experience that original vision and view this City Center, from a physical and community perspective, as an opportunity to define characteristics of our town based on its early vision, which is a softer and more authentic sensibility.

#### 2.2 Building Design

We believe the City Center will provide a better bond with the public if the architecture reflected its history like was done for our neighboring cities of San Juan Capistrano, Laguna Beach, Dana Point, and San Clemente. The proposed City Center building design could be more uniform and could minimize the number of different types materials giving it a less visually inconsistent look. As can be seen from the rendering in Figure 3, there is a lack of continuity. Simple forms and materials could be employed as they will be timeless. This approach was taken by Joanna Gaines of “Fixer Upper” fame in the design of the Silos retail project in Waco Texas. Here Joanna uses simple forms and consistent building design minimizing the number of materials used to create a quaint and nostalgic feel as can be seen in Figure 4. We feel the first element of design for City Center should be consistency as was done for Santa Barbara and San Clemente with their plaster walls and tile roofs.



*Figure 3 Proposed City Center Over-View Rendering*



*Figure 4 The Silos in Waco Texas Designed by Joanna Gaines*

## 2. Response to Comments

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### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]

As the region was once a ranching area a second element of design for the new City center could reflect simple shapes of agrarian buildings with gable forms such as the original Laguna Niguel riding club horse stables depicted in Figure 5. We were happy to see this had already been adopted in the proposed Country Market.

Again, the architecture could be a combination of historic and contemporary forms. The balance of these two styles is always a challenge to ensure one of the two styles doesn't overpower the other. This might include consideration to the following design elements:

- Simple agrarian building forms with gable, shed, hip and flat roofs
- Exterior materials on walls, roofs and details should be simplified and minimized, but should have a common thread between the historic and contemporary buildings.
- All sloping roofs should possibly be one material, e.g. terra cotta barrel tile roofs.
- Use of colors: the color palate should be simple, limited, and reflect colors that are found in nature.
- Building structures and accessories (awnings etc.) should use simple forms.
- Lighting should be indirect and warm, neon lights disallowed
- Signage should simple and consistent with each other in color and font rather than corporate logos with a wide variation of font and color
- Rooflines located adjacent to the pedestrian pathways should reference the human scale. Similar to Waco Texas Silos previously mentioned.
- Retail stores should avoid large display windows and should scale closer to a residential dimension. (E.g. avoid full store front glass with of displays of manequins)

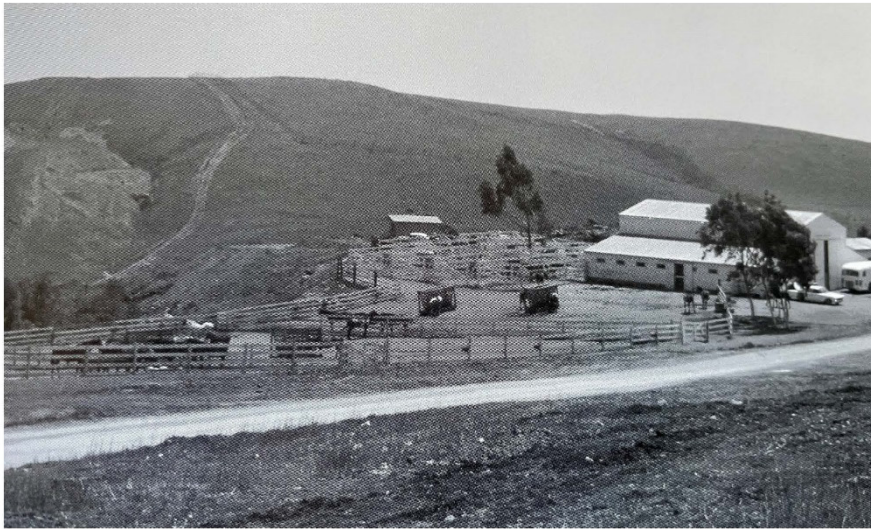
In addition to the simplification of roof materials, the same should apply to building walls, site walls, and hardscape. One of the better structures built in the last decade in Laguna Niguel is the senior residences at "Crestavilla" shown in Figure 6. Another example is South Shores church on Crown Valley Parkway in Dana Point (Figure 7).

In summary, keep the buildings and materials simple and timeless.

## 2. Response to Comments

April 24, 2022

### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]



*Figure 5 Original Laguna Niguel Riding Club Stable*



*Figure 6 Crestavilla Laguna Niguel*



## 2. Response to Comments

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### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]



*Figure 7 South Shores Church - Crown Valley Parkway*

## 2. Response to Comments

April 24, 2022

### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]

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#### 2.3 Fire Station Façade Update

In keeping with a consistent architectural design, the fire station façade could undergo an exterior update. This could follow the designs similar to the fire stations in Santa Barbara, San Clemente, and Laguna Beach with Spanish heritage styling. The hose drying tower and clock towers reflect the history and legacy of the fire department. Figure 9 shows a picture of the Santa Barbara fire station. The Newport Beach fire station on Balboa Island is similar in look and feel as shown in Figure 10.



*Figure 8 Existing Tired Laguna Niguel Fire Station*

## 2. Response to Comments

April 24, 2022

### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]



Figure 9 Santa Barbara Fire Station



Figure 10 Newport Beach Fire Station Balboa Island

## 2. Response to Comments

April 24, 2022

### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]

#### 2.4 Library Architectural Design

The proposed library architectural design is two story modern with energy inefficient ground to ceiling glass walls as shown in Figure 11. As suggested previously we believe the City Center project should have architectural consistency and the library design should perhaps be revisited. In keeping with our suggestion that buildings should have a common thread between the historic and contemporary buildings we believe the library exterior design should reflect its function as a noble institution of learning and reach back to the coastal Sea Country feel.



*Figure 11 Modern Design of Existing Proposed Library (Center)*

#### 2.5 Other Parking Areas

Besides the proposed parking structure, a noted necessity due to the number of potential visitors, other parking areas could be organic in nature like those of the Los Rios district in San Juan Capistrano and Aliso and Wood Canyon Wilderness Park as depicted in Figure 12 and Figure 13. This type of organic materials provides a connection to the natural assets of Southern California and harmonizes with the physical features of the terrain. Access to this additional parking should also be directly and immediately from the major streets reinforcing pedestrian access to the City Center. For example access to the parking lots in the Los Rios district in San Juan Capistrano is from the road alongside the river and not from the historic Los Rios street. This reinforces the walking/pedestrian quality and scale of the neighborhood which helps with its authenticity.



## 2. Response to Comments

April 24, 2022

### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]



*Figure 12 Organic Parking of Los Rios District*



## 2. Response to Comments

April 24, 2022

### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]



*Figure 13 Organic Parking of Aliso and Wood Canyon Park*

### 3. Landscape

The landscape design is difficult to review from existing renderings however we would be remiss to not mention the importance of trees to the project and their connection to the buildings. In particular mature trees provide not only an area to relax within the shade of their canopy but also establishes a variety of local birds. Mature trees should be brought in to replace the destruction of existing mature trees on the property those of which have been onsite site for nearly fifty years. An alternate approach would be to build around those existing mature trees if at all possible.

## 2. Response to Comments

April 24, 2022

### [CITY OF LAGUNA NIGUEL CITY CENTER OPINIONS AND SUGGESTIONS REPORT]

#### 4. Appendix A – Environmental Impact Report Paragraph References

This report addresses the following section in the DEIR:

Section 5.1 AESTHETICS:

Policy 4.1 - Emphasize attractive and functional urban design in new development

Sections 9-1-35.15 and 9 -1-45.14 (Outdoor Lighting).

Section 9-1-45.3 (Landscaping)

Subarticle 7 (Signs)

Subarticle 9 (Community Design Guidelines)

5.1.4 Environmental Impacts

5.1.4.1 METHODOLOGY

Aesthetic/Visual Character Analysis

Light and Glare Analysis

Section 5.15 TRANSPORTATION

## 2. Response to Comments

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## 2. Response to Comments

### **I5a      Response to Comments from Richard Leone, dated April 24, 2022.**

- I5a-1      The commenter compliments the City on a great job working on the Laguna Niguel City Center, noting it is a long overdue downtown. An Opinions and Suggestions report prepared by the commenter in collaboration with neighbors is attached to the letter for consideration by decision-makers. The commenter shares that he and his neighbors would like the project to reflect the history of Laguna Niguel and surrounding cities. This comment does not provide a specific comment on the contents or accuracy of the DEIR, and no response is required. The comment and Opinions and Suggestions report will be forwarded to decision-makers for consideration.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I5b – Richard Leone (1 page[s])

I5b

**From:** [RICHARD LEONE](#)  
**To:** [John Morgan](#)  
**Subject:** City of Laguna Niguel City Center - Citizens Opinions and suggestions - (DEIR)  
**Date:** Friday, April 29, 2022 2:02:25 PM  
**Attachments:** [Laguna Niguel City Center Project Final.pdf](#)

---

John Morgan  
Development Services Manager  
City of Laguna Niguel  
[JMorgan@cityoflagunaniguel.org](mailto:JMorgan@cityoflagunaniguel.org)  
(949) 362-4332

Dear Mr. Morgan

With respect to the Laguna Niguel City Center project the city of Laguna Niguel has done a great job working toward realizing a long overdue downtown. Please find the attached Opinions and Suggestions report prepared in collaboration with other neighbors all of whom are long-time residents of Laguna Niguel. Those neighbors, as myself, would like the project to reflect the history of Laguna Niguel and the surrounding cities of Laguna Beach, San Juan Capistrano, and San Clemente.

Whereas the project will be a welcome addition to the community a number of items with the concept design are addressed in this report for your consideration and in response to various sections of the Draft Environmental Impact Report (DEIR) with references listed in Appendix A. To date the forum for addressing these items has not been scheduled or advertised and providing suggestions at the earliest point of planning is crucial.

I5b-1

With thoughtful placement of residences, office buildings, parking, and library along with architectural design reflecting the historical significance of the area I am hopeful our Laguna Niguel City center will be admired and talked about by councils and citizens of surrounding cities for years to come.

Best Regards,

Rich Leone

## 2. Response to Comments

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## 2. Response to Comments

### **I5b      Response to Comments from Richard Leone, dated April 29, 2022.**

- I5b-1      The commenter provides comments on conceptual design elements of the proposed project, including the location of project features and architectural design, with an associated Opinions and Suggestions report including the same. The comments are policy in nature, focusing on design elements, and do not contain any specific concerns related to the adequacy or accuracy of the environmental analysis or the DEIR. Nevertheless, to the extent the comments could be construed as specific comments on the DEIR's analysis or conclusions, the commenter is referred to the relevant sections of the DEIR, which provide substantial and appropriate analysis of aesthetics, light and glare, and transportation, among other things.



## 2. Response to Comments

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## 3. Revisions to the Draft EIR

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### 3.1 INTRODUCTION

This section contains revisions to the Draft EIR based on (1) additional or revised information required to prepare a response to a specific comment; (2) applicable updated information that was not available at the time of Draft EIR publication; and/or (3) typographical errors. This section also includes additional mitigation measures to fully respond to commenter concerns as well as provide additional clarification to mitigation requirements included in the Draft EIR. The provision of these additional mitigation measures does not alter any impact significance conclusions as disclosed in the Draft EIR. Changes made to the Draft EIR are identified here in ~~strikeout text~~ to indicate deletions and in underlined text to signify additions.

### 3.2 UPDATES AND CORRECTIONS TO DRAFT EIR

This section provides overall corrections/updates/clarification to the Draft EIR related to document consistency. The City of Laguna Niguel staff has reviewed this material and determined that none of it constitutes the type of significant new information that requires recirculation of the Draft EIR for further public comment under CEQA Guidelines Section 15088.5.

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**Pages 1-19 through 1-21, 1-24, 1-26, 1-27, 1-29, and 1-30. Chapter 1, Section 1.9, Table 1-2, Summary of Environmental Impacts, Mitigation Measures/Conditions of Approval and Levels of Significance.** The following changes have been made to the text of the Draft EIR.

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### 3. Revisions to the Draft EIR

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## 3. Revisions to the Draft EIR

**Table 1-2 Summary of Environmental Impacts, Mitigation Measures/Conditions of Approval and Levels of Significance**

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures/Conditions of Approval	Level of Significance After Mitigation
<b>5.2 AIR QUALITY</b>			
<b>Impact 5.2-1:</b> The proposed project is consistent with the applicable air quality management plan.	Less than Significant	No mitigation measures or conditions of approval are required.	Less than Significant
<b>Impact 5.2.2:</b> Construction activities associated with the proposed project would generate short-term emissions in exceedance of South Coast AQMD's threshold criteria.	Potentially Significant	<p><b>Mitigation Measures</b></p> <p>AQ-1 The construction contractor(s) shall, at minimum, use equipment that meets the United States Environmental Protection Agency's (EPA) Tier 4 (Final) emissions standards for off-road diesel-powered construction equipment with more than 50 horsepower for <del>demolition</del>, site preparation and <u>rough grading/earthwork, and utilities trenching, and building construction activities that overlap with site preparation and rough grading activities.</u> Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by Tier 4 <u>Final</u> emissions standards for a similarly sized engine, as defined by the California Air Resources Board's regulations. Prior to construction, the project engineer shall ensure that all plans clearly show the requirement for EPA Tier 4 <u>Final</u> emissions standards for construction equipment over 50 horsepower for the specific activities stated above. During construction, the construction contractor shall maintain a list of all operating equipment associated with <del>building demolition</del> <u>these phases</u> in use on the site for verification by the City. The construction equipment list shall state the makes, models, and numbers of construction equipment on-site. Equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations.</p> <p>AQ-2 The construction contractor(s) shall implement the following measures to reduce construction exhaust emissions during demolition and soil hauling activities associated with demolition and <del>site preparation</del> <u>rough grading</u>:</p>	Less Than Significant

### 3. Revisions to the Draft EIR

**Table 1-2 Summary of Environmental Impacts, Mitigation Measures/Conditions of Approval and Levels of Significance**

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures/Conditions of Approval	Level of Significance After Mitigation
		<ul style="list-style-type: none"> <li>Demolition activities shall be prohibited from overlapping with <del>site preparation</del> and grading activities. Ground disturbing activities shall commence following the demolition of the existing structures on-site.</li> <li>Hauling of soil generated from rough grading activities shall be limited to a maximum of 3,626 miles per day. Air quality modeling was based on the assumption that the 3,626 miles per day would consist of 98 one-way haul trips per day with 14 cubic-yard trucks and a one-way haul distance of approximately 37 miles. <u>All plans shall identify the disposal site for exported material, the distance to the disposal site, and the number of permitted truck trips to the disposal site to remain under the miles per day limit.</u></li> </ul> <p>These requirements shall be noted on all construction management plans prior to issuance of any construction permits and verified by the City of Laguna Niguel during the demolition and soil-disturbing phases.</p>	

#### 5.4 CULTURAL RESOURCES

<b>Impact 5.4-1:</b> Development of the project could impact an identified historic resource pursuant to Section 15064.5.	Potentially Significant	<b>Mitigation Measures</b>  CUL-1 Prior to the issuance of grading permits, and for any subsequent permit involving excavation to increased depths, the project applicant shall provide a letter to the City of Laguna Niguel from a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards. The letters shall state that the applicant has retained this individual, and that the consultant will monitor all grading and other significant ground-disturbing activities in native soil. <u>Prior to the initiation of grading, the project applicant shall meet with the Juaneño Band of Mission Indians, Acjachemen Nation Cultural Resource Director to coordinate monitoring by a Native American monitor. During all ground-disturbing activities/earthwork, a professional Native American monitor procured by the Juaneño Band of Mission Indians, Acjachemen Nation, shall be present to monitor grading activities.</u> During initial monitoring, if the qualified	Less Than Significant
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## 3. Revisions to the Draft EIR

Table 1-2 Summary of Environmental Impacts, Mitigation Measures/Conditions of Approval and Levels of Significance

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures/Conditions of Approval	Level of Significance After Mitigation
		<p>archaeologist <u>and/or designated Native American representative</u> can demonstrate that the level of monitoring should be reduced or discontinued, or if the qualified archaeologist <u>and/or designated Native American representative</u> can demonstrate a need for continuing monitoring, the qualified archaeologist <u>and Native American representative</u>, in consultation with the Laguna Niguel Planning Division, may adjust the level of monitoring to circumstances as warranted. In the event archaeological resources are discovered during ground-disturbing activities, <del>a professional</del> <u>the archeological monitor and designated Native American monitor</u> shall have the authority to halt any activities <del>that may</del> adversely impacting potentially significant cultural resources until they can be formally evaluated. Suspension of ground disturbances in the vicinity of the discoveries shall not be lifted until the archaeological monitor <u>and/or designated Native American monitor</u> has evaluated discoveries to assess whether they are classified as significant cultural resources, pursuant to the California Environmental Quality Act (CEQA) <u>and determined construction activities can resume without damaging resources.</u></p> <p>If archaeological resources are <del>recovered</del> discovered, <del>they</del> <u>the</u> archaeologist and <u>designated Native American monitor</u> shall assess the most appropriate treatment for the resources, <u>prioritizing preservation in place.</u> When data recovery through excavation is the only feasible treatment method, <u>the archeologist, in consultation with the designated Native American monitor, shall prepare a data recovery plan with provisions for adequately recovering the scientifically consequential information from and about the historical resource and shall deposit studies with the California Historical Resources Regional Information Center. Recovered archeological resources shall be offered to a repository with a retrievable collection system and an educational and research interest in the materials, such as the John D. Cooper Center or California State University, Fullerton, or a responsible public or private institution with a suitable repository willing to and capable of accepting and housing the resource. If no museum or repository willing to accept the resource is found, the resource shall</u></p>	

### 3. Revisions to the Draft EIR

**Table 1-2 Summary of Environmental Impacts, Mitigation Measures/Conditions of Approval and Levels of Significance**

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures/Conditions of Approval	Level of Significance After Mitigation
		be considered the property of the City and may be stored, disposed of, transferred, exchanged, or otherwise handled by the City at its discretion.	
		If significant Native American cultural resources are discovered, for which a treatment plan must be prepared, the project applicant or the archaeologist on call shall contact the applicable Native American tribal contact(s). If requested by the Native American tribe(s), the project applicant or archaeologist on call shall, in good faith, consult on the discovery and its disposition (e.g., avoidance, preservation, reburial, return of artifacts to tribe).	
<b>Impact 5.4-2:</b> Development of the project could impact archaeological resources.	Potentially Significant	Mitigation Measure CUL-1 is required.	Less Than Significant
<b>Impact 5.4-3:</b> Development of the project would not disturb human remains.	Less Than Significant	No mitigation measures or conditions of approval are required.	Less Than Significant.
<b>5.6 GEOLOGY AND SOILS</b>			
<b>Impact 5.6-1:</b> Project occupants would be subject to strong ground shaking, however, project development would not subject people or structures to seismic-related ground failure including liquefaction and landslides.	Less Than Significant	No mitigation measures or conditions of approval are required.	Less Than Significant
<b>Impact 5.6-2:</b> The proposed project would not result in substantial soil erosion or loss of topsoil.	Less Than Significant	No mitigation measures or conditions of approval are required.	Less Than Significant
<b>Impact 5.6-3:</b> The proposed project would not result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse and is located on expansive soils that would not create a direct or indirect risk to life and property.	Less Than Significant	No mitigation measures or conditions of approval are required.	Less Than Significant
<b>Impact 5.6-4:</b> The proposed project would not include the installation of septic tanks.	No Impact	No mitigation measures or conditions of approval are required.	No Impact

## 3. Revisions to the Draft EIR

**Table 1-2 Summary of Environmental Impacts, Mitigation Measures/Conditions of Approval and Levels of Significance**

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures/Conditions of Approval	Level of Significance After Mitigation
<b>Impact 5.6-5:</b> The project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	Potentially Significant	<p><b>Mitigation Measures</b></p> <p>GEO-1 Prior to the issuance of grading permits, and for any subsequent permit involving excavation to increased depths, the project applicant shall provide a letter to the City of Laguna Niguel from a qualified paleontologist and paleontological monitor who meet the Secretary of the Interior's Professional Qualifications Standards. The letters shall state that the applicant has retained these individuals, and that the consultant(s) will monitor <u>all</u> grading and significant ground-disturbing activities in areas identified as likely to contain paleontological resources during project construction. These areas are defined as all excavations of previously undisturbed sediments in areas mapped as the Capistrano Formation and in areas of Quaternary alluvium where excavations would exceed depths of five feet.</p> <p>The qualified paleontologist and/or paleontological monitor shall attend all pre-grade meetings to ensure all construction personnel <u>that would conduct grading and significant ground-disturbing activities</u> receive training to <u>ensure recognition of recognize</u> fossil materials in the event any are <del>discovered</del> <u>uncovered</u> during earthwork.</p> <p>The qualified paleontological monitor shall be equipped to salvage fossils and samples of sediments as they are unearthed to avoid construction delays, and shall be empowered to temporarily halt or divert grading activities in order to recover the fossil specimens. <u>The paleontological monitor may establish a protected buffer around a discovery for the duration of recovery of the discovery.</u></p> <p>If previously undiscovered paleontological resources are discovered on-site, suspension of ground disturbances in the vicinity of the discoveries shall not be lifted until the paleontological monitor has evaluated discoveries to assess whether they are classified as <u>significant unique</u> paleontological resources, pursuant to the California Environmental Quality Act (CEQA) <u>and authorized the resumption of construction activities.</u> Recovered specimens shall be</p>	Less Than Significant



### 3. Revisions to the Draft EIR

**Table 1-2 Summary of Environmental Impacts, Mitigation Measures/Conditions of Approval and Levels of Significance**

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures/Conditions of Approval	Level of Significance After Mitigation
		<p>prepared to a point of identification and permanent preservation, including washing of sediments to recover small invertebrates and vertebrates. Found specimens shall then be curated into the John D. Cooper Center in Santa Ana or a responsible public or private institution with a suitable repository willing to and capable of accepting and housing the resource. If no museum or repository is willing to accept the resource is found, the resource, it shall be considered the property of the City and may be stored, disposed of, transferred, exchanged, or otherwise handled by the City at its discretion to avoid a significant impact</p> <p>Upon completion of construction activities, the qualified paleontological monitor shall prepare a report of paleontological resource findings within 30 days of construction completion. The report shall include an appended appendix itemized inventory of recovered resources, documentation of each locality, and interpretation of recovered fossils. The report and inventory, when submitted and approved by the City, will signify completion of the program to mitigate impacts to paleontological resources.</p>	

#### 5.8 HAZARDS AND HAZARDOUS MATERIALS

<b>Impact 5.8-1:</b> Project construction and operations would involve the transport, use, and/or disposal of hazardous materials.	Potentially Significant	<p>Mitigation Measures</p> <p>HAZ-1 Prior to issuance of grading permits, the project applicant shall prepare <del>and implement</del> a soils management plan (SMP) for the vehicle maintenance facility and the former fire station <del>to address removal of contaminated soil prior to grading of the area</del>. The SMP shall be approved by the City and the appropriate oversight agency, such as Orange County Environmental Health Department or Department of Toxic Substances Control. Prior to grading, <del>implementation of the SMP shall occur, including proper identification and removal of petroleum (&gt;100 mg/kg) and VOC-impacted soil shall occur in order to comply with applicable limits for the proposed land uses</del>. The SMP will ensure that safe and appropriate handling, transportation, off-site disposal, reporting, oversight, and protocols are used during removal of the contaminated soil. The SMP shall establish</p>	Potentially Significant
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## 3. Revisions to the Draft EIR

**Table 1-2 Summary of Environmental Impacts, Mitigation Measures/Conditions of Approval and Levels of Significance**

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures/Conditions of Approval	Level of Significance After Mitigation
		methodology and procedures to perform additional testing during grading if unknown hazardous materials are encountered. If, during grading activities, additional contamination is discovered, grading within that area shall be temporarily halted and redirected around the area until the appropriate evaluation and follow-up remedial measures are implemented in accordance with the SMP to render the area suitable to resume grading activities. Soil remediation and/or export of hazardous materials must be performed in accordance with the appropriate agency's requirements (Regional Water Quality Control Board, Orange County Environmental Health Department, Department of Toxic Substances Control, and/or South Coast Air Quality Management District).	
	HAZ-2	After grading is complete, the project applicant shall perform a post-grading soil vapor survey within the footprint of future structures in the areas of the vehicle maintenance facility and former fire station. The survey <u>results</u> shall be approved by the City and the appropriate oversight agency (OC EHD or DTSC) and document soil vapor levels less than applicable limits for the proposed land uses prior to sign-off of the grading permit.	
	HAZ-3	Prior to the issuance of a demolition permit for any structure on the County Library property, the project applicant shall conduct a comprehensive survey for asbestos-containing materials to identify the locations and quantities of asbestos-containing materials in above-ground structures. The project applicant shall retain a licensed or certified asbestos consultant to inspect buildings and structures on-site. If asbestos is discovered, the project applicant shall retain a licensed or certified contractor to remove and dispose of all asbestos containing materials in accordance with the appropriate South Coast AQMD asbestos-containing material removal practices and procedures.	
<b>Impact 5.8-2:</b> The project site is on a list of hazardous materials sites and, as a result,	Potentially Significant	Mitigation Measures HAZ-1 and MM HAZ-2 are required.	Less Than Significant

### 3. Revisions to the Draft EIR

**Table 1-2 Summary of Environmental Impacts, Mitigation Measures/Conditions of Approval and Levels of Significance**

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures/Conditions of Approval	Level of Significance After Mitigation
would create a hazard to the public or the environment.			
<b>Impact 5.8-3:</b> The project site is not located in the vicinity of an airport or within the jurisdiction of an airport land use plan.	No Impact	No mitigation measures or conditions of approval are required.	No Impact
<b>Impact 5.8-4:</b> Project development could affect the implementation of an emergency responder or evacuation plan.	Less Than Significant	No mitigation measures or conditions of approval are required.	Less Than Significant
<b>Impact 5.8-5:</b> The project site is in adjacent to a Very High Fire Hazard Severity Zone and could expose structures and/or residences to fire danger.	Less Than Significant	No mitigation measures or conditions of approval are required.	Less Than Significant

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**Pages 3-9 to 3.10, Section 3.3.1.1, Proposed Plan.** The following square footages by land use have been refined.

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**Daily Needs Retail.** The Crown Valley entrance would include approximately 19,920 square feet of daily needs retail and convenient surface parking for uses such as a gourmet market, specialty foods, culinary supplies, and restaurants. All buildings would be single story.

**Retail Village Core.** The Crown Valley and Alicia Parkway entrances would converge at the main retail village. The overall village comprises approximately ~~57,210~~ 43,390 square feet of single-story retail built around a central open space plaza area (Town Green), all linked by landscaped paseos that would feature shade trees, outdoor lighting, soft seating areas, gardens, and water features. The buildings are designed as single story with patios that open onto the Town Green area. The Town Green would be open to the public and be improved with outdoor performance/event spaces and other spaces to be programmed by the applicant and others for open air farmers markets, art shows, live music, food and wine festivals, yoga in the park, outdoor movie nights, and more. Potential tenant uses in the Retail Village Core include restaurants; markets; wine stores; breweries; cooking schools; independent-chef-driven food concepts and restaurants; hand-crafted coffee house; specialty markets such as wine, cheese stores, and butchery; retail shops; small artisanal food purveyors; kiosks; educational space; and performance/event space. The buildings would be architecturally distinctive and designed with a natural material such as wood, stone, and plaster siding; crafted storefronts featuring wood and steel windows with fabric awnings and distinctive handcrafted signage; and gabled roofs with standing-seam metal and cedar-shake roofs. Many of the restaurants would feature exposed beamed ceilings, open kitchens, and exterior patio seating areas with landscaped gardens, herb gardens, wood and steel trellis, canvas awnings or umbrellas, fire pits, water features, and wall-mounted fountains.

**Health/Wellness-Focused Retail and Medical Office.** Directly adjacent to the retail village would be a two-story building totaling ~~37,899~~ 34,654 square feet dedicated to health and wellness that provides for uses such as spin classes, yoga, Pilates, cross-training, stretch/meditation classes, medical office, physical therapy, health food cafes, and active lifestyle shops.

**Creative Office Space.** Directly adjacent to the retail village would be two creative office buildings totaling ~~43,522~~ 60,597 square feet in two- and three-story structures. The buildings would feature creative spaces with high loft ceilings, skylights, exposed plenum mechanical systems, operable windows, and overhead vertical-lift exterior doors that open to outdoor patios offering soft seating areas with indoor-outdoor collaborative workspaces and recreation areas. The office spaces would support daytime workspace that would benefit from walkability to retail, restaurant, and civic spaces as well as residential housing, to complete a fully integrated live-work-play project. The two- and three-story office component is a critical driver in providing an active daytime population to support the proposed commercial uses. The buildings are designed with modern, open floor plans, allowing employees to take a break from their daily work to recharge among open space, shops, and dining options.

**Library.** The existing Laguna Niguel branch of the Orange County Library system would be replaced with a larger, architecturally significant and modern new library. The existing library is approximately 14,400 gross square feet while the project's proposed library would be approximately 16,290 gross square feet. The total

### 3. Revisions to the Draft EIR

usable square footage would be increased from about 11,100 square feet in the current library to about 13,100 square feet in the new library and would also include approximately 2,600 square feet of outdoor programmable space, expanding the useable area.

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**Page 3-11, Section 3.3.1.1, Figure 3-4, Proposed Site Plan.** Figure was updated with the current site plan. The 2nd library location block located over Building 11 was removed.

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The updated figure is shown in on the next page.

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**Page 3-18, Section 3.3.1.1, Proposed Plan.** The following change is made to the list of discretionary actions and approvals for the proposed project.

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- Zone Change ZC 19-01. The majority of the project site is zoned “Community Commercial” (CC) District, which allows for a variety of retail, restaurant, office, personal service, hotel, and other nonresidential uses. The portion of the project site that includes the library and OCFA Fire Station No. 5 are zoned “Public/Institutional,” which allows a wide range of public, semi-public, and special-purpose private facilities to provide a variety of government and social services. The applicant is proposing a change in the property’s zoning designation to “Mixed-Use Town Center” (MU-TC) District (see Figure 3-6, Proposed Zoning Districts), excluding OCFA Fire Station No. 5.
- Zoning Code Amendment ZCA 19-01. Accompanying Zone Change ZC 19-01, a zoning code amendment is proposed to establish the mix of permissible land uses and development standards for the new MU-TC District.
- Vesting Tentative Tract Map VTTM 19024. The applicant is proposing a vesting tentative tract map to subdivide the property into a total of 21 lots, including 17 numbered lots and 4 lettered lots.
- Site Development Permit SDP 19-03. A site development permit is required for all projects that involve construction of any structure, except in certain limited circumstances. The project involves construction of multiple structures. The applicant is therefore proposing a site development permit for the project. A site development is also proposed because the project includes over 5,000 cubic yards of earth work and to allow alternative development standards for a reduction in the minimum depth of boundary landscaping at the base of an ascending slope for a property line segment along proposed Residential 2 (Lot 14).
- Use Permit UP 19-22. A use permit request to allow multifamily apartment homes on the project site per the new MU-TC District.

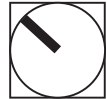
Certification of the Environmental Impact Report and Adoption of Findings of Fact and a Mitigation Monitoring and Reporting Program. An EIR is required by CEQA, and the City must certify the EIR and adopt Findings of Fact and a Mitigation Monitoring and Reporting Program before approving the above-listed project entitlements.

Figure 3-4 - Proposed Site Plan  
3. Project Description



--- Project Boundary

0 250  
Scale (Feet)



Source: OJB, 2021

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**Page 3-45, Section 3.3.2, Project Phasing and Construction; Pages 3-35, 3-36, Section 3.3.1.1, Proposed Plan.** The following change is made to refine the haul trip information on which the air quality modeling for construction impacts was based.

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#### *Demolition*

Demolition is anticipated to last approximately three months. A total of 18 workers would be on-site each day, on average. A total of four water trucks would be on-site each day on average. There would be approximately 2,700 tons demolished, which would necessitate a total of approximately 169 round-trip truck trips with 16-ton truck-carrying capacity for noncrushed material. There would be approximately ~~20~~5 daily round-trip truck trips, assuming a duration of approximately ~~8-5~~42 days.

#### *Site Preparation, Grading, and Utilities*

Site preparation, rough grading, and utilities work are anticipated to last approximately seven months. A total of 30 workers would be on-site each day on average. A total of ~~four~~ water trucks would be on-site each day on average. Site preparation and rough grading would require approximately 83,000 cubic yards of exported fill.<sup>[1]</sup> This phase would result in a total of 5,929 truck round-trips with 14 cubic yards of carrying capacity. ~~Assuming a maximum of 3,626 miles/day and 35 miles to the land fill, truck~~ Following Mitigation Measure AQ-2, truck trips associated with the proposed project would be about 54-50 daily round-trips for over 116 days for rough grading soil export and 54 daily round-trips over 4 days for site preparation soil export, which would overlap with rough grading soil export.

#### *Fine Grading and Street Paving*

Fine grading and street paving work is anticipated to last approximately three months starting the same time as building construction. A total of ~~23-12~~ workers would be on-site each day on average. A total of four water trucks would be on-site each day on average. This phase would require an average of ~~40-5~~ daily round-trip paving truck trips for an approximately ~~20-67~~-day duration for asphalt deliveries. Hauling would include approximately 10,000 cubic yards of imported fill and 15,000 cubic yards of exported fill. Hauling would require a total of 1,786 truck round-trips with 14 cubic yards truck-carrying capacity. Truck trips would be ~~27-42~~ daily round-trips, assuming ~~66-43~~ days of hauling.

#### *Building Construction, Architectural Coating, and Landscaping*

Building construction, architectural coating, and landscaping work is anticipated to last approximately 29 months. On average, this phase would require ~~150-203~~ workers on-site every day ~~and an average of two water trucks every day~~. An average of 40 daily round-trip truck trips would be required.

Footnote [1] The project requires a total of approximately 98,000 cubic yards of export. Approximately 83,000 cubic yards of export would occur during the site preparation and rough grading phase, and the remaining 15,000 cubic yards would occur during the fine grading and street paving phase.



### 3. Revisions to the Draft EIR

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**Pages 5.4-1 Cultural Resources.** The following text is added to reflect the Historic Built Environment Assessment prepared for the proposed project.

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Cultural resources comprise archaeological and historical resources. Archaeology studies human artifacts, such as places, objects, and settlements that reflect group or individual religious, cultural, or everyday activities. Historical resources include sites, structures, objects, or places that are at least 50 years old and are significant for their engineering, architecture, cultural use or association, etc. In California, historic resources cover human activities over the past 12,000 years. Cultural resources provide information on scientific progress, environmental adaptations, group ideology, or other human advancements. This section of the Draft Environmental Impact Report (DEIR) evaluates the potential for implementation of the Laguna Niguel City Center Mixed Use Project (proposed project) to impact cultural resources in the City of Laguna Niguel (City). Tribal Cultural Resources are analyzed in Section 5.16. The analysis in this section is based in part on the following information:

- *Cultural Resources Summary for the Agora Downtown Laguna Niguel Project*, Cogstone, March 30, 2016.
- *Historic Built Environment Assessment for the Laguna Niguel City Center Mixed-Use Project, City of Laguna Niguel, Orange County, California*, Cogstone, May 23, 2022.

A complete copy of the *Cultural Resources Summary* is study is in the technical appendices of this DEIR (Appendix E).

A copy of the *Historic Built Environment Assessment* is included as Appendix B to this FEIR.

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**Pages 5.4-8, 9 Cultural Resources.** The following text is added to reflect the findings Historic Built Environment Assessment prepared for the proposed project.

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**Impact 5.4-1: Development of the project would not impact an identified historic resource pursuant to Section 15064.5. [Threshold C-1]**

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The CEQA Guidelines Section 15064.5 defines historic resources as resources listed or determined to be eligible for listing by the State Historical Resources Commission, a local register of historical resources, or the lead agency. Generally, a resource is considered “historically significant” if it meets one of the following criteria:

- Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage.
- Is associated with the lives of persons important in our past.
- Embodies the distinctive characteristics of a type, period, region or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
- Has yielded, or may be likely to yield, information important in prehistory or history.

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The records search conducted for the project site identified two previously recorded cultural resources within the project site—CA-ORA-33 and CA-ORA-131. The pedestrian survey and cultural resources study conducted for the project site determined that CA-ORA-33 and CA-ORA-131 are no longer extant and are completely covered by urban built environment. No built historical resources are recorded at the project site.

Cogstone conducted a Historic Built Environmental Assessment for the proposed project (see Appendix B to this FEIR). Buildings over 45 years old in the project area were identified and evaluated. Once identified, historic built environment resources were examined to ascertain if the building is recommended as eligible for listing as a historic resource at the local, state, or national level and if the original integrity of the resource remains intact. Seven aspects of integrity were considered as part of the eligibility determination. No buildings on the project site were identified as historical resources. The courthouse is older than 45 years (built in 1970), but did not meet the criterion for historic eligibility. Thus, no potentially significant impacts were identified and no mitigation is required.

Although it was determined that the known subsurface resources identified within the project site no longer exist, unknown subsurface resources that qualify as historical resources could still exist within the project site. The presence of previously recorded prehistoric archaeological sites in the vicinity of the project suggests the potential for buried, unknown archaeological resources within the project site. If subsurface archaeological resources are present within the project site, they may qualify as historical resources pursuant to CEQA and could be subject to potential impacts as result of project implementation. Therefore, the project has the potential to cause a substantial change in the significance of a historical resource. Mitigation Measure CUL-1 would require archaeological monitoring during construction in native soils, and appropriate treatment of unearthed historical resources during construction. Potential impacts to unknown historical resources would be mitigated to less than significant through the implementation of Mitigation Measure CUL-1.

***Level of Significance Before Mitigation:*** Potentially Significant.

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**Page 5.8-17, Section 5.8, Hazards and Hazardous Materials.** The following text is revised for consistency.

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Mitigation measures HAZ-1 ~~through and~~ HAZ-32 would require the preparation of a soil management plan, which will assist in the identification and safe removal of petroleum and VOC-impacted soil, post-grading soil vapor survey to verify hazards are fully remediated, and asbestos survey to prevent the unanticipated release of asbestos-containing materials. Impacts related to the transport, use, and/or disposal of hazardous materials would be mitigated to less than significant with the implementation of mitigation measures HAZ-1 ~~through and~~ HAZ-32.

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**Page 5.8-19, Section 5.8, Hazards and Hazardous Materials.** The following mitigation measures are revised for clarity.

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HAZ-1	Prior to issuance of grading permits, the project applicant shall prepare <del>and implement</del> a soils management plan (SMP) for the vehicle maintenance facility and the former fire station <u>to</u>
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address removal of contaminated soil prior to grading of the area. The SMP shall be approved by the City and the appropriate oversight agency, such as Orange County Environmental Health Department or Department of Toxic Substances Control. Prior to grading, proper identification and removal of petroleum (>100 mg/kg) and VOC-impacted soil ~~shall occur~~ in order to comply with applicable limits for the proposed land uses. The SMP will ensure that safe and appropriate handling, transportation, off-site disposal, reporting, oversight, and protocols are used during removal of the contaminated soil. The SMP shall establish methodology and procedures to perform additional testing during grading if unknown hazardous materials are encountered. If, during grading activities, additional contamination is discovered, grading within that area shall be temporarily halted and redirected around the area until the appropriate evaluation and follow-up remedial measures are implemented in accordance with the SMP to render the area suitable to resume grading activities. Soil remediation and/or export of hazardous materials must be performed in accordance with the appropriate agency's requirements (Regional Water Quality Control Board, Orange County Environmental Health Department, Department of Toxic Substances Control, and/or South Coast Air Quality Management District).

HAZ-2      After grading is complete, the project applicant shall perform a post-grading soil vapor survey within the footprint of future structures in the areas of the vehicle maintenance facility and former fire station. The survey results shall be approved by the City and the appropriate oversight agency (OC EHD or DTSC) and document soil vapor levels less than applicable limits for the proposed land uses prior to sign-off of the grading permit.

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**Page 7-7, Section 7.3.1 Environmental Impact Comparison.** The following text is added to reference the project traffic engineer's VMT evaluation for the project alternatives as included in Appendix C of this FEIR.

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#### 3.2.1 Environmental Impact Comparison

Table 7-2, *Environmental Impact Comparison: Project Alternatives*, assesses the relative impact for each project alternative in comparison to the proposed project. All the environmental categories evaluated for the proposed project in this Draft EIR are compared. The table shows whether the impact is "less than" (LT), "greater than" (GT), or "similar to" (S) the respective environmental impact for the proposed project. The table also provides a notation if an alternative is expected to eliminate a significant impact of the proposed project (reduce its severity to less than significant).

The relative VMT impact of the project alternatives in comparison to the proposed project as summarized in Table 7-2, *Transportation*, is supported by the traffic engineer's alternative assessment included in Appendix C of this FEIR.

### 3. Revisions to the Draft EIR

## 3.3 DEIR REVISIONS IN RESPONSE TO WRITTEN COMMENTS

The following text has been revised in response to comments received on the Draft EIR.

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**Page 5.13-2, Section 5.13, Public Services.** The following mitigation measure is added in response to Comment A1-1 from the Orange County Fire Authority.

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This authority protects over ~~4-5~~1.9 million residents via ~~74~~77 fire stations throughout Orange County. OCFA provides comprehensive emergency services to the residents of Laguna Niguel through a regional approach. Laguna Niguel is part of OCFA's Division 3 and Division 5, which encompasses the southern and eastern areas of Orange County.

OCFA is an "all risk" emergency response provider. It primarily responds to medical and fire emergencies, but also to a wide range of other emergencies, such as hazardous materials spills, floods, water rescues, earthquakes, bomb threats, and terrorism, etc. OCFA also participates in disaster planning as it relates to emergency operations, which includes high occupant areas and school sites, and may participate in community disaster drills planned by others. Resources are deployed based on regional services delivery system, assigning personnel and equipment to emergency incidents without regard to jurisdictional boundaries. The equipment used by the department has the versatility to respond to both urban and wildland emergency conditions.

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**Page 5.9-7 Section 5.9, Hydrology and Water Quality.** The following text has been updated in response to Comment A2-1 from Orange County Public Works.

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This City-owned storm drain ~~(No. J03P07) is Orange County Flood Control District Facility No. J03P07 and~~ connects off-site to a 96-inch storm drainpipe, which conveys runoff to Sulphur Creek Channel and Sulphur Creek Reservoir.

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**Page 5.4-3 Section 5.4, Cultural Resources.** The following text has been revised in response to Comment O1-1 from the Juaneño Band of Mission Indians, Acjachemen Nation.

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Laguna Niguel, including the project site, is situated in a region that was inhabited by the Luiseño, Gabrieleño, and the Juaneño–Acjachemen Nation Native American groups. Archaeological investigations along coastal Southern California have produced a diverse range of human occupation, extending from approximately 10,000 years ago beginning with the early Holocene into the prehistoric and historic periods. The Juaneño–Acjachemen Nation inhabited areas throughout Orange County, from the Pacific Ocean to the west, areas of Los Angeles County to the north, areas in Riverside County to the east, and areas to the south currently known as Camp Pendleton.

### 3. Revisions to the Draft EIR

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**Page 5.4-10 Section 5.4, Cultural Resources.** The following text has been added in response to Comment O1-2 from the Juaneño Band of Mission Indians, Acjachemen Nation.

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#### 5.4.7 Mitigation Measures

##### Impacts 5.4-1 and 5.4-2

**CUL-1** Prior to the issuance of grading permits, and for any subsequent permit involving excavation to increased depths, the project applicant shall provide a letter to the City of Laguna Niguel from a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards. The letters shall state that the applicant has retained this individual, and that the consultant will monitor all grading and other significant ground-disturbing activities in native soil. Prior to the initiation of grading, the project applicant shall meet with the Juaneño Band of Mission Indians, Acjachemen Nation Cultural Resource Director to coordinate monitoring by a Native American monitor. During all ground-disturbing activities/earthwork, a professional Native American monitor procured by the Juaneño Band of Mission Indians, Acjachemen Nation, shall be present to monitor grading activities. During initial monitoring, if the qualified archaeologist and/or designated Native American representative can demonstrate that the level of monitoring should be reduced or discontinued, or if the qualified archaeologist and/or designated Native American representative can demonstrate a need for continuing monitoring, the qualified archaeologist and Native American representative, in consultation with the Laguna Niguel Planning Division, may adjust the level of monitoring to circumstances as warranted. In the event archaeological resources are discovered during ground-disturbing activities, the archeological monitor and designated Native American monitor shall have the authority to halt any activities that may adversely impact potentially significant cultural resources until they can be formally evaluated. Suspension of ground disturbances in the vicinity of the discoveries shall not be lifted until the archaeological and/or designated Native American monitor has evaluated discoveries to assess whether they are classified as significant cultural resources, pursuant to the California Environmental Quality Act (CEQA) and determined construction activities can resume without damaging resources.

If archaeological resources are discovered, the archeologist and designated Native American monitor shall assess the most appropriate treatment for the resources, prioritizing preservation in place. When data recovery through excavation is the only feasible treatment method, the archeologist, in consultation with the designated Native American monitor, shall prepare a data recovery plan with provisions for adequately recovering the scientifically consequential information from and about the historical resource and shall deposit studies with the California Historical Resources Regional Information Center. Recovered archeological resources shall be offered to a repository with a retrievable collection system and an educational and research interest in the materials, such as the John D. Cooper Center or California State University, Fullerton, or a responsible public or private institution with a suitable repository willing to and capable of accepting and housing the resource. If no

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museum or repository willing to accept the resource is found, the resource shall be considered the property of the City and may be stored, disposed of, transferred, exchanged, or otherwise handled by the City at its discretion.

If significant Native American cultural resources are discovered for which a treatment plan must be prepared the project applicant or the archaeologist on call shall contact the applicable Native American tribal contact(s). If requested by the Native American tribe(s), the project applicant or archaeologist on call shall, in good faith, consult on the discovery and its disposition (e.g., avoidance, preservation, reburial, return of artifacts to tribe).

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CITY OF LAGUNA NIGUEL