

**Olson Townhomes on Talbert Ave
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION**

Planning Application No. 2021-0084

RESPONSE TO COMMENTS

Prepared for:



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Huntington Beach, California 92648

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April 2022



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1 INTRODUCTION

A draft Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the proposed Olson Townhomes on Talbert Ave (Proposed Project) and made available for public comment for a 20-day public review period from March 31, 2022, to April 20, 2022. In accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15074(b) (14 CCR 15074(b)), before approving the Proposed Project, the City of Huntington Beach, as the lead agency under CEQA, will consider the MND with any comments received during this public review period. Specifically, Section 15074(b) of the CEQA Guidelines (14 CCR 15074(b)) states the following:

“Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process. The decision-making body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency’s independent judgment and analysis.”

2 RESPONSE TO COMMENTS

The organizations, persons, and public agencies that provided substantive written comments on the environmental issues addressed within the IS/MND are listed in Table 1. Although CEQA (California Public Resources Code, Section 21000 et seq.) and the CEQA Guidelines (14 CCR 15000 et seq.) do not explicitly require a lead agency to provide written responses to comments received on a proposed IS/MND, the lead agency may do so voluntarily. A copy of each letter with bracketed comment numbers on the right margin is followed by the response for each comment as indexed in the letter. Comment letters and specific comments are given letters and numbers for reference purposes.

The following responses to comments include a summary statement to identify if the response will introduce “new significant information” under any of the four categories identified in Section 15088 et seq. of the California Environmental Quality Act (CEQA) Guidelines or if it does not introduce “new significant information.” The four general categories are:

- New significant impacts
- Significant increases in the severity of impacts
- Feasible alternatives or mitigation that would reduce significant impacts
- Identification of inadequacies in the analysis

The comments submitted do not invalidate the findings in the IS/MND or require additional analysis or mitigation to be incorporated. No new information, new impacts, or deficiencies are identified that have not been addressed by the IS/MND. Therefore, the IS/MND remains the appropriate and reasonable determination as determined by the Lead Agency. Responses to comments are provided herein.



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Table 1 - Organizations, Persons, and Public Agencies that Commented on the IS/MND

Comment Letter	Commenting Organization, Person, or Public Agency	Date
1	Hanh Vo	April 4, 2022
2	Judy Johnston	April 6, 2022
3	Caroline Kouyoumijian	April 7, 2022
4	Vincent Bui	April 7, 2022
5	Stephanie Reid McGinley	April 8, 2022
6	Cindy Do	April 8, 2022
7	Martin Thibault	April 11, 2022
8	Cesar Morales	April 18, 2022
9	Debra Topham	April 20, 2022
10	Stephanie Reid McGinley	April 20, 2022
11	Pat Erdelyi	April 20, 2022
12	Amy Ray	April 20, 2022

2.1 Comment Letter A – Hanh Vo

From: [hanh.vo](#)
To: [Ramos, Ricky](#)
Subject: PROJECT AT 8371-8461 TARBERT AVE , HB
Date: Monday, April 4, 2022 10:28:57 PM

DEAR MR RAMOS,
WE ARE 100% SAYING NO TO THIS PROJECT!
THANK YOU
17943 POINT REYES ST, FOUNTAIN VALLEY CA 92708
714 488 2425

A-1



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Response to Comment Letter A - Hanh Vo

Comment A-1:

Comment A-1 pertains to general opposition to the Proposed Project. Comment A-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of this comment.

2.2 Comment Letter B – Judy Johnston

From: [Judy White Johnston](#)
To: [Ramos, Ricky](#)
Subject: Draft Mitigated Negative Declaration No. 21-003
Date: Wednesday, April 6, 2022 5:08:53 PM

Good Afternoon,

I am writing concerning the planned development at the corner of Newland and Talbert. I understand the need for growth in the population in our city (I work for a school district in this community with declining enrollment). I also understand the need for safety in a community and hope that in this situation a balance can be found between the two. I live in Tamarack Village, which is on the same corner as this proposed complex.

Some notes of caution in regards to a new complex with 34 new condominiums.

1. Traffic Safety - Talbert and Newland is already a busy intersection. I have been awakened and startled in the middle of dinner with the sounds of crashes at the intersection. With the addition of 34 homes and a potential of 68+ more drivers coming and going each day, this will make this area even busier. For residents exiting onto Newland from Jalm and Stymie, it is very difficult getting a chance to pull out safely at many times of the day. Due to this, I have seen many people pull out rapidly and just miss potential collisions. Adding so many more residents in such a small area without extra lights will make this situation worse.

B-1

2. Parking - I hope that whatever is approved has enough parking to fill the needs of the residents and their guests. If not, I would hope the number of units would be reduced to include more parking. Without the necessary parking at the new location, I am afraid that the spillover will affect our community that is already struggling to find parking in the current economic environment where residents are forced to live together from different "households" to afford to pay rent. In our 104 unit community, there are usually more than an average of 2 cars per unit and most cannot access their garages because of the space needed to store essentials. I have lived here for over 10 years and each year as the prices go up, the parking has become more of a premium (I actually do park in my garage and in our parking spot - but at one time my 2 adult children lived with us forcing the need for 4 parking spots), it has become more difficult to find a parking spot at our visitor spots and on Jalm. The residents of single resident homes on Jalm hardly get a spot on the street. Add to that the neighborhood on the northeast corner of Talbert and Newland. They are a "private" community and don't allow parking in their neighborhood. Because of that, I have seen people running across Newland from that neighborhood to Jalm where they parked. How fair is that? The single story units farther north from us have to be asked not to park in our visitor spots because it is our private property. We sometimes have to park across Newland near the greenbelt when we have guests coming over so they have a place to park (our spot). When my children lived with us, it was not uncommon for my son to park over there every day. With these added residents so close, without a doubt they and their guests will be fighting for an already limited amount of parking. Don't make us become another area like the condos on Adams in HB where I had to drive around for 20 minutes just to find a spot when I was looking to purchase a condo there 10 years ago.

B-2

3. Appearance - With the height of the buildings next to this proposed complex being much shorter, 3 story units seem a little high and it does distract from the aesthetics of a community. Are they going to cram the apartments in like they did on Beach and Ellis where the sidewalk goes right to the front? These tall buildings crammed into small spaces does not look good for the community. They look out of place and I have had several comments from other residents and out of town family about the placement of these buildings. You can't just throw things in anywhere.

B-3

I appreciate the time spent to get feedback from the community. I hope that a balance can be reached in the decisions made.

Thank you
Judy Johnston



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Response to Comment Letter B – Judy Johnston

Comment B-1:

This comment expresses concerns regarding the traffic on Talbert and Newland intersection and increasing the traffic on Newland with the Project Site entry on Newland. The traffic study shows that this intersection is currently operating at an acceptable Level of Service, and that the Proposed Project would not substantially worsen traffic operations at this intersection. Comment B-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment B-2:

This comment expresses concerns about the provision of adequate parking within the Project Site to prevent spillover parking along Newland and in the neighborhoods. Comment B-2 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment B-3:

The comment expresses concern about the height of the townhomes and aesthetics of the community. Comment B-3 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of these comments.

2.3 Comment Letter C – Caroline Kouyoumjian

From: [Caroline Kouyoumjian](#)
To: [Ramos, Ricky](#)
Subject: NO TO PROJECT
Date: Thursday, April 7, 2022 10:41:02 AM

Hello,

My name is Caroline and my house backs Talbert Avenue and we CANNOT have more traffic.
The sound of the cars on the street is already unbearable.

C-1

Thank you,
Caroline



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Response to Comment Letter C – Caroline Kouyoumijian

Comment C-1:

This comment letter expresses concerns about the traffic noise generated by the Proposed Project. Table 14 (IS/MND, Page 125) shows that the Proposed Project's permanent roadway noise increases to the nearby homes from the generation of additional vehicular traffic would not exceed the FTA's allowable increase thresholds. Comment C-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of this comment.

2.4 Comment Letter D – Vincent Bui

From: [vincent bui](#)
To: [Ramos, Ricky](#)
Subject: No to Major Project ID 1111
Date: Thursday, April 7, 2022 6:01:44 PM

Ricky,

<https://www.huntingtonbeachca.gov/government/departments/planning/major/major-projects-view.cfm?ID=1111>

I got public notice from city of Huntington Beach about major proposed development 1111 near corner of Talbert and Newland.

I live nearby the corder and on cape cod ave fountain valley ca 92708 and would like to raise my concern since the road are so crowded in the morning and afternoon and the city of Huntington Beach should not allow any density residential development other than single home since there are no new road built -- my major concern.

Thank you very much for your time.

Vincent Bui

D-1



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Response to Comment Letter D – Vincent Bui

Comment D-1:

This comment expresses concerns regarding the traffic near the Talbert and Newland intersection. The traffic study shows that this intersection is currently operating at an acceptable Level of Service, and that the Proposed Project would not substantially worsen traffic operations at this intersection. Comment D-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of this comment.

2.5 Comment Letter E – Stephanie Reid McGinley (April 8, 2022)

From: [Stephanie Reid McGinley](#)
To: [Ramos, Ricky](#)
Subject: DMND 21-003
Date: Friday, April 8, 2022 10:58:24 AM

Hello,

I am a resident and owner in the Tamarack Village community adjacent to the proposed 34 unit development currently underway at the northwest corner of Talbert and Newland.

I have concerns regarding parking in this area. We are already struggling with a shortage of parking in our community, as well as the neighboring single family homes on Jalm and Newland. The street parking is completely full every night and we are having issues with illegal parking in our complex from the neighboring apartment homes.

E-1

We have also had issues with petty theft from vehicles, as well and mail theft. Having the increase of traffic (vehicle and foot) will no doubt bring more of this to our community.

E-2

I would like to know how many parking spaces will be included in this new development? Medium density housing tends to have a much higher need for this (2+ spots per unit).

E-3

Also how much outdoor green space will be available on the proposed property? Having non-residents walking their pets in our community causes problems with pet waste being left behind, as well as concerns about the safety of our children playing outdoors, and just general community safety and security with increased traffic.

E-4

Thank for your time.

Stephanie



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Response to Comment Letter E – Stephanie Reid McGinley (April 8, 2022)

Comment E-1:

This comment expresses concern about parking. Comment E-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment E-2:

This comment expresses concerns regarding increased theft. Comment E-2 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment E-3:

This comment requests information on the number of parking spaces in the Proposed Project. The Project Site contains a total of 68 garage parking spaces, 16 guest spaces, and one American with Disabilities Act (ADA)-compliant guest stall. Comment E-3 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment E-4:

This comment requests information on green space available on the proposed property. As described in the Project Description (IS/MND, Page 7) and Landscape Plan (Figure 9, Page 19) three courtyards (or paseos) are interspersed throughout the community with a larger central green open space serving as the focal point for community and recreation. The central paseo would include a shade structure with tables, seating, and a fireplace with sectional-style. Most units gain access from the paseos and may include enclosed patio spaces. Along the entire stretch of the Talbert frontage, a “dry creek” bio-swale would collect and treat storm water, which would double as a semi-natural feature and provide a buffer to Talbert Avenue. The side of the residential units face the bio-swale feature and Talbert Avenue with no wall in order to maintain openness to the neighborhood and avoid a walled-off appearance. Comment E-4 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of these comments.

2.6 Comment Letter F – Cindy Do

From: [Cindy Do](#)
To: [Ramos, Ricky](#)
Subject: Olson Townhomes on Talbert Ave
Date: Friday, April 8, 2022 9:51:18 PM

Dear Mr. Ramos:

I live at the northeast corner of Talbert and Newland. I'm writing to you to oppose the proposed construction of 34-unit townhomes on the 2.1 acre land at the northwest corner of Talbert and Newland - which is directly across from my home.

My concern is that this project will increase traffic congestion and noise in the area.

F-1

Sincerely,
Cindy Do



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Response to Comment Letter F – Cindy Do

Comment F-1:

This comment expresses concerns that the project will increase traffic and noise in the area. The traffic study shows that the street network is currently operating at an acceptable Level of Service, and that the Proposed Project would not substantially worsen traffic operations in the area. Table 14 (IS/MND, Page 125) shows that the Proposed Project's permanent roadway noise increases to the nearby homes from the generation of additional vehicular traffic would not exceed the FTA's allowable increase thresholds. Comment F-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of this comment.

2.7 Comment Letter G – Martin Thibault

From: [Martin Thibault Construction](#)
To: [Ramos, Ricky](#)
Subject: NO TO PROJECT
Date: Monday, April 11, 2022 2:12:23 PM

NO TO THE PROJECT SITE 8371-8461 TALBERT AVE.

G-1

MARTIN THIBAUT



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Response to Comment Letter G – Martin Thibault

Comment G-1:

Comment G-1 pertains to general opposition to the Proposed Project. Comment G-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of this comment.

2.8 Comment Letter H – Cesar Morales

From: [Gunter Morales](#)
To: [Ramos, Ricky](#)
Cc: [Patricia Valenzuela](#)
Subject: Re: Requesting Draft Mitigated Negative Declaration No 21-003
Date: Tuesday, April 19, 2022 8:01:52 AM

Happy Tuesday, Mr. Ramos.

I am concerned about the zoning change from low density to medium density proposed in the declaration. I understand such change, if granted, would be permanent, which would open the door for similar developments in the area and create the unwanted byproducts of traffic dangers, parking, petty theft, etc. Also, I am concerned about the proposed main entrance on Newland because the space is very reduced at that point (between Jelm and Talbert) and a minor delay in the entrance to the building would create a traffic hazard on Newland, which is typically a streamlined route.

H-1

H-2

Has a date been set for the public hearing? Thank you for your assistance.

H-3

Cesar Morales

On Monday, April 18, 2022, 09:47:17 AM PDT, Ramos, Ricky <rmos@surfcity-hb.org> wrote:

Good morning Cesar – Here is the link:

<https://www.huntingtonbeachca.gov/government/departments/planning/major/major-projects-view.cfm?ID=1111>

The MND is listed as Attachment 2. Let me know if I can provide further assistance. Thanks.

From: Gunter Morales <guntermorales@yahoo.com>
Sent: Monday, April 18, 2022 7:28 AM
To: Ramos, Ricky <rmos@surfcity-hb.org>
Subject: Requesting Draft Mitigated Negative Declaration No 21-003

Dear Mr. Ramos,

I'm interested in reviewing the document but am unable to access it online using the link provided in the public notice sent to my house. Can you pls send it to me as a PDF attachment or provide a direct link? Thank you for your assistance.

Cesar Morales
17892 Pollard Ln.
HB, CA 92647



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Response to Comment Letter H – Cesar Morales

Comment H-1:

This comment expresses concern regarding the rezoning from low density to medium density. Comment H-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment H-2:

This comment expresses concerns about the Newland Street entrance being the main entrance and causing additional traffic delays on Newland Street. At the Newland Street driveway, the off-street portion of the driveway prior to encountering the gate would allow two vehicles to queue while the gate is opening. The number of trips generated from the proposed units would not be expected to result in three or more vehicles arriving at the same time. In addition to the Newland Street entrance, the Talbert Avenue entrance would provide a secondary vehicular access to the Project Site.

The Traffic Impact Study included a vehicle gap study to determine the number of gaps in the existing stream of traffic to accommodate vehicles entering and exiting the project driveway on Newland Street. Based on the gap analysis, adequate gap in the traffic flow on Newland Street north of Talbert is expected to be available to sufficiently accommodate the right and left turns in and out of the Project Site driveways. Comment H-2 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment H-3:

The comment requests information on the date for the public hearing. Subsequent to the public comment period, a public hearing will be scheduled before the Planning Commission and City Council beginning tentatively in May/June 2022. The public hearing will be separately noticed. For further information, please contact Ricky Ramos at (714) 536-5624. Comment H-3 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of these comments.

2.9 Comment Letter I – Debra Topham

From: [Debra Topham](#)
To: [Ramos, Ricky](#)
Cc: ["Anabel Estrada"](#)
Subject: Comments to draft-mitigation-negative-declaration of Proposed Olson Residential Townhomes Project
Date: Wednesday, April 20, 2022 2:39:59 AM
Importance: High

Dear Mr. Ramos and Huntington Beach City Planning Commission,
Cc: Tritz Property Management Services to communicate to the Board of Directors for Tamarack Village HOA.

I am a homeowner of 17893 Maggie Lane, Huntington Beach, CA 92647 and my condominium in Tamarack Village will be facing the proposed townhome project.

I-1

My comments relate to the Proposed Olson Townhomes Location: 8371-8461 Talbert Ave. (northwest corner at Newland St.) scheduled for opening 2024.
<https://www.huntingtonbeachca.gov/government/departments/planning/major/major-projects-view.cfm?ID=1111>

The Drafted Mitigated Negative Declaration No. 21-003 must not be accepted as drafted and the project must not move forward as proposed. Further designs and studies must be submitted to the city planning commission to provide safe conditions for existing residents and those the project purports to house. The Initial Study/Mitigated Negative Declaration (March 2022) for Olson Townhomes-Planning Application No. 2021-0084 falls short in the following areas:

a) Page 5 incorrectly characterizes the land use north of the project as "single family residential, residential low density" when my condominium is part of the 101-unit Tamarack Village. The other two corners of the major traffic intersection of Talbert and Newland are ALSO multi-family townhouses as you clearly have pictured on page 19 of 196. This falsely presents the project's impact on noise, air-flow, infrastructure, traffic and city resources. Further on page 34 of 196 the report falsely suggests this project will be "less than significant" on urbanization as mentioned is for the replacement of three existing farm-houses with the open-air landscaping. This project will create HIGH intensity dwellings both visually and by human occupancy. I request that the planning commission reject the 3-story design for only 2-story height limitations to not over-power the existing community. Page 39 of 196 shows the street sign of Jalm and fails to represent the beginning of our 101-unit multi-family complex. Without this representation, the city planning commission cannot make a fair decision on population and community density.

I-2

b) The engineering company did not address the traffic impediments in Appendix I that is clearly a selling point on page 14 of the drafted report regarding "Site Access and Circulation. Vehicular access to the Project Site would be gained by two gated driveways." Elsewhere in the document, Newland is designated as the "main access" when it will be much safer to designate Talbert (even if it is a one-directional entrance).

I-3

c) Page 16 of the drafted report does not state who will be responsible for significant interruptions and inconveniences to our existing homes as well as costly changes to Off-Site Improvements. The off-site civil work would

I-4

consist of a water main connection in Newland Street, a sewer main connection and new utility access hole in Newland Street, conversion of existing driveways to curb and gutter at Talbert Avenue, a new driveway at Newland Street, a new driveway at Talbert Avenue, and the relocation of a storm drain catch basin at Talbert Avenue. What guarantees do we homeowners have that our access through Jalm and Stymie streets will not be impeded by this project?

I-4
(continued)

d) Page 49 of 196 does not address the emissions that will be created due to construction and re-paving of Newland and Talbert when sewer and drainage is upgraded to support the extra 34 units. SCAQMD's regional emissions thresholds have not been added to this report (as far as I could observe).

I-5

e) Page 54 of 196 does not address how we as local residents within 200 feet of the site will be notified and protected during the asbestos abatement period. The developers have reports indicating the dangerous substance is present and it is an air-borne hazard! At what monetary rate will we be compensated for and re-located temporarily to avoid exposure to this carcinogen and others (like arsenic and lead in Table 8) for the 10 days of the abatement while the existing structures are leveled and cleared? Will the developers pay for our temporary hotel accommodations, food, and services during the 10 days? On page 94 & 95 of 196 the detection of lead is not expressed clearly-is this in line with California Prop 65 as an amount per kilogram of body weight or per kilogram of soil? The levels may be lower than US EPA but not California's office of environmental health.

I-6

f) Beginning on Page 111 of 196 displays in Table 10 incompletely state the conditions of this project:

Goal LU-1 D. Proposal falsely characterizes the surrounding community and fails to ensure the scale of the new project is in line with the existing residential structures that include multi-family units of two-stories and one-story.

I-7

Goal LU-3 Project design will impede access to neighboring Jalm street and single-family homes and multi-family condominiums as well as limit ease of commutes through intersection of Talbert and Newland

Goal LU-4 A and D: No other structures are three-stories tall so this project fails to conform to the City's planning goals. The construction of an 8foot fence topped by another 6 foot fence is a greater height than any other barrier in the vicinity.

Goal CIRC-1c B-G: Project traffic study in Appendix I (or H)? is a Complete failure to conform to city's goals by allowing property access off Newland, hindering traffic flow from Newland to Talbert because of "gate access", suggesting there is parking on Newland when that is not possible on the block where this land is located. Both ingress/egress must be from Talbert to avoid traffic calamities. There is NO LOGICAL WAY FOR THE MAIN ENTRANCE WITH A GATE TO BE OFF NEWLAND WITHOUT SEVERE CONSEQUENCES TO TRAFFIC AND PEDESTRIANS. Just review the past two years of serious traffic accident reports that closed the Talbert and Newland intersection for a day-as it currently exists!

I-8

Goal CIRC-1c H. The commission traffic report conveniently did NOT explore any interruptions to our condominium complex nor the other two complexes at the same intersection.

I-9

Goal ERC-13 has nothing to do with Moderate-income homeowners and their ability to access or not access rooftop solar systems. What is the message the developers are offering in this section?

I-10

Goal N-4 What penalties will be applied to the developer if they do not complete the project by 2024 and we are exposed to undue construction noise and stress for longer periods of time? Where are penalties if the developer begins work prior to 7am and continues past 10pm? There are no consequences listed in Appendix H. I-11

Goal PSI-9 This is missing the designation that new connections to water and sewer are required including interruptions to the roadways on Newland and Talbert. No mention of the party that will bear the costs? Will this be the City of HB? Will the developers pay for extra vermin control once the 2.1 acres are disrupting their homes (and likely move to our community)? I-12

2013-2021 Housing Element Goal 1 and Goal 6 Brags that there will be rooftop solar PV systems to comply with the Green Building initiatives but this fails to address the ADDITIONAL HEIGHT that will be added to the three-story buildings! This is not incongruence with the surrounding residential structures and multi-family units. Is the quoted 35 foot high buildings including these rooftop installations? I-13

g) Pages 148 to 153 of 196 Transportation (part of 4.17) failed to take more than one day's measurements in September 2021 while COVID pandemic was restraining travels of most citizens. Table 16 has numerous values that are missing and marked as "not available" or "deficient operation". This element of the report reinforces that an incomplete traffic study was conducted by the developers' consultants. The traffic study poorly calculates the number of persons living in 3-bedroom and 4-bedroom townhomes as 2.3 when it is more likely double or triple that number of inhabitants and their trips. The emergency access is not clearly marked (or consistently marked) on the proposed project Appendices and there is no physical possibility a full-sized fire truck or ladder truck can enter off of Newland -the designated "main entrance" especially when there will be two lanes of traffic in the southbound lanes! The fire department must be presented more reasonable circumstances and an accurate traffic report with dimensions of the surrounding area. I-14

* * * *

Additional Appendices submitted by the Olson Urban Housing, LLC in defense of the draft-mitigated-negative-declaration require much closer scrutiny before finalizing and accepting the project proposals! This project is not congruent with the surrounding structures and offers less safety to our community. I-15

1. I do not agree with the conclusions submitted with Appendices I Traffic Impact Study particularly regarding the proposed entrance and exits on Newland and the number of trips generated by the project. . Page 4-1 of the report only plans for "low rise" units when this project clearly includes two story and three story townhomes as presented in Appendix J. Therefore, the projected trip generation data is inappropriate, under-reported, and must be resubmitted with more realistic data. I-16
. Page 3-1 of the report failed to consider the traffic patterns in and out of Jalm, a cul-de-sac road that intersections Newland. Jalm provides a singular entrance to the Tamarack Village Homeowners who live off Pollard and Hawes as well as single family homes on Jalm. This short-coming in the report contributes significant bias in the Traffic Study and warrants a reconfiguration of the traffic pattern so the new project will only enter and exit from Talbert Avenue (never from Newland that borders the eastern

side of the project).

. Page 3-1 reported one weekday in September 2021 which is barely into the traffic recovery patterns following the COVID pandemic. This further under-reports the traffic impact of the project scheduled to open 2024.

. The traffic study failed to demonstrate major retail area near the proposed project. The drawings failed to note the stop-light at the entrance to the Walmart and retail shopping center nor did the study consider the increase in retail-related traffic congestion.

. The study failed to note the emergency vehicle usage by fire and ambulance on Talbert which leads to the City of Huntington Beach hospital. Without proper turning lanes for the northbound Newland traffic flow, cars will back up into the intersection of Talbert and Newland potentially interfere with critical emergency services or create unnecessary gridlock. Keep in mind, the report did not explore that vehicles turning left into the proposed project will be allowed to hold up northbound traffic on Newland during on and off peak times! The consultants did not look at the existing markings on the road to see that Newland does not permit a left turn at the proposed entrance! That Newland location is currently a turning lane into the westbound Talbert. The northbound vehicles would be waiting for the southbound three-lanes of traffic to clear creating a nightmare of congestion as well as create traffic violations.

. The study failed to note that Talbert is a major thoroughfare to the southbound 405-freeway used extensively by the petroleum hauling semi-trucks that leave the processing facility at Gothard and Talbert.

I-16

2. I was not able to view impact reports that addressed Spectrum-Time Warner Cable services to the project. Page 161 of 196 mentions Spectrum but there is no assessment by that company I could view. Where is the consideration for additional demands on internet and cable services to the project? What infrastructure is in place to maintain this essential service, particularly for those of us who work from home? What part of Appendix H and the Noise-Impact-Analysis addresses concerns that construction might interfere with internet and cable connections?

I-17

3. I disagree with the Appendix J assessment for sufficient parking spaces with this project. I have never parked my vehicle in a 0.5 space and would like to know how this is physically possible. This unrealistic report must be corrected to reflect only whole numbers for parking spaces per unit and per total project. I do not want to compete with the guests of these townhome units for spaces on the tiny cul-de-sac of Jalm that is already impacted. The townhomes must have only assigned, whole spaces to be a realistic report of the environmental impact. The study does not address if the townhomes will have driveways to accommodate more parked vehicles than the 2 garages that are currently designed with each unit. How can 16 guest parking spots accommodate 34 units?

I-18

4. I disagree with the design of 3-story units for the community aesthetics. This aspect of the plan must be rejected and limited to two-story units. No other multi-unit complexes that face Newland and Talbert are three-stories and this will affect the view and property value of my one-story condominium. Combined with an 8-foot wall and topped with a 6-foot fence, there is nothing appealing about my future views to the south!!! I'm sure the future homeowners will be happier because the developers offer on page 13 "The side of the residential units face the bio-swale feature and Talbert Avenue with no wall in order to maintain openness to the neighborhood and avoid a walled-off appearance."

I-19

5. I insist on a more stringent review of the Appendix A, Appendix I and Appendix J for consistency of the entrances and fire lanes. Appendix A shows a vehicular gate which will DRASTICALLY impede traffic flow in and out of Newland and NONE of this is mentioned in Appendix I regarding traffic impact. Appendix A indicates a 20 foot wide fire lane; Appendix J indicates on page 3 of 20 there is no fire access road. What is true?

I-20

Thank you for acknowledging my email and I look forward to your committee's work to redesign the project and to address my significant concerns!

Debra Topham
17893 Maggie Ln
Huntington Beach, CA 92647
E: <mailto:debra@topham.com>
C: 714.642.5100



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Response to Comment Letter I – Debra Topham

Comment I-1:

This comment identifies that the Tamarack Village will be facing the Project Site. According to aerial imagery, the Tamarack Village townhomes are separated from the Project Site to the north by a block of single-family residences and Jalm Drive. Comment I-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-2:

This comment expresses concerns regarding incorrect characterization of the surrounding land uses.

- a) The land use north of the project is characterized as “single family residential, residential low density”.

Response: The land use bordering the northern property line of the Project Site is single-family residential, residential low density. Tamarack Village is located further north of the Project Site, across Jalm Drive, and is zoned Residential Medium Density. Comment I-2(a) does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

- b) There are multi-family homes on the southeast and northeast corner of Talbert and Newland.

Response: The City of Fountain Valley’s General Plan Designation for the southeast and northeast corners of the Talbert/Newland intersection is Low Medium Density Residential (up to 10.8 DU/AC) and the zoning classification is “Garden Homes”, which is defined in the City of Fountain Valley’s Municipal Code Section 21.08.020 (2) as “applies to parcels appropriate for detached, single-family dwellings on smaller parcels”. The land use immediately east of the Project Site is detached, single-family dwellings on smaller parcels, consistent with the General Plan and zoning. The existing conditions of the entire project area were analyzed in the noise and traffic studies performed for the Proposed Project, which identified that potential impacts would be less than significant, and no mitigation would be required. Comment I-2(b) does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

- c) Disagrees with the IS/MND finding on PDF page 34 of “less than significant” for urbanization.

Response: The analysis on the IS/MND (Page 27, Aesthetics) addressed the threshold I: *If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?* The Proposed Project is consistent with the residential character of the surrounding area. The Proposed Project would remove the existing single-family residences and replace them with a 34-unit townhome complex, with the additional density reserved for moderate-income affordable housing which is allowed under State Density Bonus law. Based on the City’s residential population factor



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of 2.257 people per unit, it is estimated the development would support 76 residents. Two-story units would be the northern-most units of all buildings across the Project Site, which provides a two-story buffer for the existing single-family residences backing to the shared north property line. As the buildings approach the Talbert Avenue frontage, all plan types increase to three stories in height. The Applicant is requesting a zone change from residential low density to medium density which will allow the Proposed Project to be built at the density requested. The zone change is consistent with the vicinity as the north side of Jalm Drive is medium density, and the southeast and northeast intersection of Newland Drive and Talbert Ave is zoned by the City of Fountain Valley as “Garden Homes” which are single-family residential with density up to 10.8 DU/AC. The GH zoning district is consistent with the low-medium density residential land use designation of the City of Fountain Valley’s General Plan. Comment I(c) does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

- d) The photos do not identify the Tamarack Village townhome complex on the north side of Jalm Drive that exist as medium density residential; therefore, the Planning Commission cannot adequately make a fair decision as to population and community density.

Response: Comment I-2(d) does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-3:

The comment expresses concern regarding site access and circulation for the driveways on Newland and Talbert. At the Newland Street driveway, the off-street portion of the driveway prior to encountering the gate would allow two vehicles to queue while the gate is opening. The number of trips generated from the proposed units would not be expected to result in three or more vehicles arriving at the same time. In addition to the Newland Street entrance, the Talbert Avenue entrance would provide a secondary vehicular access to the Project Site.

The Traffic Impact Study included a vehicle gap study to determine the number of gaps in the existing stream of traffic to accommodate vehicles entering and exiting the primary project driveway on Newland Street. Based on the gap analysis, adequate gap in the traffic flow on Newland Street north of Talbert is expected to be available to sufficiently accommodate the right and left turns in and out of the project site driveways. Comment I-3 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-4:

The comment expresses concern over construction management of off-site improvements. Project construction will be required to follow all City regulations with respect to construction in roadways including but not limited to following an approved traffic management plan to ensure residents and emergency services have full access during construction. Comment I-4 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.



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Comment I-5:

This comment asserts that the IS/MND did not address the emissions associated with off-site improvements and that SCAQMD regional emissions thresholds were not addressed in this report. This is not correct. The AQ/GHG study analyzed the gross 2.43-acres of the Project Site, which includes the curb, gutter, sidewalk, and a portion of the asphalt street for both Newland and Talbert. SCAQMD regional construction thresholds and related impacts are presented in Table 2 (Page 42), and regional operational thresholds and related impacts are presented in Table 3 (Page 43). Regional emissions would not exceed SCAQMD thresholds, therefore, potential impacts would be less than significant, and no mitigation would be required. Comment I-5 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-6

The comment expresses concern over the asbestos removal and potential hazards to neighbors during the removal process. As discussed in the IS/MND, the Applicant is required to comply with all state regulations regarding asbestos procedures, including SCAQMD Rule 1403. Asbestos abatement procedures are also identified in multiple state regulations that identify proper handling designed to protect workers during abatement and methods of disposal that protect the general public. Comment I-6 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-7

This comment asserts that the land use conditions of the project are incompletely stated. The Project Consistency Analysis presented in Table 10 discusses how the Proposed Project is consistent with General Plan Goals and Policies. Comment I-7 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-8

The comment asserts that the traffic study did not conform with the City's goals. This is not correct. The traffic study was prepared according to the City's Traffic Impact Analysis Guidelines and approved by the City's traffic engineer. Comment I-8 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-9

The comment asserts that the traffic study did not explore interruptions to traffic at Jalm Drive and Newland Street. Based on the Proposed Project's traffic generation and assignment, the Proposed Project did not warrant the analysis of Jalm Drive at Newland Avenue, as it would not contribute traffic to the critical movements of this intersection (i.e., left turns in or out of the minor street). The through volume of project traffic along Newland Street (2 peak hour vehicles) would not be sufficient to significantly degrade level of service operations, hence it did not



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warrant analysis. Comment I-9 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND. **Comment I-10**

The comment related to moderate income homeowners and their ability to access rooftop solar systems. Comment I-10 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-11:

The comment asks what penalties the City would impose if the Project is not constructed by 2024, or does construction work prior to 7am or after 10pm. Comment I-11 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-12:

The comment involves questions about water and sewer connections and pest control during construction. Comment I-12 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-13

This comment raises concerns that the additional height of the structures in the application does not include the height with the solar systems. Comment I-13 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-14:

The comment contains a number of assertions related to the traffic study. Traffic counts were conducted in accordance with City guidelines, which allow for one day of counts during peak hours of the day. At the time, COVID restrictions had been lifted (such as, no stay-at-home orders, offices and retail open, public gatherings permitted, etc.) and it was deemed that the new normal conditions were present, hence no adjustment factors were made to traffic counts. Regarding Table 16, the missing values marked “- -” in Table 16 indicate that analysis methodology (V/C ratio or Delay) is not applicable to that particular intersection. Signalized intersections are analyzed using V/C methodology and unsignalized intersection are analyzed based on Delay. The “N/A” means that the intersection does not currently exist under existing conditions. The commentor is incorrect in stating that values are marked as deficient operation. No deficient operations are shown in Table 16 (a deficient operation would be indicated by **bold** text). The final emergency access plan for the Proposed Project will be reviewed and approved by the Huntington Beach Fire Department prior to approval of building permits. Comment I-14 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-15:

The comment asserts that appendices provided by the Applicant should be further reviewed. Comment I-15 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.



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Comment I-16:

The comment asserts that the commenter disagrees with conclusions in the Traffic Impact Study. According to Institute of Traffic Engineers, multi-family low-rise dwelling units generate higher number of trips than mid-rise dwelling units. Therefore, the analysis is conservative and overestimates the project trip generation by using the low-rise trip rate. The intersection of Talbert Avenue and Walmart shopping center was not included in the study area for the Proposed Project because it does not contribute a significant number of trips to this location. The Proposed Project is expected to add only one peak hour trip to this intersection. Based on Huntington Beach standards, only intersections where a project would contribute 50 or more peak hour trips are included in the study area. The contribution of 1 peak hour trip would not significantly affect level of service operations this intersection. Regarding northbound lefts into the site from Newland, the northbound left into the Project Site is a legal/permitted movement. The Traffic Impact Study performed a level of service operations analysis and a vehicle gap study to determine the adequacy of vehicles making a left turn in and out of the site on Newland. The results showed that adequate level of service and gaps would be present to allow the left turns. All vehicles, including trucks, were counted as part of the existing conditions. Additional comments have been addressed in response to previous comments in this response to comments. Comment I-16 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-17:

The comment expresses concern related to cable and internet in the area, especially during construction. The Project Site is located in an urbanized area that is adequately served by all existing utilities. Comment I-17 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-18:

The comment expresses concern related to adequacy of parking. Comment I-17 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-19:

The comment expresses disagreement with the design of the Proposed Project. Comment I-19 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment I-20:

This comment relates to consistency in Appendices related to fire lanes. Comment I-20 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.



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Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of these comments.

2.10 Comment Letter J – Stephanie Reid McGinley (April 20, 2022)

From: [Stephanie Reid McGinley](#)
To: [Ramos, Ricky](#)
Subject: Re: DMND 21-003
Date: Wednesday, April 20, 2022 11:15:08 AM

Thank Ricky,
I'd also like to voice my concerns about the vehicle entrance to the proposed development. That section of Newland is already very busy and having the entrance so close to both the intersection and Jalm St. poses a traffic hazard. It will also be a noise disturbance for the single family home on the corner of Jalm having the high traffic entrance so close to their property. Perhaps it should be moved to the opposite corner on Talbert by the Church.

J-1

Stephanie

On Tue, Apr 19, 2022 at 10:27 AM Ramos, Ricky <rmos@surfcity-hb.org> wrote:

Portions of this project's Talbert frontage will be red curb for fire lane. However, the segments not red curbed will be available for parking. I don't know if the HOA will have restrictions on pet ownership.

J-2

From: Stephanie Reid McGinley <stephanie.a.r@gmail.com>
Sent: Monday, April 18, 2022 10:01 AM
To: Ramos, Ricky <rmos@surfcity-hb.org>
Subject: Re: DMND 21-003

Thanks Ricky,

Will they be allowing street parking on that side of Talbert as well? That would really help prevent any issues with parking as a 3 bedroom unit with non family renters would likely have more than 2 cars per unit.

The green spaces are great but not for tiring out large breeds. Will there be restrictions on pet ownership in the complex?

Stephanie

On Tue, Apr 12, 2022 at 9:04 AM Ramos, Ricky <rmos@surfcity-hb.org> wrote:

Hi Stephanie – Attached is a site plan and an architectural elevation of the corner building for

your info. These are included in the MND document out for public review. The applicant is proposing a two car garage for each unit and 17 open parking spaces for a total of 85 parking spaces for the project. They have 20 more parking spaces than the minimum parking required under state density bonus law. They are proposing common open space in the courtyards between the units. Please let me know if you want to discuss further on the phone.

From: Ramos, Ricky
Sent: Friday, April 8, 2022 2:50 PM
To: Stephanie Reid McGinley <stephanie.a.r@gmail.com>
Subject: RE: DMND 21-003

Hi Stephanie – Would you like to talk on the phone about your concerns? If so, when would be a good time to call you to walk you through the plans?

J-2
(continued)

From: Stephanie Reid McGinley <stephanie.a.r@gmail.com>
Sent: Friday, April 8, 2022 10:58 AM
To: Ramos, Ricky <rramos@surfcity-hb.org>
Subject: DMND 21-003

Hello,

I am a resident and owner in the Tamarack Village community adjacent to the proposed 34 unit development currently underway at the northwest corner of Talbert and Newland.

I have concerns regarding parking in this area. We are already struggling with a shortage of parking in our community, as well as the neighboring single family homes on Jalm and Newland. The street parking is completely full every night and we are having issues with illegal parking in our complex from the neighboring apartment homes.

We have also had issues with petty theft from vehicles, as well and mail theft. Having the increase of traffic (vehicle and foot) will no doubt bring more of this to our community.

I would like to know how many parking spaces will be included in this new development?

Medium density housing tends to have a much higher need for this (2+ spots per unit).

Also how much outdoor green space will be available on the proposed property? Having non-residents walking their pets in our community causes problems with pet waste being left behind, as well as concerns about the safety of our children playing outdoors, and just general community safety and security with increased traffic.

J-2
(continued)

Thank for your time.

Stephanie



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Response to Comment Letter J – Stephanie Reid McGinley

Comment J-1

This comment expresses concerns about the Newland Street entrance causing additional traffic and noise on Newland Street. The Traffic Impact Study included a vehicle gap study to determine the number of gaps in the existing stream of traffic to accommodate vehicles entering and exiting the project driveway on Newland Street. Based on the gap analysis, adequate gap in the traffic flow on Newland Street north of Talbert is expected to be available to sufficiently accommodate the right and left turns in and out of the Project Site driveways. Table 14 (IS/MND, Page 125) shows that the Proposed Project's permanent roadway noise increases to the nearby homes from the generation of additional vehicular traffic would not exceed the FTA's allowable increase thresholds. Comment J-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Comment J-2

Comment J-2 consists of email exchanges between City staff and the commentor where City staff responded to specific questions related to parking and green spaces. Comment J-2 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of this comment.

2.11 Comment Letter K – Pat Erdelyi

From: [Pat Erdelyi](#)
To: [Ramos, Ricky](#)
Subject: New zoning at the corner of Newland/Talbert
Date: Wednesday, April 20, 2022 11:59:35 AM

I live at Tamarack Village and will be impacted by this development. I assumed something would be built there but NO where in this area are there 3 story anything. Changing the zoning should not happen. More density is NOT a good plan for this area. Turning into the property off of Newland would be a disaster with the left turn lane there!! I am opposed to the zoning changes on every level. Too dense for this area!!

K-1

Thank you,
Patricia M. Erdelyi
17882 Hawes Lane
Huntington Beach CA 92647
714-334-5303

[Sent from the all new AOL app for Android](#)



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Response to Comment Letter K – Pat Erdelyi

Comment K-1

Comment K-1 pertains to general opposition to the Proposed Project. Comment K-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of this comment.

2.12 Comment Letter L – Amy Ray

From: [Amy Ray](#)
To: [Ramos, Ricky](#)
Subject: Proposed project on Talbert and Newland
Date: Wednesday, April 20, 2022 8:37:39 PM

To whom it may concern,

I ABSOLUTELY THINK THIS IS A TERRIBLE IDEA!! I SAY NO to this project (draft mitigated negative declaration No. 21-003) WE already have so much noise and traffic and accidents at this corner. PLEASE DO NOT LET THIS HAPPEN!!

L-1

Thank you. Amy Ray



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Response to Comment Letter L – Amy Ray

Comment L-1

Comment L-1 pertains to general opposition to the Proposed Project. Comment L-1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the IS/MND.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the IS/MND are required as a result of this comment.



3 Revisions to the IS/MND

Subsequent to publication, minor clarifying revisions were made to the Draft IS/MND pertaining to the tree replacement requirement.

Biological Resources

The text within Section 4.4 (IS/MND, Page 54) has been revised to read:

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

Less Than Significant: The City's CEQA Compliance memorandum for tree replacement requires the replacement of mature trees on lots that were developed prior to 1973 at a 2:1 ratio (City of Huntington Beach, 2005). For the Proposed Project, adherence to the City's standard would require the Project to plant ~~64~~ 46, 36-inch box replacement trees ~~in~~ and additional trees to meet code required landscaping. The Property Owner/Developer would replace the 23 existing mature trees onsite on a 2:1 basis with 46, 36-inch box trees. The Property Owner/Developer would provide 33 additional 36-inch box trees to meet the total code requirement of 79, 36-inch box trees. ~~There is insufficient room to adhere to the City's standard and maintain the 34 units, with three units set aside for affordable housing. For projects that include low income or moderate income considerations, Senate Bill 1818 provides for waivers from local development standards to allow the physical accommodation of the project as envisioned.~~

~~The Proposed Project provides for the removal of the existing 23 trees and to replace them with a total of 173 trees, of which 46 would be 36-inch box trees and 24 would be 24-inch box trees, and 103 15-gallon trees, per the planting plan in Figure 12. Approval of The Proposed Project would align with the City's ordinance relative to tree preservation. Therefore, potential impacts associated with biological resources resulting from conflicts with any local policies or ordinances protecting biological resources or the City's tree preservation policy would be less than significant, and no mitigation would be required.~~