

Tonner Hills



*Compendium of
Approved Documents*

November 19, 2002

ORDINANCE NO. 02-010

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA,
AMENDING THE COUNTY OF ORANGE ZONING MAP BY
REZONING CERTAIN LAND FROM THE A1(O) DISTRICT TO
THE PC (O) DISTRICT, (TONNER HILLS PLANNED
COMMUNITY) AND ADOPTING THE TONNER HILLS
PLANNED COMMUNITY PROGRAM IN ACCORDANCE WITH
THE ZONING CODE OF ORANGE COUNTY. (ZC 01-01)

The Board of Supervisors of the County of Orange, California, ordains as

follows:

SECTION 1. The Orange County Zoning Map is hereby amended in
accordance with Section 7-9-48, 7-9-49, and 7-9-155 of the Codified Ordinances of
the County of Orange by rezoning certain land from the A1 "General Agricultural"
District, (O) "Oil Production" District to PC, "Planned Community" District, (O) "Oil
Production" District per Zone Change ZC 01-01 as shown in Exhibit A.

SECTION 2. The Tonner Hills Planned Community Program Regulations,
Development Map and Statistical Summary Table per Zone Change ZC 01-01, are
hereby adopted as described in Exhibit B.

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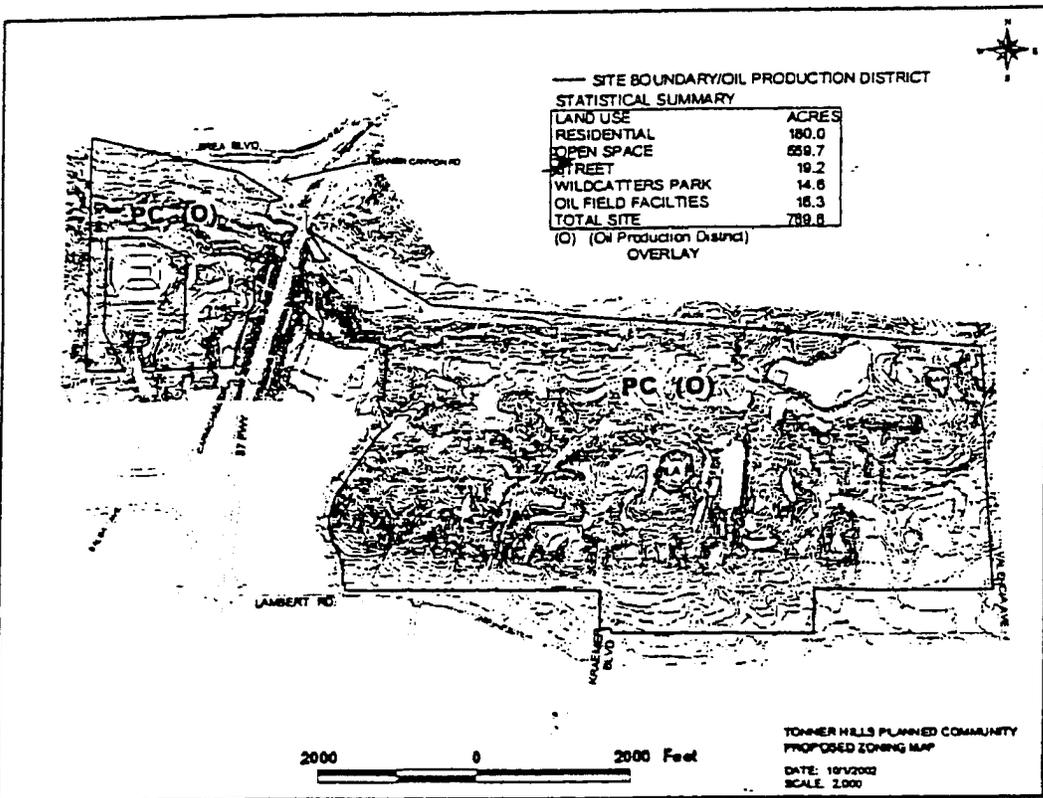
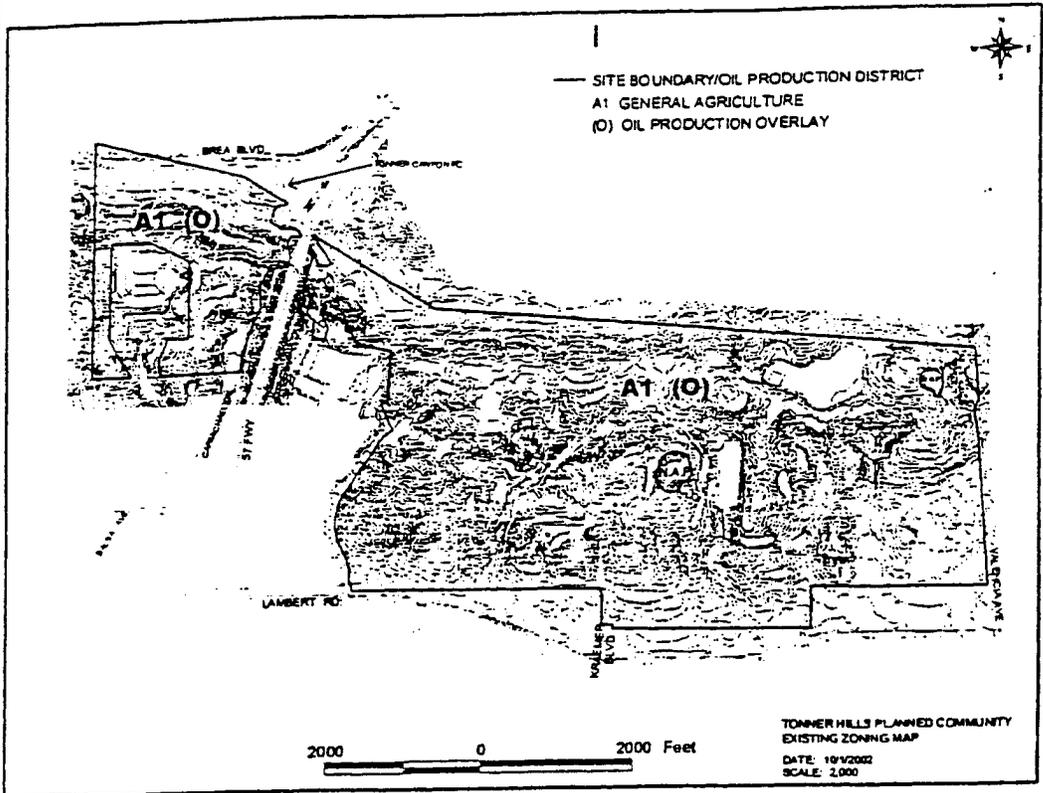


Exhibit A

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3 RESOLUTION OF THE BOARD OF SUPERVISORS OF
4 ORANGE COUNTY, CALIFORNIA

5 November 19, 2002

6 WHEREAS, pursuant to California Government Section 65000 et seq., the County of
7 Orange has an adopted General Plan which meets all of the requirements of State Law; and

8 WHEREAS, pursuant to State Planning and Zoning Law, this Board has reviewed Zone Change
9 ZC 01-01 for the Tonner Hills Planned Community Program and the proposed Development Map and
10 Statistical Summary; and

11 WHEREAS, the Tonner Hills Planned Community Program and Development Map and
12 Statistical Summary will provide for a maximum of 795 residential dwelling units or approximately
13 789.8 acres within unincorporated Orange County; and

14 WHEREAS, in conformance with State Law, legally noticed public hearings for said project and
15 related items were held by the Orange County Planning Commission on September 18, 2002 and
16 October 16, 2002; and

17 WHEREAS, in conformance with California Environmental Quality Act (California Public
18 Resources Code Section 21000, et seq.), the State CEQA Guidelines (California Administrative Code
19 Section 15000, et seq.), and the County's environmental analysis procedures, the County has prepared
20 EIR No. 581 (State Clearinghouse Number 2001031137) to evaluate the potential environmental
21 impacts of the proposed project; and

22 WHEREAS, proposed Final EIR 581 has been reviewed and analyzed by the County and reflects
23 the County's independent judgment on the proposed project; and

24 WHEREAS, the adoption of the Planned Community Program would establish zoning for the
25 Tonner Hills Planned Community area as PC "Planned Community" District; and

26 WHEREAS, the 789.8 acre project area is located within an area of land currently zoned A1
27 "General Agricultural" District, with an (O) "Oil Production" District overlay and is located within
28 unincorporated Orange County; and

1 3. CEQA – The approval of the proposed Zone Change are in compliance with the requirements of
2 the California Environmental Quality Act and that the refinements that been made to the Project
3 do not amount to significant new information concerning the Project, nor has any significant new
4 information become known to the Board of Supervisors through the public hearings held on the
5 Project, or through the comments on the Draft EIR and Response to Comments.

6 4. Mitigation Monitoring – The monitoring requirements of Public Resources Code Section
7 21081.6 have been met in that a Mitigation Measure Monitoring Program has been adopted.

8 BE IT FURTHER RESOLVED THAT the Board of Supervisors hereby approves and adopts
9 Zone Change ZC 01-01 in the form presented to the Planning Commission on October 16, 2002 within
10 Planning and Development Services Department staff report.

11 BE IT FURTHER RESOLVED THAT this Board makes the following findings regarding its
12 intent to adopt the proposed Zone Change:

13 The Board pursuant to Resolution No. 02-~~346~~(EIR RESO NO.) and through a separate action has
14 certified the Tonner Hills Planned Community EIR No. 581, which analyzes the potential environmental
15 impacts of the proposed project in compliance with CEQA, and has adopted the Statement of Findings
16 and Facts for the proposed project.

17 BE IT FURTHER RESOLVED THAT the Board of Supervisors approves the Tcnner Hills
18 Planned Community Development Map and Statistical Table as described in Zone Change ZC 01-01.
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**TONNER HILLS
PLANNED COMMUNITY**

NOVEMBER 19, 2002

TONNER HILLS PLANNED COMMUNITY

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NOVEMBER 19, 2002

TONNER HILLS PLANNED COMMUNITY

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SECTION 1

PROVISIONS AND REGULATIONS

1.0 PURPOSE AND INTENT

The purpose of these provisions is to regulate the planning and development of the Tonner Hills Planned Community project area consistent with the County of Orange General Plan through the adoption of development regulations designed to specifically address the unique site characteristics of Tonner Hills. These regulations provide for a variety of residential uses, open space use, and community facilities. It is the intent of these regulations to be responsive to changing community needs and goals and to allow and encourage innovative community design and neighborhood mix.

1.1 AUTHORITY AND APPLICABILITY

The authority for planned community zoning is provided in Section 7-9-103. PC "Planned Community" District Regulations of the Orange County Zoning Code. The Tonner Hills Planned Community Zoning includes the (O) Oil District Overlay and applies to all land uses, structures, and development within the Tonner Hills Planned Community. References made to the Zoning Code in this document mean the "County of Orange Zoning Code" applicable at the time of adoption of this plan.

1.2 GENERAL PROVISIONS AND REGULATIONS

- (1) All construction and development within the Planned Community shall comply with applicable provisions of the Uniform Building Code and the various related mechanical, electrical, plumbing codes, the Grading and Excavation Code, and the Subdivision Code and Sign Code, as currently adopted by the Board of Supervisors. In case of a conflict between the specific provisions of any such code and these regulations the provisions of those codes shall prevail.
- (2) The setback and building height requirements shall be as specified by each land use district of the PC Program. The methods used for determining building setbacks and building heights shall be the same as those used in the Zoning Code.
- (3) All building sites shall comply with the provisions of section 7-9-126, "Building site requirements".
- (4) If an issue, condition or situation arises or occurs that is not sufficiently covered or provided for in the PC Program so as to be clearly understandable, the Director of Planning and Development Services, herein referred to as "Director", shall determine which regulations are applicable, as authorized by section 7-9-20(c). Those regulations of the Zoning Code that are applicable for the most similar use, issue, condition, or situation shall be used by the Director as guidelines to resolve the unclear issue, condition, or situation.

- (5) All conditions, requirements, and standards indicated graphically or in writing as part of any approved discretionary permit or detail plan granted by authority of these regulations shall have the same force and effect as these regulations. Any use or development established as a result of such approved permit or plan but not in compliance with all such conditions, requirements, or standards shall be in violation of this PC Program. The provisions of section 7-9-154, "Enforcement provisions," are applicable to this PC Program.
- (6) If any portion of these regulations is, for any reason, declared by a court of competent jurisdiction to be invalid or ineffective, in whole or in part, such decision shall not affect the validity of the remaining portions thereof. The Board of Supervisors hereby declares that it would have enacted these regulations and each portion thereof irrespective of the fact that any one or more portions be declared invalid or ineffective.
- (7) The meaning and construction of words, phrases, titles, and terms used in this PC Program shall be the same as provided in section 7-9-21 of the Zoning Code except as otherwise provided herein.
- (8) When any section of the Zoning Code states that the regulations of that section, or that the uses permitted by that section, are applicable to all districts or all building sites, or language to that effect, those regulations are also applicable to each planned community. If any of the provisions in this planned community are in conflict with the provisions of any such Zoning Code section, the provisions of the Zoning Code section shall prevail.
- (9) The provisions of section 7-9-145, "Off-street parking," are applicable to this planned community except where otherwise expressly listed as exceptions in the PC text.
- (10) All discretionary actions permitted or required in this planned community shall be consistent with the types of permits listed in section 7-9-150, and all such actions shall be processed in compliance with the procedures set forth in section 7-9-150.
- (11) An Annual Monitoring Report (AMR) shall be prepared and submitted in the fall of each year to the County Administrative Office and the Department of Planning and Development Services. The submittal of an AMR is required for conformance with the Growth Management Program of the Land Use Element of the Orange County General Plan and the County's Annual Development Monitoring Program. The Board of Supervisors, in the annual adoption of the Development Monitoring Program, may identify a significant imbalance between development projections and planned infrastructure or in the proportionate development of residential, commercial and employment land uses. The Board of Supervisors may then defer subdivision approval within the Planned Community until approaches capable of resolving imbalances are proposed to and approved by the Board of Supervisors. The AMR will be the project proponent's opportunity to demonstrate mitigation measures and implementation strategies which will ensure adequate infrastructure for the community.

1.3 NON STANDARD PROVISIONS AND REGULATIONS

- (1) All oil operations and servicing, all existing uses, together with all accessory structures and uses which are customarily incidental or necessary to main buildings or uses, are permitted within the Tonner Hills Planned Community pursuant to the appropriate regulations of the Tonner Hills Planned Community, the Oil Code, and the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources. (Cal DOC, DOG&GR) regulations.
- (2) Existing oil operations and uses shall be considered permitted in all Planning Areas. No new wells will be drilled or existing wells re-drilled within any residential planning area after the County issues the first Certificate of Occupancy within that planning area. Any new wells drilled, or existing wells re-drilled outside of the residential neighborhoods, will be permitted and inspected by Cal DOC,DOG&GR. Prior to the first grading permit, the oil operator shall provide the County with a map providing survey coordinates for all current and abandoned wells. This plan shall be revised as conditions demand.

Oil wells to be retained in residential planning areas will be accommodated by replacing the existing pumping unit, pulling pad, and well cellar with a subsurface pumping unit enclosed within a concrete vault. The vault will have a lockable steel plate lid to isolate the unit from view or public access. The vault's size may vary, however a typical vault in a residential planning area will be 6 feet by 8 feet. The subsurface pumping unit will be electrically operated and will be equipped with an automatic shutoff valve, in the event of flooding, and a methane sensor equipped with an automatic shutoff valve. These wells will not be located within any private residential lot proposed in the Tonner Hills development. No habitable structure may be constructed within 150 feet of the retained subsurface well's wellhead or as otherwise approved by OCFA pursuant to Guideline C-02.

- (3) The regulations contained herein also allow for the development and servicing of new and existing oil operations facilities as permitted and inspected by the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (Cal DOC, DOG&GR), subject to Section 7-9-116 (0) "Oil Production" District of the Zoning Code, the regulations contained herein and all other applicable provisions of the Zoning Code.
- (4) The existing conditionally permitted green waste recycling facility located in the open space area of the Tonner Hills Planned Community shall be considered a conditionally permitted use.
- (5) The development regulations contained herein provide specific standards for development within the Tonner Hills Planned Community. Regulations govern residential, open space, community facilities, and oil operations/servicing land uses. Application of these regulations is intended to encourage the most appropriate use of the land, create a harmonious relationship between land uses, ensure the highest quality development, and protect the health, safety, and general welfare of the community.

- (6) Grading may be permitted within the Tonner Hills Planned Community outside the area of immediate development of a planning area when it is consistent with the approved community wide Area Plan and is within the boundaries of the Tonner Hills Planned Community project site.
- (7) In lieu fees, dedication of land, and/or credit for improvements may satisfy local park requirements in accordance with provisions of the Orange County Local Park Code and as established in the Tonner Hills Development Agreement.
- (8) The PC Development Map establishes Planning Areas to be developed consistent with the total dwelling units and other maximum intensity of uses indicated in the Statistical Table of the PC Development Map, as amended. The maximum dwelling unit count for the Planned Community shall not exceed 795. The PC Development Map and Statistical Table may be amended in accordance with Section 9, PC Development Map and Statistical Table Regulations and Procedures.
- (9) Planning Area boundaries:
 - a. Except as otherwise indicated, dimensions are measured from boundaries of Planning Areas.
 - b. Adjustments in the Planning Area boundaries resulting from Area Plan or Site Development Permit approvals, final road alignments, and/or technical refinements to the Tentative and/or Final Tract Map will not require amendment of the Planned Community when such adjustments are generally consistent with the Land Use Plan.
 - c. Boundaries not dimensioned on the Land Use Plan may be determined by approval of an Area Plan, a Site Development Permit, and/or a tentative subdivision map.
 - d. Nonresidential and residential uses and areas, which are indicated as being located at intersections of streets, may be altered to conform with final road alignments without requiring an amendment of the PC Development Map, provided such adjustments are consistent with the PC Development Map as determined by the Director.
- (10) A maximum of ten (10) percent of the total number of residential units developed in the Tonner Hills Planned Community shall be developed as affordable units as fully described in the Tonner Hills Development Agreement.

SECTION 2

RESIDENTIAL USE REGULATIONS

2.0 PURPOSE AND INTENT

The purpose of these provisions is to regulate the planning and development of the Residential Planning Areas in the Tonner Hills Planned Community. These regulations provide for a wide variety of residential uses for Tonner Hills including conventional single-family detached residential, cluster single family detached residential, attached single-family residential, and multiple-family residential. The regulations also allow for recreation uses, community facilities, and other uses and structures accessory to the main uses.

The purpose of these regulations is to provide a Planned Community Program which will be responsive to changing community needs and goals and which allow and encourage innovative community design and neighborhood mix in an effort to encourage housing types with price ranges commensurate with broad community needs and goals.

The purpose of these regulations is to provide for a compatible relationship between residential uses and existing and future oil operations including but not limited to wells, the gas plant, tank farm, dewatering facilities, underground and above ground pipelines, and administrative offices and servicing facilities within the Tonner Hills Planned Community. To accomplish this, no new wells will be drilled or existing wells re-drilled within any residential planning area after the County issues the first Certificate of Occupancy within that planning area. Any new wells drilled, or existing wells re-drilled outside of the residential neighborhoods, will be permitted and inspected by Cal DOC, DOG&GR. Prior to the first grading permit, the oil operator shall provide the County with a map providing survey coordinates for all current and abandoned wells. This plan shall be revised as conditions demand.

Oil wells to be retained in residential planning areas will be accommodated by replacing the existing pumping unit, pulling pad, and well cellar with a subsurface pumping unit enclosed within a concrete vault. The vault will have a lockable steel plate lid to isolate the unit from view or public access. The vault's size may vary, however a typical vault in a residential planning area will be 6 feet by 8 feet. The subsurface pumping unit will be electrically operated and will be equipped with an automatic shutoff valve, in the event of flooding, and a methane sensor equipped with an automatic shutoff valve. These wells will not be located within any private residential lot proposed in the Tonner Hills development. No habitable structure may be constructed within 150 feet of the retained subsurface well's wellhead or as otherwise approved by OCFA pursuant to Guideline C-02.

All Planning Areas shall be developed consistent with the total dwelling units indicated in the PC Development Map and Statistical Table, as amended. The maximum dwelling unit count for the Planned Community shall not exceed seven hundred ninety five (795) including affordable housing.

2.1 PRINCIPAL USES PERMITTED

- (1) Public and private utilities regulated by state law and exempt from local land use review.

- (2) Oil operations and servicing, as provided for in Section 1, Provisions and Regulations.

2.2 PRINCIPAL USE PERMITTED SUBJECT TO APPROVAL OF AN AREA PLAN

Prior to issuance of grading or building permits, or the approval of a tentative subdivision map, an Area Plan shall be approved in accordance with Section 8.

- (1) Conventional detached single-family detached residential dwellings.
- (2) Cluster single family detached residential dwellings.
- (3) Attached single family residential dwellings.
- (4) Recreational uses and structures customarily incidental or necessary to residential uses including, but not limited to, parks, greenbelts, riding, hiking and bicycle trails, and common areas.

2.3 USES PERMITTED SUBJECT TO AN APPROVED AREA PLAN AND SITE DEVELOPMENT PERMIT

- (1) Multiple family residential dwelling units.
- (2) Second residential units.
- (3) Community facilities in accordance with the requirements of Section 5.
- (4) Any other accessory use or structure, on a separate building site, which is compatible with and customarily incidental to, or necessary to the uses listed in Sections 2.2 and 2.3.
- (5) Community centers serving the residential development.
- (6) Any other uses as determined by the Planning Commission to be consistent with the purpose and intent of these regulations.

2.4 TEMPORARY USES PERMITTED

- (1) Temporary uses and structures in accordance with the provisions of Section 7-9-136 of the Zoning Code.

2.5 ACCESSORY USES PERMITTED

The following accessory uses and structures are permitted when customarily associated with and subordinate to a permitted principal use on the same building site.

- (1) Uses permitted per Section 7-9-137 of the Zoning Code, including:
- a. Garages and carports
 - b. Swimming pools and spas
 - c. Fences and walls
 - d. Tennis courts
 - e. Putting greens
 - f. Clubhouses
 - g. Parks, trails, greenbelts, and common areas.
 - h. Signs per Section 7
 - i. Non commercial keeping of pets and animals per section 7-9-146.3 of the Zoning Code.
 - j. Home occupations per Section 7-9-146.6 of the Zoning Code.
 - k. Any other accessory use or structure which the Director finds consistent with the purpose and intent of this planning area.

2.6 PROHIBITED USES

- (1) Telecommunications facilities including but not limited to communication transmitting, reception, or relay facilities.
- (2) The storage of vehicles, equipment, or products related to a commercial activity not permitted in this planning area.
- (3) The keeping of pets or animals for any commercial purpose.

2.7 RESIDENTIAL SITE DEVELOPMENT STANDARDS

All residential development shall be subject to the following regulations except as otherwise established by an approved Area Plan or Site Development Permit per Section 8.

2.7.1 CONVENTIONAL SINGLE FAMILY DETACHED RESIDENTIAL (Applies to Planning Areas 1-7)

a. Minimum building site area:

Planning Areas 1-6- Four thousand (4,000) square feet.
Planning Area 7- Eight thousand (8,000) square feet.

b. Minimum lot width at front setback line – Fifty (50) feet.

c. Maximum building height – Thirty five (35) feet.

d. Maximum site coverage – No maximum.

e. Building setback requirements -

- Front – Ten (10) feet.
- Rear - Fifteen (15) feet/twenty (20) feet where abutting a fuel modification zone.
- Side - From interior property lines- ten (10) feet minimum one side only / ten (10)feet aggregate both sides.
- From a residential street (corner lot) – Fifteen (15) feet.
- Projections into required setbacks - Front porches and architectural projections including but not limited to chimneys, pot shelves, cornices, eaves, outside staircases, balconies, enhanced window sills, shutter details, window trims, and entry gates may project five (5) feet into any required

front, side or rear setback, or within one (1) foot of the property line, whichever is the least projection into the setback.

- Patios setback from property lines – Three (3) feet/ Eight (8) feet when adjacent to a side street property line of a corner lot.
 - Set back from oil wells - Habitable structures may be constructed within a minimum distance of one hundred fifty (150) feet from operational oil, gas, and injector wells (collectively, “oil wells”), or at a distance less than one hundred (100) feet when approved by Orange County Fire Authority in accordance with the Orange County Fire Authority Guideline C-02, “Requirements for Residences less than 100 feet from an Oil Well”.
- f. Minimum net area per unit – Not applicable.
- g. Trash and refuse disposal – Not applicable.
- h. Signs – Signs shall be provided as required by the provisions of Section 7.
- i. Fences and walls -
- Within front yard area – the maximum height of a fence or wall shall be three and one-half (3½) feet maximum, except on key lots where the maximum height may be six (6) feet within that portion of the front setback area abutting the area where a six (6) foot high fence is permitted on the abutting lot, when such area is not adjacent to the garage driveway. Sound attenuation barriers may exceed six (6) feet as required by the Director.
 - Within other yard areas - the maximum height of a fence or wall shall be six (6) feet, except that this maximum may be exceeded when higher walls are required by the Director, for the purpose of noise mitigation or other health and safety measures.
- j. Off-street parking - Off-street parking shall be provided as required by the provisions of Section 6.

2.7.2 CLUSTER SINGLE FAMILY DETACHED RESIDENTIAL (Applies to Planning Areas 1-3)

- a. Minimum building site area- Twenty six hundred (2,600) square feet.
- b. Maximum building height - Thirty five (35) feet.
- c. Maximum site coverage – Seventy (70) percent.

- d. Minimum lot width at setback line – twenty five (25) feet.
- e. Building setbacks -
- Front – Five (5) feet.
 - Rear - Ten (10) feet/ twenty (20) feet when abutting a fuel modification zone.
 - Side - Five (5) feet.
 - From a residential street (corner lot) – Fifteen (15) feet.
 - Patios setback from property lines – Three (3) feet/ Eight (8) feet when adjacent to a side street property line of a corner lot.
 - Set back from oil wells - Habitable structures may be constructed within a minimum distance of one hundred fifty (150) feet from operational oil, gas, and injector wells (collectively, “oil wells”), or at a distance less than one hundred (100) feet when approved by Orange County Fire Authority in accordance with the Orange County Fire Authority Guideline C-02, “Requirements for Residences less than 100 feet from an Oil Well”.
- f. Minimum net site area per unit – Twelve hundred (1200) square feet.
- g. Trash and refuse disposal – Not applicable.
- h. Signs – Signs shall be provided as required by the provisions of Section 7.
- i. Minimum net area per unit – Not applicable.
- j. Trash and refuse disposal – Not applicable.
- k. Fences and walls -
- Within front yard area – the maximum height of a fence or wall shall be three and one-half (3½) feet maximum, except on key lots where the maximum height may be six (6) feet within that portion of the front setback area abutting the area where a six (6) foot high fence is permitted on the abutting lot, when such area is not adjacent to the garage driveway. Sound attenuation barriers may exceed six (6) feet as required by the Director.
 - Within other yard areas - the maximum height of a fence or wall shall be six (6) feet, except that this maximum may be exceeded when higher walls are required by the Director, for the purpose of noise mitigation or other health and safety measures.

- l. Private Open Space – A minimum of ten (10) percent of the net site area shall be provided as open space.
- m. Off-street parking - Off-street parking shall be provided as required by the provisions of Section 6.

2.7.3 ATTACHED SINGLE FAMILY RESIDENTIAL (Applies to Planning Areas 2 - 3)

- a. Minimum building site area - Two thousand (2,000) square feet.
- b. Maximum building height - Thirty five (35) feet.
- c. Building setbacks -
 - Front – Eight (8) feet.
 - Rear - Ten (10) feet/ twenty (20) feet when abutting a fuel modification zone.
 - Side - Ten (10) feet on one side.
 - From a residential street – Fifteen (15) feet.
 - Patios setback from property lines – Zero (0) feet/ Eight (8) feet when adjacent to a side street property line of a corner lot.
 - Set back from oil wells - Habitable structures may be constructed within a minimum distance of one hundred fifty (150) feet from operational oil, gas, and injector wells (collectively, “oil wells”) or at a distance less than one hundred (100) feet when approved by Orange County Fire Authority in accordance with the Orange County Fire Authority Guideline C-02, “Requirements for Residences less than 100 feet from an Oil Well”.
- d. Minimum net site area per unit – One thousand (1,000) square feet.
- e. Maximum site coverage – Sixty (60) percent.
- f. Minimum net area per unit – Not applicable.
- g. Trash and refuse disposal – Not applicable.
- h. Signs – Signs shall be provided as required by the provisions of Section 7.

- i. Fences and walls -
 - Within front yard area – the maximum height of a fence or wall shall be three and one-half (3½) feet maximum, except on key lots where the maximum height may be six (6) feet within that portion of the front setback area abutting the area where a six (6) foot high fence is permitted on the abutting lot, when such area is not adjacent to the garage driveway. Sound attenuation barriers may exceed six (6) feet as required by the Director.
 - Within other yard areas - the maximum height of a fence or wall shall be six (6) feet, except that this maximum may be exceeded when higher walls are required by the Director, for the purpose of noise mitigation or other health and safety measures.
- j. Private open space – A minimum of one hundred (100) square feet of private open space shall be provided per unit.
- k. Off-street parking - Off-street parking shall be provided as required by the provisions of Section 6.

2.7.4 MULTIPLE FAMILY RESIDENTIAL (Applies to Planning Area 2)

- a. Minimum building site area - Five thousand (5,000) square feet.
- b. Maximum building height - Forty (40) feet. Architectural projections may exceed the height limit by an additional ten (10) feet.
- c. Building setbacks -
 - Buildings shall be setback a minimum of fifteen (15) feet from any exterior property line. Minimum distance between buildings internal to the project shall be fifteen (15) feet. Building setbacks shall be twenty (20) feet when abutting a fuel modification zone.
 - Patios setback from property lines – Zero (0) feet/ Eight (8) feet when adjacent to a side street property line of a corner lot.
 - Set back from oil wells - Habitable structures may be constructed within a minimum distance of one hundred fifty (150) feet from operational oil, gas, and injector wells (collectively, “oil wells”), or at a distance less than 100 feet when approved by Orange County Fire Authority in accordance with the Orange County Fire Authority Guideline C-02, “Requirements for Residences less than 100 feet from an Oil Well”.
- d. Minimum net site area per unit – One thousand (1,000) square feet.

- e. Maximum site coverage – Sixty (60) percent excluding carports or garages.
- f. Minimum net area per unit – Not applicable.
- g. Signs – Signs shall be provided as required by the provisions of Section 7.
- h. Fences and walls -
 - Within front yard area – the maximum height of a fence or wall shall be three and one-half (3½) feet maximum, except on key lots where the maximum height may be six (6) feet within that portion of the front setback area abutting the area where a six (6) foot high fence is permitted on the abutting lot, when such area is not adjacent to the garage driveway. Sound attenuation barriers may exceed six (6) feet as required by the Director.
 - Within other yard areas - the maximum height of a fence or wall shall be six (6) feet, except that this maximum may be exceeded when higher walls are required by the Director, for the purpose of noise mitigation or other health and safety measures.
- i. Open Space – A minimum of two hundred (200) square feet of open space shall be provided per unit of which a minimum of fifty (50) percent shall be in common areas.
- j. Off-street parking - Off-street parking shall be provided as required by the provisions of Section 7.
- k. Trash and storage areas. All storage, including cartons, containers, or trash, shall be shielded from view within a building or area enclosed by a wall not less than six (6) feet in height.
- l. Screening -
 - Abutting residential areas - a screen, as defined in subsections *i.-iv.* below, shall be installed along all building site boundaries where the premises abut areas zoned for residential. Except as otherwise provided below, the screening shall have a total height of not less than six (6) feet and not more than seven (7) feet.
 - Parking areas abutting streets - a screen shall be installed along all parking areas abutting streets. Except as otherwise provided below, the screening shall have a minimum height of not less than thirty-six (36) inches and a maximum height of forty-two (42) inches.

- Notwithstanding the requirements listed above, where the finished elevation of the property at the boundary line, or within five (5) feet inside the boundary line, is higher or lower than the abutting property elevation, such change in elevation may be used in lieu of, or in combination with, additional screening to satisfy the screening requirements of this section.
- Screening material shall consist of one or any combination of the following:
 - i) *Walls* - including retaining walls - a wall shall consist of stucco, concrete, masonry finish, stone, brick, tile, or similar type of solid masonry material.
 - ii) *Berms* - a berm shall be constructed of earthen materials and it shall be landscaped.
 - iii) *Fences* - solid fences shall be constructed of wood, wood-like materials, weather treated wood, or similar quality.
 - iv) *Landscaping* - vegetation shall consist of evergreen or deciduous trees or shrubs.
- m. Mechanical equipment - Mechanical equipment placed on any roof such as, but not limited to, air conditioning, heating, ventilating ducts, and exhaust shall be screened from view from any abutting street.
- n. Landscaping- Landscaping, consisting of evergreen or deciduous trees, shrubs, ground cover, or hardscape shall be installed and maintained subject to the following standards:
 - Boundary landscaping abutting streets is required to an average depth of ten (10) feet with a minimum depth of five (5) feet.
 - Separation - any landscaped area shall be separated from an adjacent vehicular area by a wall or curb at least six (6) inches higher than the adjacent vehicular area or in some manner be protected from vehicular damage.
 - Watering - permanent automatic watering facilities shall be provided for all landscaped areas.
 - Maintenance - all landscaping shall be maintained in a neat, clean, and healthy condition. This shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plantings as necessary.

- o. Accessory Structures - Attached accessory buildings shall be considered as a part of the main building. Detached accessory buildings shall be subject to the setbacks of the main structure as provided for in these regulations.

- p. Garage and Carport Placement - The point of vehicular entry to a garage or carport shall be a distance of eighteen (18) feet or more from the back of sidewalk, or if there is no sidewalk, less than five (5) feet or more than twenty (20) feet from back of curb. Automatic remote roll-up garage doors are required for garages set back less than eighteen (18) feet to the point of vehicular entry.

- q. Recreation Uses -
 - Building site area: No minimum.

 - Building height: Thirty five (35) feet maximum, excluding architectural features. Architectural features, elevators, appropriately screened mechanical units, and chimneys which do not exceed ten percent (10%) of the roof area, nor exceed the height limit by more than ten (10) feet will be permitted.

 - Lighting: All lighting, exterior and interior, shall be designed and located to minimize power consumption and to confine direct rays to the premises.

2.7.5 Residential Site Development Standards Summary - Table 1

	SFD CONVENTIONAL	SFD CONVENTIONAL	SFD CONVENTIONAL	SFD CLUSTER	SFA TOWNHOME/ PAIRED HOME	MULTIPLE FAMILY
PLANNING AREA	PA's 1-7	PA's 1-7	PA's 1-7	PA's 1-3	PA's 2-3	PA 2
MIN. BUILDING SITE AREA	8,000 sf.	5,000 sf.	4,000 sf.	2,600 sf.	2,000 sf.	5,000 sf.
MIN. BLDG. SITE AREA/UNIT	N/A	N/A	N/A	1200 sf.	1000 sf.	1,000 sf.
LOT WIDTH @ SETBACK LINE	60 ft.	50 ft.	50 ft.	25 ft.	N/A	None
SETBACKS (1) (3) Front Rear Side Yard	20 ft. 25 ft. (2) 8 ft.	10 ft. 15 ft. 10 ft. min. one side only/ 10 ft. aggregate both sides.	10 ft. 15 ft. 10 ft. min. one side only/10 ft. aggregate both sides.	5 ft. 10 ft. 5 ft.	8 ft. 10 ft. 10 ft. on one side.	Buildings shall be setback a minimum of 15 ft. from any exterior property line and 15 feet between buildings internal to one another.
From a residential street (corner lot)	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	N/A
Patios	3 ft. (4)	3 ft. (4)	3 ft. (4)	3ft.(4)	0 ft. (4)	0 ft. (4)
SET- BACK FROM OIL WELLS/ HABITABLE STRUCTURES	150 ft. unless otherwise approved by OCFA per Guideline C-02.	150 ft. unless otherwise approved by OCFA per Guideline C-02.	150 ft. unless otherwise approved by OCFA per Guideline C-02.	150 ft. unless otherwise approved by OCFA per Guideline C-02.	150 ft. unless otherwise approved by OCFA per Guideline C-02.	150 f. unless otherwise approved by OCFA per Guideline C-02.
SITE COVERAGE	No Maximum.	No maximum.	No maximum.	70%	60%	60% excluding carports or ga-ages.
PRIVATE OPEN SPACE	NA	NA	NA	10% of net area	100 sf/unit	200 sf/unit of which a minimum of 50% shall be in common areas.
SIGNS	Per Section 7	Per Section 7	Per Section 7	Per Section 7	Per Section 7	Per Section 7
PARKING	Per Section 6	Per Section 6	Per Section 6	Per Section 6	Per Section 6	Per Section 6
BUILDING HEIGHT	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	40 ft.(5)
FENCES/WALLS	See 2.7.1.i	See 2.7.1.i	See 2.7.1.i	See 2.7.2.k	See 2.7.3.i	See 2.7.4.h
TRASH/STORAGE	N/A	N/A	N/A	N/A	N/A	See 2.7.4.k
SCREENING	N/A	N/A	N/A	N/A	N/A	See 2.7.4.l

Notes:

- 1) Projections into required setbacks including front porches and architectural projections including but not limited to chimneys, pot-shelves, cornices, eaves, outside staircases, balconies, enhanced window sills, shutter details, window trims, and entry gates may project 5 feet or within 1 foot of the property line whichever is the least projection into the setback.
- 2) May be counted as required fuel modification area.
- 3) 20 feet where abutting a fuel modification area.
- 4) 8 feet when adjacent to a side street property line of a corner lot.
- 5) Architectural projections may exceed the height limit by an additional ten (10) feet.

OPEN SPACE USE REGULATIONS

3.0 PURPOSE AND INTENT

The Tonner Hills Planned Community contains public open space comprised of public park use within Planning Area 8, public use open space area within Planning Area 9, natural and enhanced open space and graded open space within Planning Areas 10-12. Delineated open space areas, both natural and disturbed, will be placed within Scenic Preservation Easements irrevocably offered for dedication to the County of Orange, or its designee, to preserve open space in perpetuity. This shall occur prior to recordation of applicable subdivision maps which create building sites. Scenic easements will be of a type to permit fuel modification and continued oil operation infrastructure until oil operations are phased out.

Resource Preservation Easements, more restrictive easements in nature, will be irrevocably offered for dedication over portions of riparian habitat to be preserved and associated with Tonner Creek, also prior to recordation. All dedicated open space easements are subject to the approval of the Manager, County PFRD/HBP Program Management and Coordination.

Except for necessary urban infrastructure and public service facilities, such as, but not limited to, roads, trails, reservoirs, utility lines, grading for purposes of adjacent development and stabilizing slopes, flood control and water quality/urban runoff facilities, all new development in the open space and open space public use areas will be of an open space, public use, recreational, oil production/storage, oil servicing facilities, or agricultural nature.

Deviations to land uses proposed, inconsistent with land uses permitted within the Open Space Component of the Resources Element, Open Space Dedication Definitions, will be considered by PFRD/HBP, within separate instruments, which define acceptable open space uses on a case by case basis, particularly in regard to Scenic Preservation Easements to accommodate continued oil operations and new fuel modification needs.

Area Plans shall not be required for open space planning areas, since permitted uses are generally limited to natural amenities. Certain new open space uses shall be subject to approval of a Site Development Permit in accordance with Section 8.

3.1 PRINCIPAL PERMITTED USES

- (1) Oil facilities and servicing as described in Section 1, Procedures and Regulations.
- (2) Infrastructure service facilities or extensions necessary for the development of the adjacent urban areas, including but not limited to the following:
 - a. Flood control works.
 - b. Utility transmission or distribution lines.
 - c. Utility access roads.
 - d. Erosion control basins and water quality facilities and devices.

SECTION 4

OIL PRODUCTION AND STORAGE USE REGULATIONS

4.0 PURPOSE AND INTENT

The purpose of these provisions is to describe the manner in which continued and new oil operations and servicing uses are permitted and maintained within the Tonner Hills Planned Community.

4.1 PRINCIPAL USES PERMITTED

- (1) Existing and newly established oil production and storage facilities are permitted within all Planning Areas of Tonner Hills as if the zoning includes the (0) District Overlay as part of the zoning designation for the Tonner Hills Planned Community. Existing and newly established oil production and storage facilities are regulated in accordance with the regulations contained in Section 7.9.117 "Oil Production" of the Orange County Zoning Code, and Division 8, Oil Drilling and Production Regulations, Article 1 of the Orange County Oil Code. Existing and new oil production facilities are inspected by the California Department of Conservation, Division of Oil, Gas and Geothermal Resources (Cal DOC, DOG&GR) and the Orange County Fire Authority.
- (2) In accordance with the regulations of the Tonner Hills Planned Community, "Oil Operations and Servicing" may include, without limitation, the right to conduct exploration and exploitation surveys, drill for, explore, re-drill, work over, re-work, and/or complete wells for oil, gas, and other hydrocarbon substances, water, and minerals of every type and nature, together with the right to conduct primary, secondary, and/or tertiary recovery operations or to use other techniques, whether known or unknown, and to produce, take, treat, store, and sell water and oil, gas, and other hydrocarbon substances for the property, together with the right to permanently place, locate, relocate, construct, reconstruct, maintain, operate, use, repair, replace, remove, move, change the size of, increase the number of, and remove wells, pipelines, power lines, buildings, facilities, equipment, and fixtures necessary or desirable for the continued operation of the oil and gas field on, over, under, in and through the property, together with the right of ingress and egress to, from, and across the property to all existing and future oil wells and production facilities.

No new wells will be drilled or existing wells re-drilled within any residential planning area after the County issues the first Certificate of Occupancy within that planning area. Any new wells drilled, or existing wells re-drilled outside of the residential neighborhoods, will be permitted and inspected by Cal DOC DOG&GR. Prior to the first grading permit, the oil operator shall provide the County with a map providing survey coordinates for all current and abandoned wells. This plan shall be revised as conditions demand.

Oil wells to be retained in residential planning areas will be accommodated by replacing the existing pumping unit, pulling pad, and well cellar with a subsurface pumping unit enclosed within a concrete vault. The vault will have a lockable steel plate lid to isolate the unit from view or public access. The vault's size may vary, however a typical vault in a residential planning area will be 6 feet by 8 feet. The subsurface pumping unit will be electrically operated and will be equipped with an automatic shutoff valve, in the event of flooding, and a methane sensor equipped with an automatic shutoff valve. These wells will not be located within any private residential lot proposed in the Tonner Hills development. No habitable structure may be constructed within 150 feet of the retained subsurface well's wellhead or as otherwise approved by OCFA pursuant to Guideline C-02.

4.2 TEMPORARY USES PERMITTED

Not applicable.

4.3 ACCESSORY USES PERMITTED

Not applicable.

4.4 PROHIBITED USES

- (1) No new wells in residential planning areas pursuant to 4.1 (2) above.
- (2) Telecommunications facilities.

4.5 SITE DEVELOPMENT STANDARDS

- (1) All existing and newly established oil production and storage facilities shall be maintained and established in accordance with Section 7.9.117, "Oil Production" of the Orange County Zoning Code per the (0) District Overlay which is part of the zoning designation for the Tonner Hills Planned Community.
- (2) New oil production facilities shall be inspected by the California Department of Conservation, Division of Oil, Gas and Geothermal Resources.
 - a. In compliance with safety and visibility requirements from Cal DOC, DOG&GR, oil fields within the Tonner Hills Planned Community shall be secured by appropriate fencing. The existing fencing along Lambert Road, Valencia Avenue, Wildcat Way, adjacent to the high school, above Carmichael Drive and along Brea Boulevard will remain.

As residential development occurs, perimeter tract fences will be replaced, or new fences will be installed as required. These fences will be tubular steel or wrought iron depending upon design compatibility with the residential architectural theme of the development. Where there is an interface between residential development and an oil field road, there will be a gate built with either tubular steel or wrought iron, and gates will remain locked for security purposes.

- (3) The following shall apply to the relationship of wells to future residential uses:
 - a. Habitable structures may be constructed within a minimum distance of one hundred fifty (150) feet from operating oil, gas, and injector well (collectively, "oil wells") or at a distance less than 100 feet when approved by Orange County Fire Authority in accordance with the Orange County Fire Authority Guideline C-02, "Requirements for Residences less than 100 feet from an Oil Well".
- (4) A copy of Section 7-9-117. Oil Production of the Zoning Code, and Divisor 8, "Oil Drilling and Production Regulations", Article 1 of the Orange County Oil Code is contained in the Appendix.

4.6 PHASING

Prior to obtaining approval of a tentative tract map for development of any residential planning area, a conceptual plan shall be submitted to Cal DOC DOG&GR and the County for the abandonment and/or undergrounding of wells located within the residential planning area. Prior to issuance of a precise grading permit for any residential planning area a final plan for the abandonment and/or undergrounding of wells shall be submitted to Cal DOC DOG&GR and the County.

SECTION 5

COMMUNITY FACILITY USE REGULATIONS

5.0 PURPOSE AND INTENT

The purpose of these regulations is to provide for those public community support uses to be established within the Tonner Hills Planned Community. Development of community facilities within Tonner Hills Planned Community is restricted to Planning Area 8, Wildcatters Park, Planning Area 9, public use open space, and the Tonner Ridge Trail. To the extent feasible, the existing Wildcatters Park will be preserved in its existing condition.

All community facility uses proposed in the Tonner Hills Planned Community are done so subject to an approved Site Development Permit in accordance with Section 8.

5.1 PRINCIPAL PERMITTED USES SUBJECT TO AN APPROVED SITE DEVELOPMENT PERMIT.

Prior to approval of a grading or building permit, a Site Development Permit shall be approved in accordance with Section 8 to permit the following uses.

- (1) Public park facilities including but not limited to:
 - a. Community centers.
 - b. Recreation centers and facilities.
 - c. Active recreation improvements including but not limited to ball fields, swimming pools, tennis courts, and other similar active recreational improvements.
 - d. Picnic areas.
 - e. Tot lots.
 - f. Parking.
 - g. Barbeque areas.
 - h. Other similar recreational improvements.
- (2) Riding, hiking, and bicycle trails.
- (3) Civic and cultural facilities.
- (4) Public and quasi-public service facilities such as libraries, museums, and child care facilities.
- (5) Other similar uses which are found to be compatible with the district by the Director and which are shown on an approved Site Development Permit.

5.2 TEMPORARY USES PERMITTED

- (1) Uses permitted per Section 7-9-136 (f), 7-9-136.2 – 6 and 7-9-136.8 – 12.

5.3 ACCESSORY USES PERMITTED

Not applicable.

5.4 PROHIBITED USES

- (1) Temporary uses per Section 7-9-136.1 (c) and Section 7-9-136.7.
- (2) Telecommunications facilities.
- (3) Vehicle storage and maintenance facilities.

5.5 SITE DEVELOPMENT STANDARDS

The following development standards shall apply except as otherwise established by the approved Site Development Permit:

- a. Building site area- No minimum.
- b. Building height limit - Thirty-five (35) feet.
- c. Building setbacks - Community facilities shall be setback from collector streets, a minimum of 25 feet. Community facilities shall be setback from any residential use a minimum of twenty (20) feet.
- d. Off- street parking - Off-street parking shall be provided in accordance with the requirements of Section 6.
- e. Signs - Signs shall be permitted in accordance with Section 7.
- f. Trash and storage areas - All storage, including cartons, containers, and trash shall be shielded from view within a building or area enclosed by a solid screening material not less than six (6) feet in height. No such area shall be located within fifty (50) feet of any Residential Planning Area unless it is fully enclosed.
- g. Screening
 - Parking areas abutting streets - Screening shall be provided for parking areas abutting streets consistent with the requirements of the requirements for off street parking in Section 6.
 - Notwithstanding the requirements listed above, where the finished elevation of the property at the boundary line, or within five (5) feet inside the boundary line, is higher or lower than an abutting property elevation,

such change in elevation may be used in lieu of, or in combination with, additional screening to satisfy the parking area screening requirements of this section.

- Screening materials shall consist of one or any combination of the following:
 - i) *Walls including retaining walls* - a wall shall consist of concrete, masonry finish, plaster, stone, brick, tile, or similar type of solid masonry material.
 - ii) *Berms* - a berm shall be constructed of earthen materials, and it shall be landscaped.
 - iii) *Fences, solid* - solid fences shall be constructed of wood, wood-like materials, weather treated wood, or similar quality.
 - iv) *Landscaping* - vegetation, consisting of evergreen or deciduous trees or shrubs.
 - Mechanical equipment - mechanical equipment placed on any roof such as, but not limited to, air conditioning, heating, ventilating ducts, and exhaust shall be screened from view from any abutting street.
 - Landscaping - landscaping shall be installed and maintained subject to the following standards:
 - i) *Separation* - any landscaped area shall be separated from an adjacent vehicular area by a wall or curb at least six (6) inches higher than the adjacent vehicular area or shall in some manner be protected from vehicular damage.
 - ii) *Watering* - permanent automatic watering facilities shall be provided for all landscaped areas.
 - iii) *Maintenance* - all landscaping shall be maintained in a neat, clean, and healthy condition. This shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plantings.
- (h) Community facilities located proximate to oil activities are subject to all applicable OCFA regulations.

SECTION 6

OFF-STREET PARKING REGULATIONS

6.0 PURPOSE AND INTENT

Off-street parking regulations are established to provide for the on-site, off-street parking of motor vehicles that are attracted by the use or uses on the premises. The parking facilities for motor vehicles required by this section are assumed to be the minimum which will be required by the various land use categories. It is intended that these regulations will result in the installation of properly designed parking facilities of sufficient capacity to reduce traffic congestion, provide safe and convenient facilities for motorists and pedestrians, and generally provide for the off-street parking of motor vehicles.

6.1 GENERAL REQUIREMENTS

Off-street parking for the Tonner Hills Planned Community shall be in accordance with Section 7-9-145, "Off-Street Parking Regulations" of the Zoning Code, which is adopted by reference as a part of this section of the Tonner Hills Planned Community.

SECTION 7

SIGN REGULATIONS

7.0 PURPOSE AND INTENT

The purpose of this section is to establish standards for the uniform regulation of signs throughout the Tonner Hills Planned Community. The intent of this section is to permit adequate signing within Tonner Hills and to prevent unnecessary and unsightly signs.

7.1 GENERAL REQUIREMENTS

Except as otherwise provided below, the sign regulations for the Tonner Hills Planned Community shall be in accordance with Section 7-9-144, "Sign Regulations" of the Zoning Code, which is adopted by reference as part of this section of the Tonner Hills Planned Community. The following regulations shall apply to all residential and non-residential uses in the Tonner Hills Planned Community.

- (1) Community/Project Identification Monument/Ground signs.

Monument/ground signs are permitted within Tonner Hills for community identification purposes and for identification of each Planning Area and sub-area. A minimum of two monument/ground signs are permitted at each entry of the Planned Community, each entry of a Planning Area and each entry to a sub-area. Additional monument/ground signs may be permitted subject to approval of a Site Development Permit. The maximum area of a Community/Project Identification monument/ground sign shall be 50 square feet. Community/Project Identification monument/ground signs shall be permitted subject to approval of a Site Development Permit in accordance with Section 8. Monument/ground signs may be illuminated as specified below. Applications for monument/ground signs shall be accompanied by scale drawings indicating the size, sign copy, colors, method, and intensity of illumination, height, sign area, and general location of all signs on the building site.

- (2) No free-standing sign or structure shall be permitted closer than five (5) feet to any street right of way.
- (3) Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving lighting or lights. In no event shall an illuminated sign or light device be so placed or so directed as to permit the beams and illumination therefrom to be directed or beamed upon a street, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

SECTION 8

PROCEDURES AND ADMINISTRATION

8.0 PURPOSE AND INTENT

This section provides for the procedures and requirements for the preparation, filing, and processing of Area Plans and Site Development Permits within the Tonner Hills Planned Community.

8.1 AREA PLANS

Prior to or concurrent with the approval of the first tentative tract map, Site Development Permit, or application for the first grading or building permit (whichever occurs first within a Planning Area), the developer shall obtain approval of an Area Plan for the entire Tonner Hills Planned Community.

The purpose of an Area Plan is to provide a process whereby it can be demonstrated that the intent of conceptual development policies contained in the General Plan will be realized through more precise discretionary actions. Further the Area Plan is a process for the refinement of planning area boundaries and statistical information on an individual planning area basis. The Area Plan may establish subdivisions of a Planning Area(s) for the purpose of providing more detailed levels of planning information, allocating dwelling units or establishing the location of nonresidential land uses. Subdivisions of a Planning Area shall be called Planning Units. An Area Plan may be used to establish alternative development standards in accordance with Section 7-9-150 of the Zoning Code.

After first occupancy of an individual dwelling unit, the site development standards contained in the governing subsection of the Residential Site Development Standards of this text and those established by any applicable Area Plan shall apply to that dwelling unit and shall only be modified subject to the variance procedure contained in the Zoning Code or by an amendment or revision to the Area Plan approved in the same manner and applying to the same area as the originally approved Area Plan.

8.1.1 AREA PLAN CONTENT AND PROCEDURES

- (1) The Area Plan shall be approved concurrent with or prior to approval of a tentative subdivision map and/or Site Development Permit, or clearance for issuance of building or grading permits for any portion of the Planned Community. Final approval of any tentative map(s) affected shall be concurrent with or follow approval of an Area Plan or an amendment thereof. The Area Plan shall be approved by the Planning Commission per Section 7-9-150.3 (c), "Public Hearings", of the Zoning Code. Any subsequent Area Plan amendment shall be submitted to and approved by the Planning Commission in the same manner as the approval of the Area Plan. The Area Plan shall be forwarded to the City of Brea for review and comment thirty (30) calendar days prior to final action by the approving authority. However, if the City of Brea responds in less than 30 days, the approving authority may take final action if all other public notification requirements

have been satisfied. Failure of the City of Brea to respond shall not necessarily delay action on the Area Plan.

- (2) After the Area Plan is approved, subsequent amendments shall cover at least an entire Planning Area. Review of amendments to the Area Plan shall be limited to the Planning Area(s) that is being proposed for change.
- (3) The following activities do not require the approval of an amendment to the Area Plan prior to clearance for issuance of building or grading permits.
 - a. Extension of an off-site road or utility through a Planning Area to serve adjacent areas being developed, when the extension is consistent with the General Plan.
 - b. Minor structural additions to existing uses.
 - c. Directional signs.
 - d. Similar uses and activities of a minor nature, as determined by the Director.
- (4) Each Area Plan or amendment thereto shall contain sufficient detail for a thorough review of the relationships between uses as required by the Director or the Planning Commission.
- (5) Uses Not Specified - Any Area Plan that proposes a use not specifically identified as permitted by the Tonner Hills Planned Community shall be referred by the Director to the Planning Commission for review at a public hearing.
- (6) The Area Plan and any amendment thereto shall contain the following information, when applicable to the project proposal:
 - a. Location, acreage, and type of land use for each Planning Area.
 - b. Number of dwelling units to be developed within each Planning Area, with identification of any candidate affordable housing sites.
 - c. General street layout and width.
 - d. General location and acreage of landscape, natural open space, and recreation areas.
 - e. Park location, acreage, and implementation plan.
 - f. School location.
 - g. Location and land use of all non-residential areas.

- h. Topography, existing and proposed (i.e., concept grading plan).
 - i. Existing structures and development on adjacent parcels, to a minimum of three hundred (300) feet from the Area Plan boundary (an aerial photo may be used).
 - j. General location of bicycle, pedestrian, and equestrian trails.
 - k. General location and treatment of any significant cultural/scientific resources.
 - l. General location of any significant vegetation and wildlife resource and an indication of the resources to be altered and the resources to be preserved.
 - m. General location and treatment of scenic highways.
 - n. General location of extensions of off-site roads or utilities through a Planning Area to serve adjacent areas.
 - o. A list of all relevant programs, policies, and guidelines contained in the General Plan, together with a description of how they are being implemented by the Area Plan.
- (7) Designation of Planning Areas, with a Statistical Table allocating dwelling unit maximums to each Planning Area that permits residential uses.
- (8) Any additional background and supporting information that the project proponent, the Director, or the Planning Commission deems necessary for a clear presentation of the proposal.
- (9) Each approved Area Plan or amendment thereto will have the force and effect of an Orange County Development Plan, and the appropriate County agencies shall enforce any conditions of approval and ensure that development is substantially in accordance with the approved plan. However, detailed information shown on the Area Plan, such as local street alignments, architectural features, types and locations of buildings, lot lines, and similar specific information, shall be for information purposes only unless the Planning Commission specifically approves such details. Subsequent subdivision maps and Site Development Permits that contain detailed information different from the approved Area Plan may be approved without amending the approved Area Plan. Any substantial deviation from the approved Area Plan, as determined by the Director, shall require approval of an amendment to the Area Plan.
- (10) When the Director or the Planning Commission, by majority vote, or any member of the Board of Supervisors, determines that a proposed Area Plan or amendment may have a substantial impact on any property within 300 feet that is not owned by the applicant, the proposed Area Plan shall be heard by the Planning Commission in accordance with the procedures contained in Section 7-9-150.3 (c), "Public Hearings" of the Zoning Code.

- (11) It is the intent of these procedures that any subsequent development proposal, or addition to existing development that is in substantial compliance with the approved Area Plan, shall not be required to process an amendment to the Area Plan.
- (12) If development standards are proposed as part of a proposed Area Plan, the Planning Commission shall be the approving authority. When an Area Plan proposes to establish alternative development standards, the application shall provide, through the submittal of text and/or graphics, a description of the proposed alternative development standards and how they differ from the baseline standards. In addition, the Planning Commission shall consider the following criteria prior to final action on the alternative development standards proposed as part of an Area Plan:
- General Character:** Harmony in scale, bulk, coverage and density with surrounding land uses.
- Facilities:** The availability of infrastructure facilities to serve the project.
- Harmful Effects:** The harmful effects, if any, upon desirable neighborhood environments.
- Traffic:** The generation of traffic and its effect on the capacity and character of surrounding streets.
- Noise:** The existing and predictable future level and quality of noise the property is subject to, and the noise which would be generated by the proposed use.
- Suitability:** The physical suitability of the site for the proposed project.
- (13) When an Area Plan proposes to establish alternative development standards the burden of proof shall be on the project proponent to demonstrate how the project will result in an equivalent or better project in terms of minimizing adverse impacts or enhancing public benefits to the immediate and surrounding community.

8.2 SITE DEVELOPMENT PERMITS

The purpose of a Site Development Permit is to provide an opportunity for administrative review of detailed plans for project proposals within the community, and to provide an optional method for establishing alternative site development standards for residential and non-residential uses as provided in Section 7-9-150 of the Zoning Code. Except as otherwise provided by this section or when proposing alternative site development standards, the Director shall be the approving authority for all Site Development Permits.

The application for a Site Development Permit shall be forwarded to the City of Brea for review and comment (30) calendar days prior to final action by the approving authority. However, if the City of Brea responds in less than 30 days, the approving authority may take final action if all

other public notification requirements have been satisfied. Failure of the City of Brea to respond shall not necessarily delay action on the Permit.

8.2.1 SITE DEVELOPMENT PERMIT CONTENT AND PROCEDURES

- (1) Submittal Requirement - Site Development Permits shall be approved by the Director as required below, prior to clearance for issuance of any building or grading permits. At the discretion of the Director, minor projects or projects which are accessory to an existing use may be exempted from the requirement of a Site Development Permit review.
- (2) Concurrent Processing - A Site Development Permit can be processed concurrently with an Area Plan and/or tentative map(s).
- (3) Requirements for Filing - Each Site Development Permit, or amendment thereof, shall contain sufficient detail for a thorough review of the relationships between uses on the site and on adjacent sites as determined by the Director. Site development permits shall contain all the following data when applicable to the project proposal:
 - a. Plot Plan - drawn to scale, fully dimensioned, and easily readable, containing the following:
 - Title block (applicant's name and date drawn).
 - Scale and north arrow.
 - Property lines or building sites, dimensioned.
 - Existing uses on the site.
 - Location, acreage, and proposed type of land use for each building site.
 - Buildings - existing and proposed use, location and size.
 - Streets - location and width.
 - Easements - location, purpose, and width.
 - Access driveways - existing and proposed.
 - Parking areas with all parking spaces shown to County standards.
 - Lighting - a lighting program plan showing location, height, intensity, and accompanying data that demonstrates how the direct rays and glare will be contained on the site.
 - Signs - Size and location of all signs consistent with the provisions for signs within the Tonner Hills Planned Community Zoning.
 - Fencing and walls - materials and height.
 - Topography - existing and proposed.
 - Trails - bicycle, pedestrian, and trail locations, treatment and widths.
 - A sight distance study of all intersections of streets, driveways, trails, and accessways to ensure a safe sight distance for vehicles and pedestrians.
 - b. Elevations - Elevations shall be submitted that clearly demonstrate the architectural theme of all structures, including walls and signs, illustrating the following data:

- All exterior materials.
 - All exterior colors.
 - Building heights.
- c. Preliminary Landscape Plans - Preliminary landscape plans shall contain the following information:
- General location of all plant materials by common and botanical names.
 - Size of plant materials, where applicable.
 - An irrigation plan describing the type and size of irrigation equipment.
- d. Additional Information - Any additional background data and supporting information, studies, or materials that the project proponent or the Director deems necessary for a clear representation of the project.
- e. Acceptance for Filing - The above-listed materials shall be submitted in the form and number required by the Director. The Site development permit shall be accepted for filing when the above-described materials have been submitted in the required form and number.
- (4) Uses Not Specified - Any Site Development Permit that proposes a use not specifically identified as permitted by the Tonner Hills Planned Community shall be referred by the Director to the Planning Commission for review at a public hearing.
- (5) Amendments - A Site Development Permit may be amended by the same procedure listed above in Section 8.2.
- (6) A Site Development Permit may be used to modify site development standards. If alternative development standards are proposed as part of a proposed Site Development Permit, the Planning Commission shall be the approving authority. When a Site Development Permit proposes to establish Alternative Development Standards, the application shall provide, through the submittal of text and/or graphics, a description of the proposed alternative development standards and how they differ from the baseline standards. In addition, the Planning Commission shall consider the following criteria prior to final action on the alternative development standards proposed as part of a Site Development Permit:

General Character: Harmony in scale, bulk, coverage and density with surrounding land uses.

Facilities: The availability of infrastructure facilities to serve the project.

Harmful Effects: The harmful effects, if any, upon desirable neighborhood environments.

Traffic: The generation of traffic and its effect on the capacity and character of surrounding streets.

Noise: The existing and predictable future level and quality of noise the property is subject to, and the noise which would be generated by the proposed use.

Suitability: The physical suitability of the site for the proposed project.

- (7) When a Site Development Permit proposes to establish alternative development standards, the burden of proof shall be on the project proponent to demonstrate how the project will result in an equivalent or better project in terms of minimizing adverse impacts or enhancing public benefits to the immediate and surrounding community.

SECTION 9

PC DEVELOPMENT MAP AND STATISTICAL TABLE

9.0 PURPOSE AND OBJECTIVE

The purpose of the PC Development Map and Statistical Table is to provide a detailed breakdown of development areas and statistics by individual Planning Area and to provide for an efficient mechanism to make adjustments that are needed as development proceeds. Any amendment to the PC Development Map and/or Statistical Table that is consistent with the ordinance adopted Zoning Map and Statistical Summary shall not require a zone change or amendment to the other elements of the Tonner Hills Planned Community Program. Amendments to the PC Development Map and Statistical Table may be approved by the Planning Commission or Director, as appropriate.

9.1 AUTHORITY AND SCOPE

The authority for establishing a PC Development Map and Statistical Table which are a part of the Planned Community Program, and that are approved by resolution, is contained in Section 7-9-103.8 of the Zoning Code. The scope and content of the PC Development Map and Statistical Table are also set forth in Section 7-9-103.8 of the Zoning Code and are enhanced by additional clarification in this section.

9.2 CONTENT

The PC Development Map and Statistical Table shall cover all the territory included within the boundaries of the Tonner Hills Planned Community Zoning Map. Each Planning Area shall be identified by letter, number, or symbol. Each Planning Area will correspond to only one land use category.

- (1) The PC Development Map shall be drawn to scale and include the following information:
 - a. Title block (planned community name and date drawn); graphic scale and north arrow, and vicinity drawings.
 - b. Detailed Statistical Table consistent with the requirements of Section 7-9-103.6 of the Zoning Code, showing proposed land use categories, densities or intensities, and gross acreage for each Planning Area. Terminology shall be consistent with the Planned Community text, and statistics shall be consistent with the Statistical Summary (may be on a separate sheet).
 - c. Proposed topography, indicating in general manner showing areas to be graded and areas to remain in a natural state (may be on a separate plan).
 - d. Existing and proposed freeways, arterial highways, and commuter collector streets as shown on the Master Plan of Arterial Highways.

- e. Adopted regional riding, hiking and bicycle trails, regional parks, and other regional open space areas and uses consistent with the General Plan.
 - f. Earthquake faults and geologically unstable areas that preclude any development.
 - g. Existing major flood control, sewerage, water, and other utility facilities and easements that restrict surface uses/development.
 - h. Existing physical or cultural features and resources that are intended to be preserved or salvaged, including archaeological, paleontological, and historical sites and structures, and vegetative communities including rare or endangered species which, without appropriate mitigation, may preclude development.
 - i. General location of proposed local parks and community facilities such as schools, libraries, fire stations, and sheriff stations.
- (2) For purposes of readability, the content requirements above may be presented on two or more maps, plans, or sheets. For example, one map or plan may display land use categories and regulatory features, and another map or plan may display physical site features. All information, however, will be presented on a base map, of the same scale and size, showing exterior and Planning Area boundaries.
- (3) The Statistical Table may be included on the PC Development Map or on a separate sheet. The Statistical Table shall provide the following information in accordance with Section 7-9-103.6 of the Zoning Code:
- a. The types of uses proposed, consistent with the land use categories included in the text.
 - b. The maximum number of dwelling units proposed.
 - c. The minimum number of acres of open space.
 - d. The maximum number of acres of each non-residential land use category.
 - e. Any additional statistical information that may be appropriate.
- (4) The total number of dwelling units and acres of residential and non-residential uses shall be consistent with the Planned Community Zoning Map and Statistical Summary.

9.3 PROCEDURES AND AMENDMENTS

- (1) The PC Development Map and Statistical Table shall initially be approved by resolution of the Board of Supervisors. Thereafter, it may be amended by the procedures established in Section 7-9-103.9, "Adoption and Amendment Procedures", of the Zoning Code.

- (2) Prior to the approval of discretionary actions, including Area Plans, tentative subdivision maps, and/or Site Development Permits, the approving authority shall find that the subject discretionary action is consistent with the PC Development Map and Statistical Table.
- (3) Any revisions to increase the number of dwelling units in any Planning Area shall be offset by a corresponding decrease in other Planning Areas in order that the maximum number of units for the Tonner Hills Planned Community is not exceeded.
- (4) Any revision proposing to increase or decrease the number of acres assigned to a Planning Area (as a result of a Planning Area boundary refinement) shall be offset by a corresponding increase or decrease of acreage in the affected, adjacent Planning Area(s). Such adjustments are considered a necessary and routine result of the engineering and planning process.
- (5) Any revision to reallocate the number of dwelling units assigned to land uses from one Planning Area to another Planning Area by more than ten percent (10%) shall require an amended Statistical Table to be approved by the Planning Commission. Changes of less than ten percent (10%) shall require approval of the Director.

SECTION 10

DEFINITIONS

For the purpose of carrying out the intent of this Planned Community and the Zoning Code, words, phrases, and terms shall be deemed to have the meaning ascribed to them in the following section covering definitions. When a definition is not found herein, reference should be made to the Zoning Code. When a word is not found herein or in the Zoning Code, reference should be made to a standard dictionary. In cases of a difference in definition, the definitions in this section shall prevail.

When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; and words in the plural number include the singular.

The meaning and construction of words, phrases, titles, and terms used in the Towner Hills Planned Community shall be the same as provided in the Zoning Code, except as otherwise specifically provided herein.

The word "used" includes the words "arranged for," "occupied for", or "intended to be occupied for."

The words "shall" and "will" are mandatory. The word "may" is discretionary.

The word "permitted" means permitted without the requirement for a discretionary permit but subject to all other applicable regulations.

A

Attached single family dwelling unit – See Residential Dwelling Unit.

B

Building site – Same as lot size, a parcel or contiguous parcels of land established in compliance with the building site requirements of this Planned Community Program.

C

Cluster single family detached dwelling unit – see Residential Dwelling Unit.

Conventional single family detached dwelling unit – see Residential Dwelling Unit.

Community facility - a non-commercial use established primarily for the benefit and enjoyment of the population of the community in which it is located or for the general public.

D

Density, residential - the number of dwelling units per gross acre.

G

Grade, ground level - the average level of the finished ground surface surrounding the building.

Gross area - the entire land area within the boundary of a project, measured to the boundary of a Planning Area.

I

Interior property line - a property line which does not abut a private or public street.

K

Key lot - an interior lot, the front of which adjoins the side property line of a corner lot.

L

Lot Size - same as Building Site Area, a parcel or contiguous parcels of land established in compliance with the building site requirements of this Planned Community Program.

N

Net site area - the portion of a site that is not subject to any easement or included as a proposed public facility such as a street or other necessary improvement. Easements where the owner of the underlying fee has the right to use the entire surface except the portion where the owner of the easement may place utility poles or minor utility structures are not deducted to determine net site area.

P

Parking area, private - an area, other than a street, designed or used primarily for the parking of private vehicles and not open to general public use.

Planning Area - an area of land which is depicted on the PC Development Plan Map and which is described in the Statistical Table.

Public Open Space - areas described on the Tonner Hills Planned Community Development Map as Planning Areas 10-12 to be irrevocably offered for dedication to the County of Orange, or its designee, for preservation as open space, Planning Area 8 designated for public park use, and Planning Area 9 designated for public use.

Project - a land development readily recognizable as a unit, for example, a residential neighborhood, condominium, or apartment development, or similar land developments.

R

Recreation center, private - a recreation facility providing for such uses as swimming pools, tennis courts, volleyball courts, handball and racquetball courts, saunas, steam baths, whirlpools, and similar uses, established for the use of persons within a given community, development, or project.

Recreation center, public - a recreation facility providing for such uses as ball fields, swimming pools, tennis courts, volleyball courts, handball and racquetball courts, saunas, steam baths, whirlpools, and similar uses, established for the use of the general public.

Residential Dwelling Unit

Residential, Conventional Single Family Detached - any residential development wherein each dwelling unit is a detached unit situated on a lot of record and the units are constructed with a minimum lot size of four thousand (4,000) square feet.

Residential, Cluster Single Family Detached - a residential subdivision consisting of a combination of residential lots, each on a lot of record and the units are constructed on a minimum lot size of twenty six hundred (2,600) square feet with privately owned common recreation and open space areas arranged in accordance with a unified comprehensive plan with adequate provisions for permanent maintenance of the common ownership facilities. The entire development or specified portions of the development may be designated as a development unit. Each development unit may be considered a building site so that each residential lot need not comply with the requirements for a building site, and accessory structures including garages may be separated from the living unit. Each residential lot that does not comply with the building site requirements must abut the common area and have a guaranteed right of vehicular and pedestrian access to a public street for a minimum continuous width of twenty (20) feet.

Residential, Attached Single Family - A residential development wherein each dwelling is attached to one or more other dwellings. Single family attached dwellings may include a variety of housing types such as townhomes and paired homes and a variety of types of ownership.

Residential, Multiple-Family - any residential zoning district or residential development wherein the number of permitted dwelling units on one building site is three (3) or more and may include a variety of types of ownership; includes, apartments, condominiums, and stock cooperative projects.

Riding and hiking trails - any trail or way designed for and used by equestrians or pedestrians.

BALSA AVE.

CARMICHAEL DR.

57 FWY

LAMBERT RD.

WILDCAT WAY

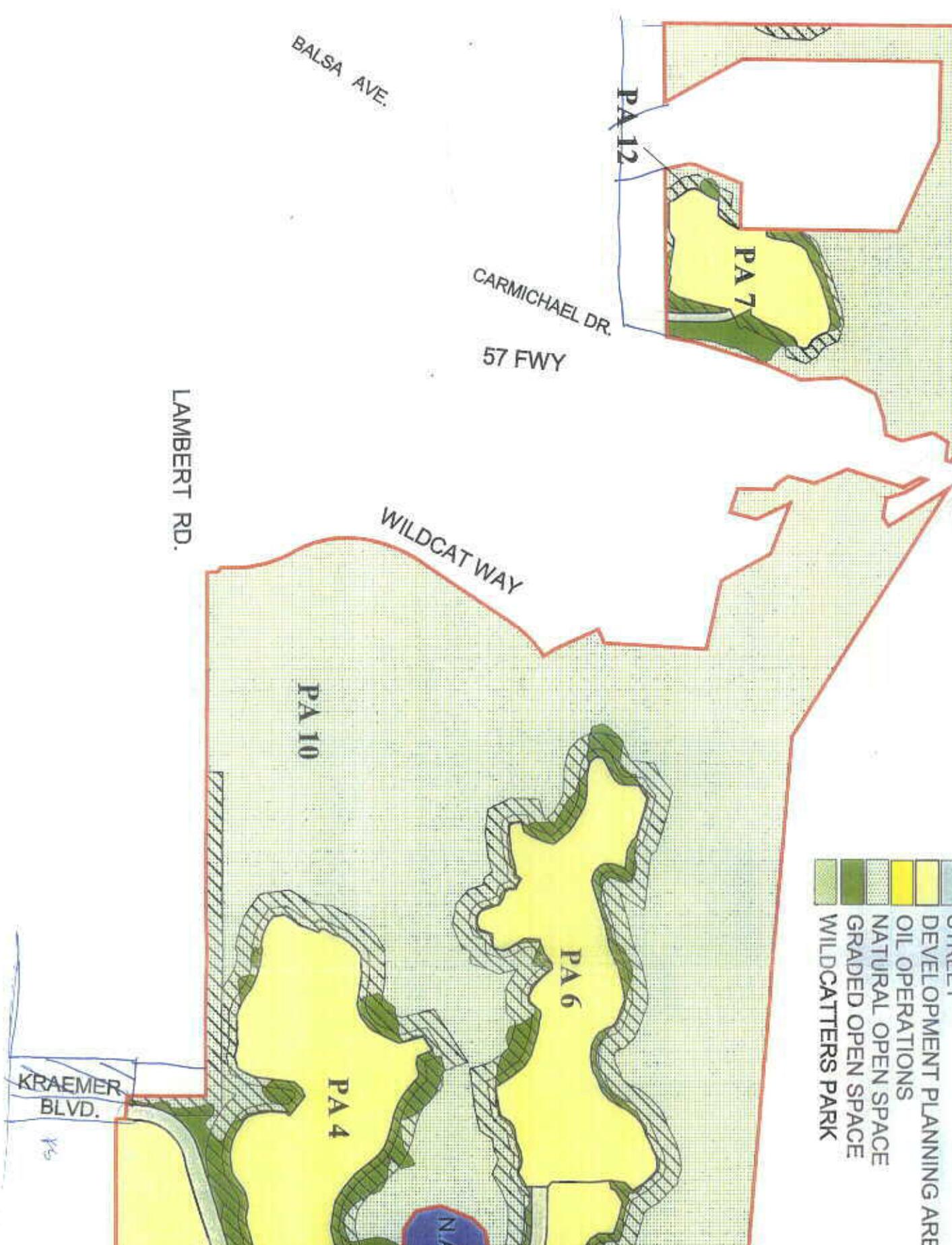
KRAEMER
BLVD.

PC (0)

N.A.P.

MILWA
STEEL
PRIV
OIL F
TOTY
((

- STREET
- DEVELOPMENT PLANNING AREA
- OIL OPERATIONS
- NATURAL OPEN SPACE
- GRADED OPEN SPACE
- WILDCATTERS PARK



BOUNDARY DESCRIPTION

THOSE PORTIONS OF THE RANCHO SAN JUAN CAJON DE SANTA ANA, IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, AND THE CITY OF BREA, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA AS SHOWN ON A RECORD OF SURVEY OF THE NORTHEASTERLY PORTION OF THE RANCHO SAN JUAN CAJON DE SANTA ANA, FILED IN BOOK 12 PAGE 40 OF RECORDS OF SURVEY IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH A PORTION OF LAND DESCRIBED IN A DEED, BILL OF SALE AND ASSIGNMENT, RECORDED APRIL 10, 1996 AS INSTRUMENT NO. 19960175928 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER, BOTH BEING SHOWN ON RECORD OF SURVEY NO. 91-1007 FILED IN BOOK 133, PAGES 41 THROUGH 46 INCLUSIVE, OF RECORDS OF SURVEYS AND RECORD OF SURVEY NO. 2001-1007, FILED IN BOOK 187, PAGES 02 THROUGH 07 INCLUSIVE, OF RECORDS OF SURVEYS BOTH IN THE OFFICE OF SAID COUNTY RECORDER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THOSE PORTIONS OF SECTIONS 1 AND 12, TOWNSHIP 3 SOUTH, RANGE 10 WEST AND SECTIONS 5, 6, 7 AND 8, TOWNSHIP 3 SOUTH, RANGE 9 WEST, IN THE RANCHO SAN JUAN CAJON DE SANTA ANA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 7 OF MISCELLANEOUS MAPS, IN THE OFFICE OF SAID COUNTY RECORDER, DESCRIBED AS FOLLOWS:

BEGINNING AT A WHITE POST 4 INCHES SQUARE IN MOUND WITH PITS AT THE NORTHEAST CORNER OF THE RANCHO SAN JUAN CAJON DE SANTA ANA, BEING ALSO THE SOUTHEAST CORNER OF THE RANCHO RINCON DE LA BREA; THENCE ALONG THE PATENT BOUNDARY OF SAID RANCHO RINCON DE LA BREA, NORTH 84° WEST 107.51 CHAINS TO A SAND STONE MARKED R. B. IN MOUND WITH PITS; THENCE ALONG SAID PATENT BOUNDARY NORTH 57° 42' WEST 43.67 CHAINS TO A WHITE POST 4 INCHES SQUARE IN MOUND OF STONE MARKED S. J. C. S. A. AT INTERSECTION OF THE PATENT LINES OF SAID RANCHOS SAN JUAN CAJON DE SANTA ANA AND RINCON DE LA BREA; THENCE ALONG THE PATENT LINE OF SAID RANCHO SAN JUAN CAJON DE SANTA ANA, NORTH 76° 25' WEST 62.67 CHAINS TO A 2" X 4" POST MARKED 62.67 IN MOUND WITH PITS; THENCE SOUTH 1° 45' WEST 58.96 CHAINS TO A 2" X 4" POST MARKED 20.60 IN MOUND WITH PITS; THENCE NORTH 89° EAST 20.00 CHAINS TO A 4" X 4" POST IN MOUND WITH PITS; THENCE SOUTH 1° 45' WEST 20.00 CHAINS TO A 2" X 4" POST MARKED 20.60 IN MOUND WITH PITS; THENCE NORTH 88° 39' EAST 55.48 CHAINS TO A 2" X 4" POST MARKED 20 IN MOUND WITH PITS; THENCE SOUTH 0° 30' EAST 20.00 CHAINS TO A 2" X 4" POST IN MOUND WITH PITS; THENCE NORTH 89° 45' EAST 134.63 CHAINS TO A 2" X 4" POST MARKED 40.10 IN MOUND WITH PITS UPON THE EASTERN BOUNDARY OF SAID RANCHO SAN JUAN CAJON DE SANTA ANA; THENCE ALONG SAME NORTH 4° WEST 47.51 CHAINS TO THE PLACE OF **BEGINNING**.

TOGETHER WITH PARCEL 1 OF A COUNTY OF ORANGE LOT LINE ADJUSTMENT NO. LL 2000-054, RECORDED AUGUST 13, 2001 AS INSTRUMENT NO. 20010557229 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM THE WESTERLY 200 ACRES OF THE ABOVE DESCRIBED TRACT.

ALSO EXCEPTING THEREFROM ANY PORTION LYING NORTHERLY OF THE AGREED BOUNDARY LINE AND BOUNDED WESTERLY BY LINE, RUNNING NORTH 28° 30' EAST FROM THE WESTERN TERMINUS OF SAID LINE AS ESTABLISHED BY AGREEMENT BETWEEN THE UNION OIL COMPANY OF CALIFORNIA AND THE GRAHAM-LOFTUS OIL COMPANY, RECORDED JUNE 10, 1905 IN BOOK 120, PAGE 223 OF DEEDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM PARCELS A6471-4, A6471-5, A6471-6 AND A6471-7 OF THAT CERTAIN FINAL ORDER OF CONDEMNATION, SUPERIOR COURT CASE NO. 156220, A CERTIFIED COPY OF WHICH WAS RECORDED SEPTEMBER 29, 1970 IN BOOK 9417, PAGE 364 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA RECORDED FEBRUARY 10, 1967 IN BOOK 8173, PAGE 641 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA RECORDED FEBRUARY 10, 1967 IN BOOK 8173, PAGE 647 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM ANY PORTION LYING SOUTHERLY OF THE CITY OF BREA ANNEXATION NO. 86-1, RECORDED DECEMBER 26, 1986, AS INSTRUMENT NO. 86-642752 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM ANY PORTION LYING EASTERLY OF THE CITY OF BREA ANNEXATION NO. R096-02, RECORDED OCTOBER 02, 1996 AS INSTRUMENT NO. 1996053838 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM THE ANY PORTION LYING WITHIN THE FOLLOWING PARCEL OF LAND

BEGINNING AT A POINT ON THE NORTHERLY LINE OF PARCEL 1 OF PARCEL MAP NO. 86-243, FILED IN BOOK 214, PAGES 28 THROUGH 31 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER, SAID POINT BEING THE SOUTHERLY TERMINUS OF A COURSE SHOWN AS " N 23°26'07"W 490.71' " ON SAID PARCEL MAP;

THENCE ALONG SAID NORTHERLY LINE NORTH 23°26'08" WEST 308.00 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING ALONG SAID NORTHERLY LINE THE FOLLOWING COURSES:
NORTH 23°26'08" WEST 182.71 FEET,
NORTH 60°42'49" WEST 177.75 FEET,
NORTH 10°33'18" EAST 381.48 FEET AND
NORTH N70°17'56" WEST 621.18 FEET;

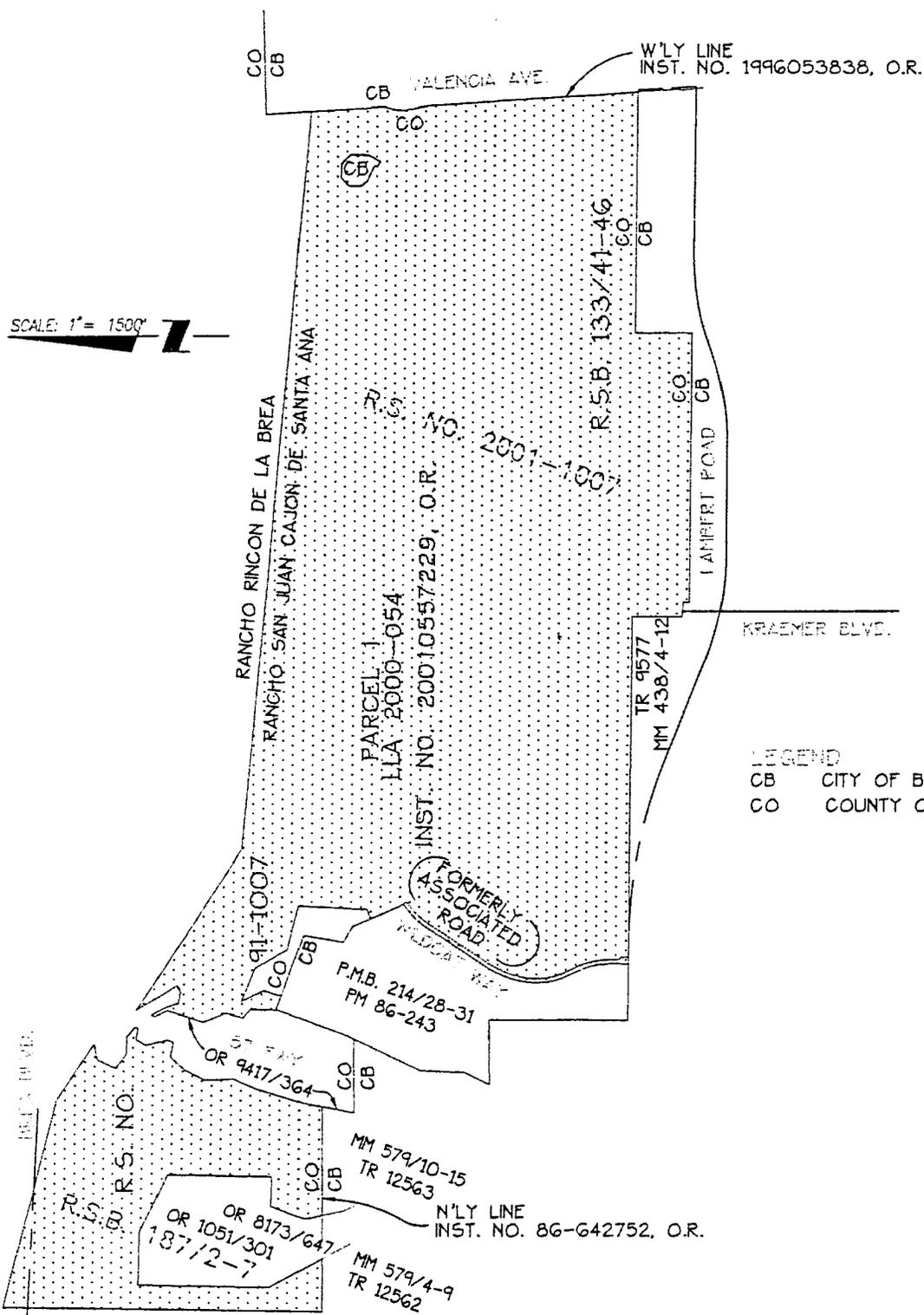
THENCE LEAVING SAID NORTHERLY LINE NORTH 18°00'00" EAST 175.00 FEET;
THENCE NORTH 25°00'00" WEST 237.00 FEET;
THENCE SOUTH 68°00'00" EAST 338.00 FEET;
THENCE SOUTH 30°00'00" EAST 356.00 FEET;
THENCE SOUTH 76°00'00" EAST 435.00 FEET;
THENCE SOUTH 03°00'00" WEST 650.00 FEET;
THENCE SOUTH 71°08'27" WEST 95.87 FEET TO THE **TRUE POINT OF BEGINNING**.

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

THE ABOVE DESCRIPTION IS FOR PLANNING PURPOSES ONLY

K:\13207.00\surmap\DOC\LEGALS\area plan.doc

BOUNDARY DEPICTION



LEGEND
 CB CITY OF BREA CITY LIMITS
 CO COUNTY OF ORANGE COUNTY LIMITS

PREPARED BY:
 THE KEITH COMPANIES, INC.
 2955 REDHILL AVENUE
 COSTA MESA, CA. 92626
 TEL: (714) 540-0800



Sec. 7-9-117. Oil Production.

(a) Permitted.

In any district where the district symbol is followed by, as a part of such symbol, parenthetically enclosed letter "O," thus (O), oil drilling and production of oil, gas and other hydrocarbon substances is permitted.

All drilling and production of oil, gas and other hydrocarbon substances, permitted pursuant to this section are subject to the regulations of the Orange County Oil Code (Sec. 7-8-1 through 7-8-53).



THIS INSTRUMENT IS A CORRECT COPY OF
THE ORIGINAL ON FILE IN THIS OFFICE
ATTESTED DATE: 1-8-02
DARLENE J. BLOOM
CLERK OF THE BOARD

Division 8

Dolly B. ... DEPUTY

OIL DRILLING AND PRODUCTION REGULATIONS

Article 1. The Orange County Oil Code, §§ 7-8-1-7-8-53

ARTICLE 1. THE ORANGE COUNTY
OIL CODE

Sec. 7-8-1. Title—Reference to code.

This division shall be known and may be cited as "The Orange County Oil Code." Code as referred to in this division, unless the context clearly indicates otherwise, shall mean the Orange County Oil Code. (Code 1961, § 77.011)

Sec. 7-8-2. Purpose.

(a) It is the intent of this code to regulate the exploration and drilling for and the production of petroleum so that this activity may be conducted in harmony with other uses of land within this County, thus protecting the people of the County of Orange in the enjoyment and use of their property and providing for their comfort, health, safety and general welfare.

(b) It is further the intent of the County Board of Supervisors that petroleum operations shall be permitted in all districts within this County subject to the application of this code, the requirements of which have been carefully designed for the fulfillment of the intent expressed in (a) above.

(c) The provisions of this code shall not apply to landfill gas recovery operations. (Code 1961, § 77.012; Ord. No. 2613, § 1, 8-2-72; Ord. No. 3402, § 6, 7-27-83)

Sec. 7-8-3. Definitions.

The following terms as used in this code shall, unless the context clearly indicates otherwise, have the respective meanings herein set forth in sections 7-8-4 through 7-8-26. (Code 1961, § 77.013; Ord. No. 2613, § 1, 8-2-72)

Sec. 7-8-4. Definitions (A).

Abandonment is the restoration of the drill site as required by these regulations.

A.N.S.I. is the American National Standards Institute.

A.P.I. is the American Petroleum Institute.

Approved: Approved by the Director. "Approved type" or "approved design" is and includes improvements, equipment or facilities of a type or design approved by the Director.

A.S.M.E. is the American Society of Mechanical Engineers. (Ord. No. 2613, § 2, 8-2-72; Ord. No. 3385, § 1, 5-17-83)

Sec. 7-8-5. Definitions (B).

Blowout is the uncontrolled discharge of gas, liquids or solids or a mixture thereof from a well into the atmosphere.

Blowout preventer is a mechanical, hydraulic or pneumatic or other device or a combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith designed and capable of preventing a blowout. (Ord. No. 2613, § 2, 8-2-72)

Sec. 7-8-6. Definitions (C).

Cellar is an excavation around or above the top joint of the casing in a well.

Completion of drilling: A well is completed, for the purpose of these regulations, thirty (30) days after the drilling crew has been released, unless drilling or remedial operations are resumed before the end of the thirty (30) days. (Ord. No. 2613, § 2, 8-2-72)

Sec. 7-8-7. Definitions (D).

Derrick is any framework, tower or mast together with all parts of an appurtenance to such structure, including any foundations, pump house, pipe racks, and each and every part thereof, which is or are required, or used or useful for the drilling for and the production of oil, gas or other hydrocarbons from the earth except tanks used for storage purposes.

Desertion is the cessation of operations at a drill site without compliance with the provisions of the code relating to suspended operations or abandonment.

Diligence, as used in these regulations, shall mean that the drilling derrick is in its operating position over the well, properly anchored and supported and that an operating crew is on duty at the drill site at all reasonable times.

Director shall mean and include the Director of the Environmental Management Agency of the County of Orange, his assistants, deputies, inspectors and officers of the Environmental Management Agency of the County of Orange.

Division of Oil and Gas shall mean the Division of Oil and Gas of the Department of Natural Resources of the State of California or any other state agency that may in the future be charged with its responsibilities.

Drilling means digging a hole in earth formation with a power-driven drill bit for the purpose of exploring for or developing of oil or gas. "Drilling" includes those operations that are concerned with the completion of a well. "Drilling" does not include "shot hole."

Drill site is the premises used during the drilling and subsequent life of a well or wells, which is necessary for the safe operations thereof. (Ord. No. 2613, § 2, 8-2-72; Ord. No. 3385, § 2, 5-17-83)

Secs. 7-8-8, 7-8-9. Reserved.

Sec. 7-8-10. Definitions (G).

Gas means the gaseous components or vapors occurring in or derived from petroleum or natural gas. (Ord. No. 2613, § 2, 8-2-72)

Secs. 7-8-11—7-8-14. Reserved.

Sec. 7-8-15. Definitions (L).

Lessee is the possessor the right to exploit the premises for minerals.

Lessor is the mineral right owner. (Ord. No. 2613, § 2, 8-2-72)

Sec. 7-8-16. Definitions (M).

Maintenance means and includes the repair and replacement of parts of a structure where same does not alter or lessen the strength or stability of the structure. (Ord. No. 2613, § 2, 8-2-72)

Sec. 7-8-17. Definitions (N).

Natural gasoline plant or *absorption plant* is a plant for the processing of natural gas from the production wells and processed into its various components. (Ord. No. 2613, § 2, 8-2-72)

Sec. 7-8-18. Definitions (O).

Oil includes petroleum, and *petroleum* includes oil.

Operator is the person, whether proprietor, lessee or independent contractor, actually in charge and in control of the drilling, maintenance, operation or pumping of a well or lease.

Outer boundary line: Where several contiguous parcels of land in one or different ownerships are operated as a single oil or gas lease or operating unit, the term "outer boundary line" means the exterior limits of the land included in the lease or unit. In determining the contiguity of any such parcels of land, no street, road or alley lying within the lease or unit shall be deemed to interrupt such contiguity.

Owner is a person who owns a legal or equitable title in and to the surfaces of the drill site. (Ord. No. 2613, § 2, 8-2-72)

Sec. 7-8-19. Definitions (P).

Person includes any individual, firm, association, corporation, joint venture or any other group or combination acting as a unit. (Ord. No. 2613, § 2, 8-2-72)

Sec. 7-8-20. Reserved.

Sec. 7-8-21. Definitions (R).

Redrilling shall mean the deepening of an existing oilwell or otherwise drilling beyond the extremities of the existing well casing. The provisions of this code relating to drilling shall be equally applicable to redrilling. (Ord. No. 2613, § 2, 8-2-72)

Sec. 7-8-22. Definitions (S).

Seismic petroleum prospecting: Prospecting for oil by means of drilling holes into the ground, placing an explosive charge therein and detonating such charge, thereby exciting an energy or sound wave through the earth, the results of which are recorded and read by

seismograph equipment placed at various locations on the surface of the earth. Seismic petroleum prospecting is prohibited in the following areas:

- (a) The area within one-quarter mile of the boundary of O'Neill Park and Irvine Park.
- (b) The area within one mile landward of the line of Upper Newport Bay as established and adjudicated by Superior Court Case No. 20436.
- (c) The area within one mile landward of the coastline measured from mean lower low water datum as established by the U.S. Coast and Geodetic Survey from the easterly jetty of the harbor entrance at Newport Beach to the San Diego County line.

Shot hole: The hole drilled in seismic petroleum prospecting.

Source of ignition means any flame, arc, spark or heated object or surface capable of igniting flammable liquids, gases or vapors.

Structure is that which is built or constructed; a tank, edifice or building of any kind.

Suspended operations is the approved, temporary suspension of drilling or redrilling operations pending a resumption of operations or abandonment. (Ord. No. 2613, § 2, 8-2-72; Ord. No. 3385, § 3, 5-17-83)

Sec. 7-8-23. Definitions (T).

Tank is a container, covered or uncovered, used in conjunction with the drilling or production of an oil well, for holding or storing liquids at or near atmospheric pressure. (Ord. No. 2613, § 2, 8-2-72)

Secs. 7-8-24, 7-8-25. Reserved.

Sec. 7-8-26. Definitions (W).

Well or oil well is a well or hole drilled into the earth for the purpose of exploring for or extracting from the earth oil, gas or other hydrocarbon substances, or a well or hole in the earth by means of and through which oil, gas and other hydrocarbon substances are extracted, produced or capable of being produced from the

earth, or a well or hole for the purpose of secondary recovery or disposal thereof. "Well" does not include "shot hole."

Well servicing is remedial or maintenance work performed within any existing well which does not involve drilling or redrilling. (Ord. No. 2613, § 2, 8-2-72)

Secs. 7-8-27—7-8-29. Reserved.

Sec. 7-8-30. Permits.

(a) A permit from the Director shall be obtained:

- (1) For drilling or redrilling operations in connection with the exploration for or the production of petroleum, or for the purpose of secondary recovery.
- (2) To erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any structure.

(b) No permit shall be required for well servicing or maintenance of or for any structure for which a building permit is not required. (Code 1961, § 77.014; Ord. No. 3385, § 4, 5-17-83)

Sec. 7-8-31. Permit procedure.

The applicant shall file an application in writing for a permit on a form furnished for that purpose by the Environmental Management Agency. The application shall be accompanied by:

- (a) A complete legal description of the property.
- (b) A fully informative plot plan showing the location of the well, the location of which has been staked on the ground, appurtenant structures and their relation to any existing hospital, sanitarium, church, rest home, airport, school and dwelling within the radius required by this code.
- (c) Plans and engineering specifications of structures, drilling derricks, drilling masts, tanks and high pressure systems regulated by this code. Applicant need not file plans and engineering specification of standard derricks, masts and tanks when such plans

and specifications are already on file in the office of the Director.

- (d) A corporate surety bond in conformity with provisions of section 7-8-32.
- (e) A verified statement signed by the applicant certifying that he is duly authorized by operator to make and file the application and that he has read the application and the same is true and correct.
- (f) An acknowledged statement in writing subscribed by the owner of the surface rights of the drill site and by the owner of any private land over which access is had to the drill site granting to the County of Orange the right to enter upon the drill site and such private land for the purpose of inspection and restoring the premises in the event the applicant should fail to do so.
- (g) A statement as to the means by which liquid spills will be removed from diked area or catchment basins.
- (h) Such other pertinent information as may be required by the Director.
- (i) A drilling permit may be amended insofar as it relates to the drill site area and a drill site may be modified as to size and shape by filing with the Director of a modified plot plan if the modified drill site conforms to the applicable provisions of this code and of section 7-9-52 of this title, but not otherwise. (Code 1961, § 77.015; Ord. No. 3385, § 5, 5-17-83)

Sec. 7-8-32. Bonds.

(a) *Existing wells.* A bond in the form required by this section shall be filed for each existing well within thirty (30) days following the effective date of this code.

(b) *New wells.* A bond in the form required by this section shall accompany every application for the drilling or redrilling of any oil well for which a bond is not on file.

(c) *Bond forms.* Bonds shall be on a form approved by the County Counsel and shall be filed with the Environmental Management Agency.

(1) *Single bonds:* Corporate surety bonds in the penal sum of five thousand dollars (\$5,000.00). The bond shall be executed by the operator as principal and by the authorized surety company as surety and conditioned that the principal named in the bond shall faithfully comply with all the provisions of this code in drilling or re-drilling and maintaining all production facilities as required by this code until properly abandoned in conformity with the provisions hereof. The bond shall secure the County of Orange against all costs, charges and expenses incurred by it by reason of the failure of the principal to fully comply with the provision of this code. The bond shall include the correct name or number of the well and such other information as may be necessary to readily identify the oil well.

(2) *Blanket bonds:* Any operator may, in lieu of filing a single bond for each well as required by the foregoing subsections (a) and (b) of this section, file a bond in the amount of twenty-five thousand dollars (\$25,000.00) to cover all of his said operations conducted within the County of Orange. A rider to said bond shall be filed with the Director showing the correct name or number of the well and such other information as may be necessary to readily identify the oil well for each well covered by the bond.

(d) *Default in performance of conditions; notice to be given.*

(1) Whenever the Director finds that a default has occurred in the performance of any requirement or condition of these regulations, written notice thereof shall be given to the principal and to the surety on the bond.

(2) Such notice shall specify the work to be done, the estimated cost thereof and the period of time deemed by the Director to be reasonably necessary for the completion of such work.

(3) After receipt of such notice, the surety shall within the time therein specified

either cause or require work to be performed, or failing therein, shall pay over to the Director the estimated cost of doing the work as set forth in the notice, plus an additional sum equal to twenty-five (25) percent of said estimated cost. Upon receipt of such moneys, the Director shall proceed by such mode as he deems convenient to cause the required work to be performed and completed, but no liability shall be incurred therein other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of the Division of Oil and Gas, such additional moneys may be demanded from the surety as is necessary to restore the drill site in conformity with the regulations of this code.

(e) *Exoneration.* Any bond issued in compliance with these regulations shall be terminated and canceled and the surety be relieved of all obligations thereunder when the well has been properly abandoned in conformity with all regulations of the Division of Oil and Gas and notice to that effect has been received by the Environmental Management Agency.

(f) *Substitution.* A substitute bond may be filed in lieu of any bond on file hereunder and the Director shall accept and file the same if it is qualified and in proper form and substance and the bond for which it is substituted shall be exonerated but only if the Director finds that all of the conditions of last mentioned bond have been satisfied and that no default exist as to the performance upon which the bond is conditioned. (Code 1961, § 77.016; Ord. No. 3385, § 6, 5-17-83)

Sec. 7-8-33. Permit fees.

(a) *Drilling or redrilling permit fees.* A fee for each drilling permit or redrilling permit shall be paid to the Director as established by resolution of the Board of Supervisors.

Where drilling, redrilling, construction or other work for which a permit is required by this code is started or proceeded with prior to obtaining said permit, the fees hereunder specified shall be doubled, but the payment of such double fee shall not relieve any persons, firms, corporations or employees from fully complying with the requirements of this code or the execution of the work, nor from any other penalties prescribed herein.

(b) *Plan-checking fees.* A plan-checking fee shall not be charged for the derrick or its appurtenances. A plan-checking fee shall be charged for all permanent buildings, production tanks, washing tanks, skim ponds and such other structures not directly connected with the derrick itself. A plan-checking fee shall be charged for oil well cellars designed to accommodate more than one oil well. Said plan-checking fee shall be established by resolution of the Board of Supervisors.

(c) *Annual inspection fees.* The Director shall inspect annually and at such other times as he deems necessary, each producing oil well and suspended oil well regulated by this code for the purpose of ascertaining whether the well is being operated or maintained in conformity with the minimum standards of this code. To meet the expense of such inspection, the operator shall pay to the Environmental Management Agency an annual inspection fee as established by resolution of the Board of Supervisors. The year for which each fee is applicable runs from July first to June thirtieth. The fees shall be based upon the total number of wells existing (whether producing or not) on July first. The fees shall be due prior to July first of the year to which they pertain. No additional fee shall be charged for additional inspections which may be required during the year. The Director shall keep a permanent, accurate account of all annual inspection fees collected and received under this code, the name of the operator for whose account the same were paid, the date and amount thereof, together with the well name and designation and the general location of the well. A report of the Director's annual inspection findings shall be furnished the operator.

(d) *Building permit fees.* A building permit fee, as established by resolution of the Board of Supervisors of this County shall be charged for the erection or construction or relocation of any permanent building, tank or other structures hereinabove included and such fee shall be based on the total valuation of the structure when completed.

(e) No permit issued hereunder shall be valid unless utilization of the privileges granted thereby be commenced within one hundred eighty (180) days from and after the date of issuance of the permit and diligently and progressively prosecuted thereafter.

(Code 1961, § 77.017; Ord. No. 3385, § 7, 5-17-83)

Sec. 7-8-34. Drilling and operating.

(a) *Location of oil wells.*

(1) No oil well shall be drilled within the following distances measured from the centerline of any local street or any highway shown on the Master Plan of Arterial Highways, as amended:

Major highways	210 feet
Primary highways	200 feet
Secondary highways	190 feet
Local streets	180 feet, except

that in the case of a local street, the right-of-way of which is more than sixty (60) feet in width, the distance shall be one hundred fifty (150) feet plus one-half of the existing right-of-way of which is more than sixty (60) feet in width, the Director may determine that because of the degree of slope or other feature of the topography, a lesser distance than one-half of the right-of-way in addition to the one hundred fifty (150) feet is reasonable to insure the safety of the traveling public in conformity with the purpose and intent of this provision, in which case the distance thus set by the Director shall prevail.

No oil well shall be drilled within one hundred fifty (150) feet of the nearest rail of a railway which carries passengers for hire.

(2) No oil well shall be drilled within one hundred fifty (150) feet of any building used for human occupancy, nor shall any such buildings be erected within one hundred fifty (150) feet of any oil well not abandoned, except buildings incidental to the operation of the well. No oil well shall be drilled within one hundred fifty (150) feet from the outer boundary line.

(3) No oil well shall be drilled within three hundred (300) feet of any building used as a place of public assemblage, institution or schools; nor shall any such building be erected within three hundred (300) feet of any oil well not abandoned.

(4) No oil well shall be drilled within the following areas which are hereby declared scenic and recreational areas:

a. The area within one-quarter mile of the boundary of O'Neill Park and of Irvine Park;

b. The area within one mile landward of the line of Upper Newport Bay as established and adjudicated by Superior Court Case No. 20436;

c. The area within one mile landward of the coastline measured from mean low water datum as established by the U.S. Coast and Geodetic Survey from the easterly jetty of the harbor entrance at Newport Beach to the San Diego County line.

(5) Permitted, subject to conditions.

a. Within any district not designated with (O) on the Orange County Zoning Map and not above described as a scenic and recreational area, the use of land for the drilling and production of oil, gas and other hydrocarbon substances, is permitted upon the hereinafter described "primary conditions," if at the time of the application for a permit to drill there exists either:

1. Twenty-five (25) or more dwellings within one thousand three hundred twenty (1,320) feet of the proposed location of the well; or
2. Six (6) or more dwellings within six hundred sixty (660) feet of the proposed location of the well; or
3. Any legally established structure used for housing of mentally or physically ill or aged persons having five (5) or more beds, is within six hundred sixty (660) feet of the proposed location of the well; or
4. In the determination of conditions applicable outside of the (O) Districts, improvements and oil wells located within (O) Districts shall not be considered.

b. Within any district not designated with (O) on the Orange County Zoning Map and not above described as a scenic and recreational area, the use of land for the drilling and production of oil, gas and other hydrocarbon substances is permitted upon the hereinafter described "secondary

conditions," if at the time of the application for a permit to drill neither 1. nor 2. nor 3., as described in subsection (a) above exists. In the determination of conditions applicable outside of the (O) Districts, improvements and oil wells located within (O) Districts shall not be considered.

- c. The word "dwelling" as used in this section means any building or structure which has for its primary purpose human residence. d. Primary conditions.
1. For site selection and preparation.
 - A. Drill site location: No drill site shall be located closer than one thousand three hundred twenty (1,320) feet from any drill site other than a drill site located in an (O) District. For the purpose of this article, the drill site for an oil well existing on May 28, 1958, shall be deemed to be all of the area within one hundred (100) feet from the center of the oil well.
 - B. Drill site area: No drill site shall contain more than two and one-half (2½) acres or be of such size or shape that it cannot be contained within a square three hundred thirty (330) feet by three hundred thirty (330) feet.
 - C. Number of wells: The number of wells which may be drilled shall not exceed one (1) well to each five (5) acres in the leased area.
 - D. Distance from dwelling: No oil well shall be drilled within one hundred seventy-five (175) feet of any dwelling.
 - E. Hours of operation: All work in preparation of the site for drilling shall be

conducted only between the hours of 7:00 a.m. and 7:00 p.m.

- F. Roads and excavations: Roads and other excavations shall be planned, constructed and maintained so as to provide stability of fill, minimize disfigurement of the landscape, maintain natural drainage and minimize erosion.
- G. Cut and fill slopes: No slope of cut or fill shall have a gradient steeper than one foot rise in one foot horizontal measurement. Where by reason of the soil condition, the condition of the terrain or size or length of the cut required it is impractical to provide such gradient, the Superintendent of Building and Safety may grant an exception to such requirement provided he first finds that compliance with said requirement is impractical and that the integrity of the neighborhood will be maintained if such exception is granted.
- H. Slope planting: All excavation slopes, both cut and fill, shall be planted and maintained with grasses, plants or shrubs during drilling and production operations, but only to an extent reasonably comparable with the general status of undisturbed surfaces in the vicinity.
- I. Fencing:
 - aa. Drilling. Prior to the commencement of drilling operations, the drill site shall be enclosed by an eight-foot-high solid fence to reduce sound.

- bb. Production. Upon completion of the drilling operation, the drill site shall be enclosed by a solid redwood fence or a solid masonry wall eight (8) feet high on all sides, except those sides on which exists a natural or artificial barrier of equal or greater solidity and height. Solid redwood board gates shall be installed and be equipped with keyed locks and shall be kept locked at all times when unattended. Any and all supporting members of the fence shall be on the interior of said fence. Such fence or wall shall be in lieu of any other fencing requirements.
 - J. Pipelines: All off-site pipelines serving the drill site shall be buried underground.
 - K. Parking: Parking for all vehicles including those of employees shall be provided on the drill site. Such parking areas shall be surfaced and maintained to prevent dust and mud.
 - L. Sanitary facilities: Sanitary facilities shall be provided at the drill site and shall be in accordance with Standards of the Orange County Health Department.
2. For drilling. Drilling operations shall be subject to the following limitations:
- A. Soundproofing:
 - aa. When drilling operations are limited to the hours of 7:00 a.m. to 7:00 p.m., with no operation on Sunday, only minimum soundproofing, as determined by the Director of Building and Safety, shall be required.
 - bb. When drilling operations are to be conducted continuously, the derrick and all machinery shall be enclosed in soundproofing material or otherwise made soundproof to the satisfaction of the Director of Building and Safety.
 - B. Lights: All lights shall be directed or shielded so as to confine direct rays to the drill site.
 - C. Delivery of equipment: The delivery or removal of equipment or material from the drill site shall be limited to the hours between 7:00 a.m. and 7:00 p.m., except in case of emergency.
 - D. Drill pipe storage: No drill pipe shall be racked and made up except between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, except within the derrick when soundproofed as specified in bb. above.
 - E. Power sources: All power sources shall be electric motors or muffled internal-combustion engines.
 - F. Maintenance: The drill site and all facilities shall be maintained in a neat, clean and orderly condition.
3. For production operation.
- A. Underground installation: All wellhead equipment shall be installed in cellars and no portion of such equipment shall be or

- project above the surface of the surrounding ground.
- B. Motive power soundproofing: Motive power for production operations shall be completely enclosed in a building or buildings insulated with sound-deadening materials. Such buildings shall be of residential appearance and no portion thereof shall exceed sixteen (16) feet in height.
- C. Motive power location: Motive power for production operations shall be located on a drill site.
- D. Height of installation: Except as otherwise herein specifically permitted, no permanent installations at the drill site shall be or project more than eight (8) feet above the surface of the surrounding ground.
- E. Storage of equipment: There shall be no storage of material, equipment, machinery or vehicle which is not for immediate use or servicing of an installation on the drill site.
- F. Maintenance: The drill site and all permanent installations shall be maintained in a neat, clean and orderly condition.
- G. Storage tank location: Storage tanks shall be located on a drill site.
- H. Storage tank capacity: Storage tank capacity at the drill site shall not exceed a total aggregate of two thousand (2,000) barrels exclusive of processing equipment.
- I. All surfaces of permanent installations within the drill site shall be painted flat dark green or flat brown.
- J. Removal of oil: Oil produced at the drill site shall be removed therefrom by an underground pipeline or pipeline at all times more than one hundred eighty (180) days from and after the date the first well in the drill site is completed.
- K. Refineries: No refinery, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the drill site or within the outer boundary line.
- L. Gas burning: Natural gas shall not be vented to the atmosphere nor burned by open flare.
- M. Well servicing: No well servicing shall be done except between the hours of 7:00 a.m. to 7:00 p.m. except in case of emergency.
- N. Signs: No sign which is visible from outside of the drill site shall be caused, permitted or allowed to be or remain any place on the drill site except: (a) Such signs as are required by law, (b) warning signs, (c) no trespassing signs.
- O. Landscaping: Shrubs shall be planted and maintained along the exterior of the fence or wall enclosing the drill site to relieve its monotonous appearance. This requirement shall not be construed to limit or prohibit additional site beautification by landscaping or other planting.
- P. Off-site pipelines: Within thirty (30) days from and after completion of the drilling of the first well on a drill site, the work of burying all off-site pipelines shall be commenced

and completed within a reasonable time thereafter.

e. Secondary conditions:

1. For site selection and preparation.

- A. Drill site location: No drill site shall be located closer than one thousand three hundred twenty (1,320) feet from any other drill site. For the purpose of this article the drill site, for an oil well existing on the effective date of Ordinance No. 1096 shall be deemed to be all of the area within one hundred (100) feet from the center of the oil well.
- B. Drill site area: No drill site shall contain more than two and one-half (2½) acres or be of such size or shape that it cannot be contained within a square three hundred thirty (330) feet by three hundred thirty (330) feet.
- C. Roads and excavations: Roads and other excavations shall be planned, constructed and maintained so as to provide stability of fill, minimize disfigurement of the landscape, maintain natural drainage and minimize erosion.
- D. Cut and fill slopes: No slope of cut or fill shall have a gradient steeper than one foot rise in one foot horizontal measurement. Where by reason of the soil condition of the terrain or size or length of the cut required it is impractical to provide such gradient, the Superintendent of Building and Safety may grant an exception to such requirement provided he first finds that compli-

ance with said requirement is impractical and that the integrity of the neighborhood will be maintained if such exception is granted.

- E. Slope planting: All excavation slopes, both cut and fill, shall be planted and maintained with grasses, plants or shrubs during drilling and production operations, but only to an extent reasonably comparable with the general status of undisturbed surfaces in the vicinity.
- F. Off-street parking: An off-street parking area containing not less than five (5) parking spaces, each of which shall be at least ten (10) feet by twenty (20) feet, shall be provided for each well being drilled and shall be surfaced and maintained in accordance with the requirements of the Orange County Oil Code.
- G. Sanitary facilities: Sanitary facilities shall be provided at the drill site and shall be in accordance with standards of the Orange County Health Department.

2. For drilling.

- A. Lights: All lights shall be directed or shielded so as to confine direct rays to the drill site.
- B. Power sources: All power sources shall be electric motors or muffled internal-combustion engines.

3. For production operations.

- A. Motive power locations: Motive power for production operations shall be located on a drill site.

- B. Height of pumping equipment: No walking beam type pumping equipment shall project more than ten (10) feet at its highest point of rise above the surrounding ground levels.
 - C. Storage tank location: Storage tanks shall be located on the drill site.
 - D. Height of storage tanks: No oil storage tank shall exceed eighteen (18) feet in height above the ground level.
 - E. Height of wash tanks: No wash tank shall exceed twenty-four (24) feet in height nor exceed eight (8) feet in diameter.
 - F. Fencing: Within thirty (30) days from completion of the first well on a drill site, such site shall be enclosed by a solid redwood fence or solid masonry wall eight (8) feet high on all sides, except those sides on which exists a natural or artificial barrier of equal or greater solidity and height. Solid redwood board gates shall be installed and be equipped with keyed locks and shall be kept locked at all times when unattended. Such fence or wall shall be in lieu of any other fencing requirements.
- (6) The Director may suspend any provision of subsection (a) in whole or in part, or impose less restrictive requirements if such provisions or requirements are rendered unnecessary or unreasonable by the then existing special features, such as: Topography, nature of the use and occupancy of and the proximity to buildings on adjoining property, the height, character and structure of such buildings, the type and character of oil field development and

may impose additional safety requirements rendered necessary because of such special features.

(Code 1961, § 77.018; Ord. No. 2613, § 1, 8-2-72; Ord. No. 3385, § 8, 5-17-83; Ord. No. 99-3, § 1, 1-26-99)

Secs. 7-8-35—7-8-39. Reserved.

Sec. 7-8-40. Abandonment procedure.

It shall be the responsibility of the Director to determine that the drill site and all facilities pertinent thereto have been restored to their original condition as nearly as practicable in conformity with the regulations of this code including the following requirements:

(a) *Standard.*

- (1) It shall be the responsibility of the operator to comply with the abandonment provision of this code and he shall furnish the Director the approval of the Division of Oil and Gas, Department of Natural Resources, confirming compliance with all abandonment proceedings under the state laws.

It shall be the responsibility of the operator to comply with the abandonment provision of this code and he shall furnish the Director with a) a copy of the approval of Division of Oil and Gas, Department of Natural Resources, confirming compliance with all abandonment proceedings under the State law, and b) a notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.

Abandonment shall be approved by the Director after restoration of the drill site and the subsurface thereof has been accomplished in conformity with the following requirements:

- a. The derrick and all appurtenant equipment thereto shall be removed from the drill site.
- b. All tanks, towers and other surface installations shall be removed from the drill site.

- c. All concrete, pipe, wood and other foreign materials shall be removed from the drill site to a depth of six (6) feet below grade, unless part of a multi-well cellar then being used in connection with any other well for which a permit has been issued.
- d. The oil well casing shall be cut off at a point six (6) feet below the drill site grade at the cellar, but in no case below sea level. Nothing shall be placed in the hole above the point of cutoff until the cutoff has been inspected by the Director and by him found to be in compliance with all applicable provisions of law.
- e. The top twenty-five (25) feet of the remaining casing shall be filled with a cement plug to prevent gas fumes from escaping.
- f. A steel cap of not less than the same thickness as the well casing shall be tack welded to the casing in a minimum of four (4) places.
- g. All holes and depressions shall be filled and packed with native earth. All oil, waste oil, refuse or waste material shall be removed from the drill site.

(b) *Conversion to water well.* A well may be converted to a domestic or agricultural water well upon the approval of the Director after:

- (1) A request in writing by the landowner has been made to the Director.
- (2) An original or certified copy of the approved conversion permit from the Division of Oil and Gas has been furnished the Director.
- (3) All the provisions of abandonment in the preceding subsection have been complied with except that those appurtenances necessary in the opinion of the Director for the operation of a water well may be retained.

(Code 1961, § 77.019; Ord. No. 2613, § 1, 8-2-72; Ord. No. 3385, § 9, 5-17-83)

Sec. 7-8-41. Called inspections.

Except as provided in subsection (b) hereof no drilling, re-drilling, work or construction shall be done beyond the point indicated in each successive inspection without first obtaining the written approval of the Director.

(a) *Site preparation.*

- (1) The well location shall be clearly marked by a stake or other suitable means and identified as the "well location."
- (2) The drill site shall be prepared as required in these regulations and shall be of such size so as to provide for the safe erection of the mast or derrick and all appurtenant structures thereto as indicated on the approved plot plan.
- (3) Any private road used for ingress and egress of equipment to the drill site shall be prepared as required by these regulations.
- (4) The proposed well shall be located in conformity with these regulations as to the distances from streets, outer boundaries, public buildings and dwellings.

(b) *Commencement of drilling.* The Director shall be called and notified when the drilling derrick or mast has been erected in conformity with these regulations and all necessary equipment pertinent to the drilling operations thereof has been installed and is on the site. Drilling may proceed prior to inspection of the derrick or mast, provided that its design has been previously approved by the Director. It will be the obligation of the Director to inspect such facilities as to their conformity with these regulations as soon as reasonably practicable.

(c) *Release of drilling crew.* The Director shall be notified immediately in writing when the drilling crew is released and it shall then be his duty to inspect.

(d) *Completion of drilling.* Upon completion of drilling operations, an inspection request shall be called for.

(e) *Abandonment.* An inspection shall be made subsequent to the approval of the aban-

donment notice and the Director shall certify that the well has been abandoned in conformity with all regulations to a depth of six (6) feet below grade.

(Code 1961, § 77.0110; Ord. No. 3385, § 10, 5-17-83)

Sec. 7-8-42. Notices required.

(a) *Service of notice.* Every operator of any oil well shall designate an agent who is a resident of the State of California, upon whom all orders and notices provided in this code may be served in person, or by registered or certified mail. Every operator so designating such agent shall within ten (10) days notify the Director, in writing, of any change in such agent or such mailing address unless operations within the County are discontinued. Service by registered or certified mail, or in person on the agent so designated, shall constitute service for all purposes of this code.

(b) *Transfer of operator.* The operator shall notify the Director, in writing of the sale, assignment, transfer, conveyance or exchange by said operator of wells, property and equipment within ten (10) days after such sale, assignment, transfer, conveyance or exchange. The notice shall contain the following:

- (1) The name and address of the person to whom such well and property was sold, assigned, transferred, conveyed or exchanged.
- (2) The name and location of the well.
- (3) The date of sale, assignment, transfer, conveyance or exchange.
- (4) The date when possession was relinquished by the former operator.
- (5) A description of the properties and equipment transferred. Every person who acquires any well, property or equipment, whether by purchase, transfer, assignment, conveyance, exchange or otherwise shall within ten (10) days after acquiring such well, property or equipment notify the Director, in writing, of his ownership. The notice shall contain the following:

- a. The name and address of the person from whom such well and property was acquired.
- b. The name and location of the well.
- c. The date of acquisition.
- d. A description of the properties and equipment transferred.
- f. The person designated for service of notice and his address.

(c) *Suspension of drilling and redrilling operations.* The operator of any well shall notify the Director, in writing, of any temporary suspension of operations, pending a resumption of operations or abandonment. The Director, for good cause, may approve temporary suspension of operations. Such notice shall be filed with the Director within thirty (30) days from and after release of drilling crew. Failure of the Director to act within ten (10) days shall constitute approval thereof. The operator shall notify the Director, in writing, upon resumption of operations giving the date thereof.

(d) *Change in drilling contractor.* The operator, before changing drilling or redrilling contractors, shall file with the Director a written notice of the change, giving the name of the original contractor and the name of the proposed contractor, and such information as was originally required to meet the design and structural requirements of this code. Such notice shall be attached to and become a part of the original oil drilling or redrilling permit. (Code 1961, § 77.0111; Ord. No. 3385, § 11, 5-17-83)

Sec. 7-8-43. Storage facilities.

(a) *Storage capacity.* Maximum tank capacity for producing oil well: If oil or other liquid storage facilities are established incidental to a producing well on a drill site, such storage facilities shall not exceed a total of two thousand (2,000) barrels per well.

(b) *Design and construction of tanks.* All tanks shall be constructed in detailed conformity with the current A.P.I. Standards applicable thereto.

(c) *Foundations and supports.* Tanks shall rest directly on the ground or on foundations,

supports or pilings of concrete, masonry, steel, crushed rock or wood. Exposed pilings or steel supports shall be protected by fire-resistive materials to provide a fire-resistance rating of not less than two (2) hours. Stairs, platforms and walkways shall be of metal, concrete or wood.

(d) *Spacing between tanks.*

- (1) No tank for the storage of any flammable liquid shall be located closer than three (3) feet of any other such tank.
- (2) For tanks above fifty thousand (50,000) gallons individual capacity for the storage of any flammable liquid, except crude petroleum, the distance between such tanks shall not be less than one-half the diameter of the smaller tank.
- (3) Tanks for the storage of crude petroleum having capacities not exceeding one hundred twenty-six thousand (126,000) gallons (3,000 barrels) shall not be less than three (3) feet apart. Tanks having a capacity in excess of one hundred twenty-six thousand (126,000) gallons (3,000 barrels) shall be not less than the diameter of the smaller tank apart.
- (4) The minimum separation between a liquefied petroleum gas container and any other tanks for the storage of any flammable liquids shall be twenty (20) feet. Suitable means shall be taken to prevent the accumulation of flammable liquids under adjacent liquefied petroleum gas containers such as by diking, diversion curbs or grading. When flammable liquid storage tanks are diked, the liquefied petroleum gas containers shall be outside the diked area and at least ten (10) feet away from the center line of the dikes. The foregoing provision shall not apply when liquefied petroleum gas containers of one hundred twenty-five (125) gallons or less capacity are installed adjacent to Class III flammable liquid storage tanks of two hundred seventy-five (275) gallons or less capacity.

(e) *Location of tanks.* Minimum distance between any outside aboveground tanks to the nearest building or line of adjoining property which may be built upon:

(1) Flammable liquids other than those having boilover characteristics similar to crude petroleum:

<i>Capacity of Tanks</i>	<i>Class of Flammable Liquid</i>	<i>Minimum Distance</i>
0 to 275 gals.	III	0 feet
276 to 750 gals.	III	5 feet
0 to 750 gals.	I and II	10 feet
721 to 12,000 gals.	III	10 feet
751 to 12,000 gals.	I and II	15 feet
12,001 to 24,000 gals.	I, II and III	15 feet
24,001 to 30,000 gals.	I, II and III	20 feet
30,001 to 50,000 gals.	I, II and III	25 feet

(2) Crude petroleum and other liquids having boilover characteristics similar to crude petroleum and flammable liquid tanks with capacity in excess of fifty thousand (50,000) gallons:

Crude Petroleum and Tanks with Capacities in Excess of 50,000 Gallons

Tanks with capacities in excess of fifty thousand (50,000) gallons and all tanks for the storage of crude petroleum shall be located in accordance with the following provisions (applicable to gastight tanks including conservation type tanks constructed in compliance with these or equivalent standards):

<i>Product Stored</i>	<i>Storage Facilities</i>	<i>Distance From Line of Adjoining Property Which May Be Built Upon Shall Be Not Less Than</i>
	<i>Tank Protection</i>	
Refined petroleum products or other flammable liquids not subject to boilover	Group 1) An approved permanently attached extinguishing system or A tanks 2) An approved floating roof	Greatest dimension of diameter or height of tank, except that such distance need not exceed 120 feet
	Group B tanks Not equipped with either of the above	1½ times the greatest dimension of diameter or height of tank except that such distance need not exceed 175 feet
Crude petroleum*	Group 1) An approved permanently attached extinguishing system or C tanks 2) An approved floating roof	2 times the greatest dimension of diameter or height of tank except that such distance shall not be less than 20 feet and need not exceed 175 feet
	Group D tanks Not equipped with either of the above	3 times the greatest dimension of diameter or height of tank except that such distance shall not be less than 20 feet and need not exceed 300 feet

- a. *Group A tanks.* Any gastight tank* constructed in compliance with these or equivalent standards and equipped either with:
1. An approved permanently attached extinguishing system; or
 2. An approved floating roof, which is to be used only for the storage of refined petroleum products or other flammable liquids not subject to boilover, shall be so located that the distance from the line of adjoining property which may be built upon shall be not less than the greatest dimension of diameter or height of the tank, except that such distance need not exceed one hundred twenty (120) feet.
- b. *Group B tanks.* Any gastight tank* constructed in compliance with these or equivalent standards but not equipped either with:
1. An approved permanently attached extinguishing system; or
 2. An approved floating roof, which is to be used only for the storage of refined petroleum products or other flammable liquids not subject to boilover, shall be so located that the distance from the line of adjoining property which may be built upon shall be not less than one and one-half (1½) times the greatest dimension of diameter or height of the tank, except that such distance need not exceed one hundred seventy-five (175) feet.
- c. *Group C tanks.* Any gastight tank* constructed in compliance with these or equivalent standards and equipped either with:
1. An approved permanently attached extinguishing system; or
 2. An approved floating roof, which is to be used for the storage of crude petroleum, shall be so located that the distance from the line of adjoining property which may be built upon shall
- be not less than twice the greatest dimension of diameter or height of the tank except that such distance shall be not less than twenty (20) feet and need not exceed one hundred seventy-five (175) feet.
- d. *Group D tanks.* Any gastight tank* constructed in compliance with these or equivalent standards and not equipped either with:
1. An approved permanently attached extinguishing system; or
 2. An approved floating roof, which is to be used for the storage of crude petroleum, shall be so located that the distance from the line of adjoining property which may be built upon shall be not less than three (3) times the greatest dimension of diameter or height of the tank except that such distance shall not be less than twenty (20) feet and need not exceed three hundred fifty (350) feet.
- Note:* The term "approved attached extinguishing system," as used in the foregoing description, may be interpreted to apply to:
1. A fixed foam or other recognized extinguishing system embodying a supply of the extinguishing medium; or
 2. A system employing a pipeline for conveying foam from a point outside the dike to the tank; or
 3. Portable overshot devices for applying foam over the rim of the tank. Where reliance is placed on a pipeline for conveying foam, the pipeline shall be so installed and attached as to be an integral part of the tank. Where reliance is placed on a portable overshot device, the practicability of its use shall be demonstrated before approval. Approved foam-generating equipment of sufficient capacity should be available on the property, by response of a municipal or other public fire department, or otherwise readily available,

and there should be on hand or otherwise readily available a sufficient supply of foam-producing materials as specified in the National Fire Protection Association Standards for Foam Extinguishing Systems, No. 11.

4. Buildings essential to the operation of the storage facilities (building location): No building used for human occupancy, except buildings essential to the operation of the storage facilities, shall be erected within the distances set out in the tables above, from such storage tanks.

*The term gastight tank includes so-called conservation type tanks.

(f) *Diverse ownership.* Where tank location of diverse ownership have a common boundary, the Director may, with the written consent of the owners, waive the required distances from the common property line and substitute the space between tanks as provided in this section.

(g) *Dikes, diversion walls and catchment basins.*

- (1) Required: Tanks used for the storage of crude petroleum and other flammable liquids having similar boilover characteristics shall be diked, or provided with approved diversion walls and catchment basins, or combinations thereof.
- (2) Location: No catchment basin or diked impounding area shall be located closer to the outer boundary line, or to any building designed for human occupancy than the diameter or height (whichever is greater) of the largest tank served by such basin or area, nor shall any building designed for human occupancy be erected or placed closer than such distance to any catchment basin or diked impounding area.
- (3) Capacity: The net capacity of a catchment basin, diked impounding basin or any combination thereof shall be equal to the capacity of the largest tank, plus ten (10) percent of the aggregate capacity of all other tanks served. In computing the re-

quired capacity of a catchment basin, diked impounding basin or combination thereof:

- a. The volume of the largest tank up to the height of the dike shall be considered as part of the available capacity of a diked impounding basin.
 - b. No part of the volume of tanks other than the largest tank shall be considered as part of the available capacity.
 - c. The capacity of a separate catchment basin may be used to reduce the required capacity of a diked impounding basin provided drainage sufficient to prevent overflow of the dike and effective control of flow are provided.
 - d. The capacity of a single separate catchment basin may be applied to reduce the required capacity of each of the diked impounding basins draining into it.
- (4) Construction: Dikes shall be of earth, concrete or solid masonry designed to be liquid-tight and shall be maintained. Where piping passes through dikes, provision shall be made for movement without damage to the dike and to minimize leaks under emergency conditions. Earthen dikes shall be built and maintained at a minimum height of two (2) feet, have sloping sides consistent with the angle of repose of the material used and be not less than two (2) feet wide at the top. The distance between the inside toe of any dike and the shell of the tank shall be not less than five (5) feet for tanks not more than thirty (30) feet in diameter and ten (10) feet for tanks in excess of thirty (30) feet in diameter.
- a. Spill dikes: Where tanks within a common diked impounding basin may cause mutual exposure from spills, spill dikes shall be provided between tanks of ten thousand (10,000) barrels or greater individual capacity. Groups of tanks of less than ten thousand (10,000) barrels individual capacity and not in excess of fifteen thousand (15,000) barrels aggregate capacity may be enclosed within a single spill dike.

The height of such spill dike shall not exceed fifty (50) percent of the height of the main or perimeter dikes.

- b. *Drainage:* Drainage shall be provided at a consistent slope of not less than one percent away from tanks and fittings to a sump, drain box or other safe means of disposal located within the diked impounding area and at the greatest possible distance from the shell of the tank. Traps with not less than six (6) inches of liquid seal shall be provided between the sumps, drain boxes or sewer openings within any impounding area and the sewers or drains intended for the disposal of spills. A valve, operable from outside the dike, shall be provided in the dike drain system and shall normally be kept closed.
- c. *Disposal:* Approved provisions shall be made for disposing of water and of oil retained by dikes, impounding or catchment basins.

(h) *Suspension of requirements.* In particular installations, some or all of the requirements of subsections (d), (e) and (g) of this section governing storage facilities may be suspended, in whole or in part, or less restrictive requirements may be imposed pending further order of the Director, where such requirements are rendered unnecessary or unreasonable by reason of the then existing special features such as: Topography, nature of occupancy and proximity to buildings on adjoining property, the height and character of construction of such buildings, capacity and construction of the proposed tanks and the character of liquids to be stored, the degree of private fire protection to be provided and the facilities of the Fire Department to cope with flammable liquid fires.

(i) *Skim ponds.* Any open, accessible, surface or subsurface installation used for the disposal of permitted waste liquids shall be fenced in accordance with the preceding fencing provision.

(j) *Loading by truck from production tank sites.* Location: Tank vehicle loading racks, loading platforms or movable loading spouts or arms dispensing flammable liquids shall be separated

from tanks, warehouses, other buildings, public streets and nearest line of property that may be built upon by a clear distance of not less than twenty-five (25) feet, measured from the nearest position of any fill stem. Buildings for pumps or for shelter of loading personnel may be part of the loading rack or platform. No person shall load or unload, or permit the loading or unloading of a tank vehicle unless such vehicle is located outside of any public street right-of-way.

Loading and unloading operations: During the loading or unloading of a tank vehicle, a qualified person shall be at the loading or unloading controls. Provision shall be made for the safe disposal of oils released by overflow and from loading spouts or lines.

(k) *Maintenance of tanks.* All tank tops which are accessible by means of a ladder, stairs or otherwise shall be maintained in a safe manner. Such tops unless constructed and maintained in compliance with the applicable A.P.I. Standards shall be made of a substantial material with no openings in excess of four (4) inches in any dimension except for gauging latches and similar openings which can be secured. (Code 1961, § 77.0112; Ord. No. 2613 § 1, 8-2-72; Ord. No. 3385, § 12, 5-17-83)

Sec. 7-8-44. High pressure pipe systems.

All piping systems to be operated at a pressure in excess of twenty (20) per cent of the minimum yield strength of the material with which the pipe is fabricated shall be designed, constructed, operated and maintained in accordance with the provisions of A.N.S.I. Standards B 31. (Code 1961, § 77.0113; Ord. No. 2613, § 1, 8-2-72)

Secs. 7-8-45—7-8-49. Reserved.

Sec. 7-8-50. Fire prevention; sources of ignition.

(a) *Electrical equipment.* All electrical equipment shall be installed and maintained in accordance with the requirements of the National Electrical Code as amended and adopted by the County of Orange.

(b) *Internal-combustion engines storage tanks, fired equipment and open flames.* No internal-combustion engine, storage tanks, boiler-fired equipment or open flames except welding supervised by the production foreman,

drilling foreman, drilling engineer, drilling supervisors or safety supervisors shall be located closer than twenty-five (25) feet to a producing well nor closer than one hundred (100) feet to a drilling well. Internal-combustion engines (and their fuel tanks) used in the drilling, production and servicing of oil wells are exempt from the above provisions. During drilling operations on a drill site of two (2) acres or less in area where two (2) or more wells are drilled and drilling and production equipment are located on such sites, the provisions in this subsection relating to distances of storage tanks may be altered at the discretion of the Director after consideration of the special features such as: Topographical conditions; nature of occupancy and proximity to buildings on adjoining property and height and character of construction of such buildings; capacity and construction of proposed tanks and character of liquids to be stored; degree of private fire protection to be provided, and facilities of the fire department to cope with flammable liquid fires.

(c) *Muffling exhaust.* The engines used in connection with the drilling of any oil well or in any production equipment of any oil well shall be equipped with an exhaust muffler to prevent excessive or unusual noise. Means shall be provided on all engines used during drilling operations to prevent the escape of flames, sparks, ignited carbon and soot.

(d) *Flammable waste gases and vapors.* Flammable waste gases or vapors escaping from a production drill site shall be burned or controlled to prevent hazardous concentrations reaching sources of ignition or otherwise endangering the area.

- (1) Flares. Approved means of ignition shall be provided whenever hydro-carbon gases are released to the air through flares.
- (2) Venting. Gases or vapors not burned may be discharged to the atmosphere at not less than twenty (20) feet vertically above grade and not less than twenty-five (25) feet horizontally from any source of ignition and at locations that do not create a hazard to the general area.

(e) *Waste control of drill site.*

(1) No person shall permit or cause to be permitted the discharge of any liquid containing crude petroleum or its products into or upon any street, public highway, drainage canal or ditch, storm drain or flood-control channel.

(2) No person shall permit or cause to be permitted any oil, waste oil, refuse or waste material to be on the surface of the ground, under, around or near any oil well, pump, boiler, oil storage tank or building except within an oil sump, tank, catchment basin or skimming pond. No new sumps or ponds shall be created without the written approval of the Director of the Environmental Management Agency.

(3) All land within twenty-five (25) feet of any oil well, flammable liquid tank or other appurtenance to any such well shall be at all times kept free and clear of dry weeds, grass, rubbish or other combustible debris. When this distance is not sufficient to provide reasonable fire safety, a greater distance may be required which shall not exceed the height of the derrick or greatest dimension of the tank.

(f) *Smoking.* No person shall smoke nor cause, permit or allow another person to smoke within fifty (50) feet of any well, tank location or any area contaminated by oil or waste gas.

(g) *Fire control equipment.* A minimum of two (2) fire extinguishers shall be maintained at all oil well locations where drilling, servicing or repair work is being conducted. Each such extinguisher shall have a minimum classification of 20B as set forth in National Fire Protection Association No. 10, "Standard for the Installation of Portable Fire Extinguishers." (Code 1961, § 77.0114; Ord. No. 2613, § 1, 8-2-72; Ord. No. 3385, § 13, 5-17-83)

Sec. 7-8-51. Enforcement.

It shall be the duty of the Director to enforce the provisions of the code. If at any time the Director finds any operator is violating any of the provisions of this code, he may order immediate compliance. If immediate compliance is not obtained, the Director shall order immediate cessation of operations. The operator shall immediately comply with the order of the Director

to cease and shall not resume any operations until written approval of the Director is had. (Code 1961, § 77.0115; Ord. No. 3385, § 14, 5-17-83)

Sec. 7-8-52. Appeals.

(a) The Board of Supervisors shall have and exercise the power to hear and determine appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the Director in the administration or enforcement of any of the provisions of this Code.

(b) An appeal shall be in writing and shall be filed in triplicate in the office of the Director. An appeal from any order, requirement, decision or determination by the Director must set forth specifically wherein it is claimed there was an error or abuse of discretion by his action or where the decision is not supported by the evidence in the matter.

(c) Any appeal not filed within ten (10) days from and after the date of the order, requirement, decision or determination complained of shall be dismissed by the Board of Supervisors.

(d) Within five (5) days from and after the filing of the appeal, the Director shall transmit to the Board of Supervisors all papers involved in the proceedings and two (2) copies of the appeal. In addition, he may make and transmit to the Board of Supervisors such supplementary report as he may deem necessary to present clearly the facts and circumstances of the case.

(e) Upon receipt of the record, the Board of Supervisors shall set the matter for hearing and give notice by mail of the time, place and purpose thereof to appellant and to the Director and any other party at interest who has requested in writing to be so notified and no other notice need be given.

(f) Upon the date for the hearing, the Board of Supervisors shall hear the appeal, unless for cause the Board of Supervisors shall on that date continue the matter. No notice of continuance need be given if the order therefor be announced at the time for which the hearing was set.

(g) Upon the hearing of such appeal, the Board of Supervisors may affirm, change or modify the ruling, decision or determination appealed from or in lieu thereof may make such other or additional determination as it shall deem proper in the premises subject to the same limitations as are placed upon the Director by this code and by other provisions of law. (Code 1961, § 77.0116; Ord. No. 3385, § 15, 5-17-83)

Sec. 7-8-53. Violations and penalties.

Any person, firm, corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted, and upon conviction of any such violation such person shall be punished by a fine of not more than five hundred dollars (\$500) or by imprisonment for not more than six (6) months, or by such fine and imprisonment. (Code 1961, § 77.0117; Ord. No. 3385, § 16, 5-17-83)

PA 9

OPEN SPACE
(PUBLIC USE)

THE KEITH COMPANIES

AL

VALENCIA AVE.

RESOLUTION OF THE ORANGE COUNTY PLANNING COMMISSION COUNTY OF ORANGE, CALIFORNIA	RES. NO. 02-10 DATE OF ADOPTION: October 16, 2002
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On the motion of Commissioner Goacher, duly seconded and carried, the following Resolution was adopted:

WHEREAS, Nuevo Energy Company (the "Applicant") filed an application for an Area Plan to develop a maximum of 914 residential units 7.7 acres of commercial and 508.4 acres of open space on approximately 789.8 acres within unincorporated Orange County for a residential development project hereinafter referred to as the "Tonner Hills"; and

WHEREAS, the Applicant has amended the Area Plan to reduce the number of dwelling units to a maximum of 795 residential units, increased the open space to 559.7 acres and deleted the commercial site that is now reflected within the proposed Tonner Hills Area Plan; and

WHEREAS, these 789.8 acres are located within an area of land currently zoned A1 "General Agricultural" District, with an (O) "Oil Production" District overlay and is located within unincorporated Orange County; and

WHEREAS, Zone Change ZC 01-01 has been considered by this Planning Commission and this Planning Commission has recommended approval by the Board of Supervisors to change the zoning for said 789.8 acres within unincorporated Orange County to PC "Planned Community" District, with an (O) "Oil Production" District overlay (Tonner Hills Planned Community Program) to permit a maximum of 795 residential units; and

WHEREAS, this Area Plan for Tonner Hills Planned Community will only become valid and effective following the final adoption of Zone Change ZC 01-01 for the Tonner Hills Planned Community Program and Development Map and Statistical Summary by the Board of Supervisors; and

WHEREAS, pursuant to California Government Code Section 65000 et seq. the County of Orange has an adopted General Plan which meets all of the requirements of State Law;

WHEREAS, in compliance with the provisions of the California Government Code, a legally noticed public hearing was held by the Orange County Planning Commission on September 18, 2002 and October 16, 2002 to consider the Tonner Hills Planned Community Program and Development Map and Statistical Summary, together with the proposed Area Plan for the Tonner Hills project submitted by the Applicant; and

WHEREAS, in conformance with California Environmental Quality Act (California Public Resources Code Section 21000, et seq.), the State CEQA Guidelines (California Administrative Code Section 15000, et seq.), and the County's environmental analysis

PLANNING COMMISSION RESOLUTION 02-10

Page 3

AYES: Long, Goacher, Nielsen, McBurney, Merriman

NOES: None

ABSENT: None

I HEREBY CERTIFY that the foregoing Resolution No. 02-10 was adopted on October 16, 2002 by the Orange County Planning Commission.

ORANGE COUNTY PLANNING COMMISSION


By: Chuck McBurney, Chairman



Appendix A

Findings

PA010009

1	GENERAL PLAN	PA010009
That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.		
2	ZONING	PA010009
That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.		
3	COMPATIBILITY	PA010009
That the location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity.		
4	GENERAL WELFARE	PA010009
That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.		
5	PUBLIC FACILITIES	PA010009 (Custom)
That the approval of this application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).		
6	COMMUNITY ANALYSIS AREA	PA010009
That the project will not reduce the availability of affordable housing within the community analysis area and will otherwise substantially comply with the intent of this section.		
7	FINAL EIR	PA010009 (Custom)
That Final EIR No.581 was considered prior to approval of the project and determined to adequately address all potential adverse environmental impacts of the proposed project and meets all the requirements of CEQA and the state CEQA Guidelines.		
a. Based on the Initial Study, it is found that the EIR serves as a Program EIR for the proposed project; and		
b. The approval of the certified Final EIR for the project reflects the independent judgement of the lead agency.		
8	FISH & GAME - SUBJECT	PA010009
That pursuant to Section 711.4 of the California Fish and Game Code, this project is subject to the required fees as it has been determined that potential adverse impacts to wildlife resources may result from the project.		
9	NCCP SIGNIFICANT	PA010009
That the project has the potential of adversely affecting significant Coastal Sage Scrub habitat and therefore, may preclude the ability to prepare an effective subregional Natural Communities Conservation Planning (NCCP) Program.		



Appendix B Conditions of Approval PA010009

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| 1 | CP CP NA | BASIC/ZONING REG | PA010009 |
|---|----------|------------------|----------|
- This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.
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| 2 | CP CP NA | BASIC/PRECISE PLAN | PA010009 |
|---|----------|--------------------|----------|
- Except as otherwise provided herein, this permit is approved as a precise plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.
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| 3 | CP CP NA | BASIC/COMPLIANCE | PA010009 |
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- Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.
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| 4 | CP CP NA | BASIC/OBLIGATIONS | PA010009 |
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- Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant shall reimburse the County for any court costs and attorneys fees that the County may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.
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| 5 | CP CP NA | BASIC/APEAL EXACTIONS | PA010009 |
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- Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.
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| 6 | CP CP R | DEVELOPMENT STANDARDS | PA010009 (Custom) |
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- Prior to the recordation of any subdivision map, the applicant shall place a note on the map that the property is subject to the standards of the Tonner Hills Planned Community and use zoning regulations.
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| 7 | CP CP B | SCHOOL FEES | PA010009 (Custom) |
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- Prior to the issuance of a building permit for residential construction, the applicant shall provide written verification from the School District, in a manner meeting the approval of the Manager of Community and Advanced Planning that a mitigation agreement has been reached with the District for subject property consistent with the provision of land contiguous to, but outside of the project boundaries, to the Brea Olinda School for the expansion of the existing parking lot for the High School, and provision of substantial funds for improvements.
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| 8 | CP/EP CPEP R/G | MITIGATION MONITORING PROGRAM | PA010009 (Custom) |
|---|----------------|-------------------------------|-------------------|
- Prior to recordation of the first final map, either for conveyance or development, or prior to any grading or building permit, whichever comes first, the applicant shall comply with all applicable mitigation measures which shall be applied as conditions of approval due at the development milestone applicable at the time recordation of a final map or permit issuance. The specific mitigation measures, which shall be applied as conditions of approval are incorporated herein by reference as contained in the Mitigation Monitoring Program of Final EIR No. 581 certified by the Board of Supervisors.
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| 9 | CP CP NA | PROJECT PHASING AND PROJECT IMPROVEMENTS/DEDICATIONS | PA010009 (Custom) |
|---|----------|--|-------------------|
- Stipulations contained in the Tonner Hills Development Agreement between the County of Orange and Nuevo Energy Company, as they pertain to the timely implementation of improvements as scheduled in the project phasing plan are incorporated herein as conditions of approval of the Area Plan for the Tonner Hills Planned Community.

C. Prior to the issuance of a building permit, the developer, under the supervision of the Fire Chief, shall have completed the portion of the approved fuel modification plan determined to be necessary before the introduction of any combustible materials into the project area. Approval shall be subject to an on-site inspection.

D. Prior to the issuance of any certificate of use and occupancy, the fuel modification shall be installed and completed under the supervision of the Fire Chief with an approved plant pallet. The CC&Rs or other approved documents shall contain provisions for maintaining the fuel modification zones, including the removal of all dead and dying vegetation. The fuel modification zones shall be subject to triennial inspections.

15 F F G SECURED FIRE PROTECTION AGREEMENT PA010009 (Custom)

Prior to recordation of the first final map, including maps for financial and conveyance purposes, or a grading permit, which ever comes first, the applicant shall enter into a Secured Fire Protection Agreement with the fire protection agency with jurisdiction over the project site.

16 EP/CAP EP/CAP R AFFORDABLE HOUSING PA010009 (Custom)

Prior to the recordation of the first subdivision map that creates residential building sites, the subdivider shall submit and obtain approval of a Housing Program Report from the Manager, Environmental and Project Planning. The subdivider shall demonstrate in said report how the proposed housing program complies with the Affordable Housing Implementation Plan for the Tonner Hills Planned Community as follows: A minimum of 10% of the total number of residential units will be developed as low-income affordable housing in a manner meeting the approval of the Manager, Community and Advance Planning Services.

17 SG SG/ER R HAZARDOUS MATERIAL PA010009 (Custom)

Prior to the recordation of a subdivision map, the subdivider shall submit, a "Hazardous Materials Assessment" and a "Disclosure Statement" covering the property (both fee and easement) which will be offered for dedication or dedicated to the County of Orange or the Orange County Flood Control District, for review and approval by the Manager, Subdivision and Grading, in consultation with the Manager, PFRD/ Environmental Resources.

18 HP HP R OPEN SPACE DEDICATIONS PA010009 (Custom)

Prior to or concurrent with recordation of the first Level A map, the applicant shall irrevocably offer to dedicate in fee, free of liens and leases, to the County of Orange or its designee all of the Open Space shown on the Development Map (Planning Areas 10, 11, 12 and 9) in a manner meeting the approval of the County Counsel, and Managers of Current Planning and HBP/Program Management and Coordination.

19 EP/HBP EP/HBP G RESOURCE MANAGEMENT PLAN (REMP) PA010009 (Custom)

Prior to issuance of the first grading permit or approval of the first subdivision map, whichever occurs first, the applicant shall obtain approval from the Director, Planning and Development Services Department (PDSD) of a Resource Management Plan (REMP) for the Tonner Hills Planned Community. Said REMP shall address: 1) restoration of habitat that will occur as part of the oil site remediation process or as required mitigation by State and Federal wildlife agencies, 2) restoration monitoring and success criteria, 3) long-term invasive species control requirements, 4) protocols for conducting oil operations and facility maintenance within restoration areas, and 5) a perpetual funding mechanism to support these activities.

Based upon the REMP the applicant shall be required to dedicate open space areas in scenic and/or resource preservation easements in a manner meeting the approval of the Director, PDSD in consultation with the Manager, PFRD/HBP Program Management and Coordination consistent with Section 3 "Open Space Use Regulations" of the Tonner Hills Planned Community Regulations. The easement shall identify areas of ongoing oil operation to be distinguished from areas intended to be preserved as wildlife habitat.

20 EP/HBP CP/SG G CONSISTENCY WITH REMP PA010009 (Custom)

All construction related activities shall be consistent with the approved Resource Management Plan (REMP) in a manner meeting the approval of the Director, PDSD, in consultation with the Manager PFRD/HBP Program Management and Coordination.

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AREA PLAN ORANGE COUNTY, CALIFORNIA

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Tonner Hills

DRAFT AREA PLAN ORANGE COUNTY, CALIFORNIA

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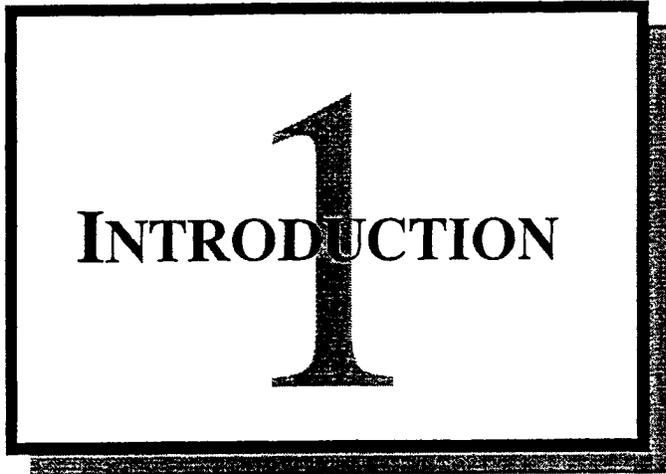
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1 INTRODUCTION

The Tonner Hills Area Plan addresses the 789.8 acre project site governed by the Tonner Hills Planned Community Program. The project site is located within the northerly portion of unincorporated Orange County as illustrated on the Regional Location Map, Exhibit 1 and on the Vicinity Map, Exhibit 2. Approximately 681.2 acres of Tonner Hills are located east of the 57 Freeway bounded by Lambert Road on the south, Valencia Avenue on the east, Wildcat Way and the 57

Freeway on the west, and Tonner Canyon on the north. Approximately 108.6 acres of Tonner Hills are located west of the 57 Freeway bounded by the city limits of the City of Brea to the south, open space to the north, a Metropolitan Water District reservoir to the west, and the 57 Freeway to the east.

1.1 PURPOSE

The Tonner Hills Area Plan (Area Plan) addresses the purpose, objectives, and requirements of the Tonner Hills Planned Community Program. The Area Plan describes land use, circulation, infrastructure, and landscape concepts at a greater level of detail than that generally described at the time of adoption of the Tonner Hills Planned Community Program.

1.2 Area Plan Contents

The Tonner Hills Area Plan contains the following information:

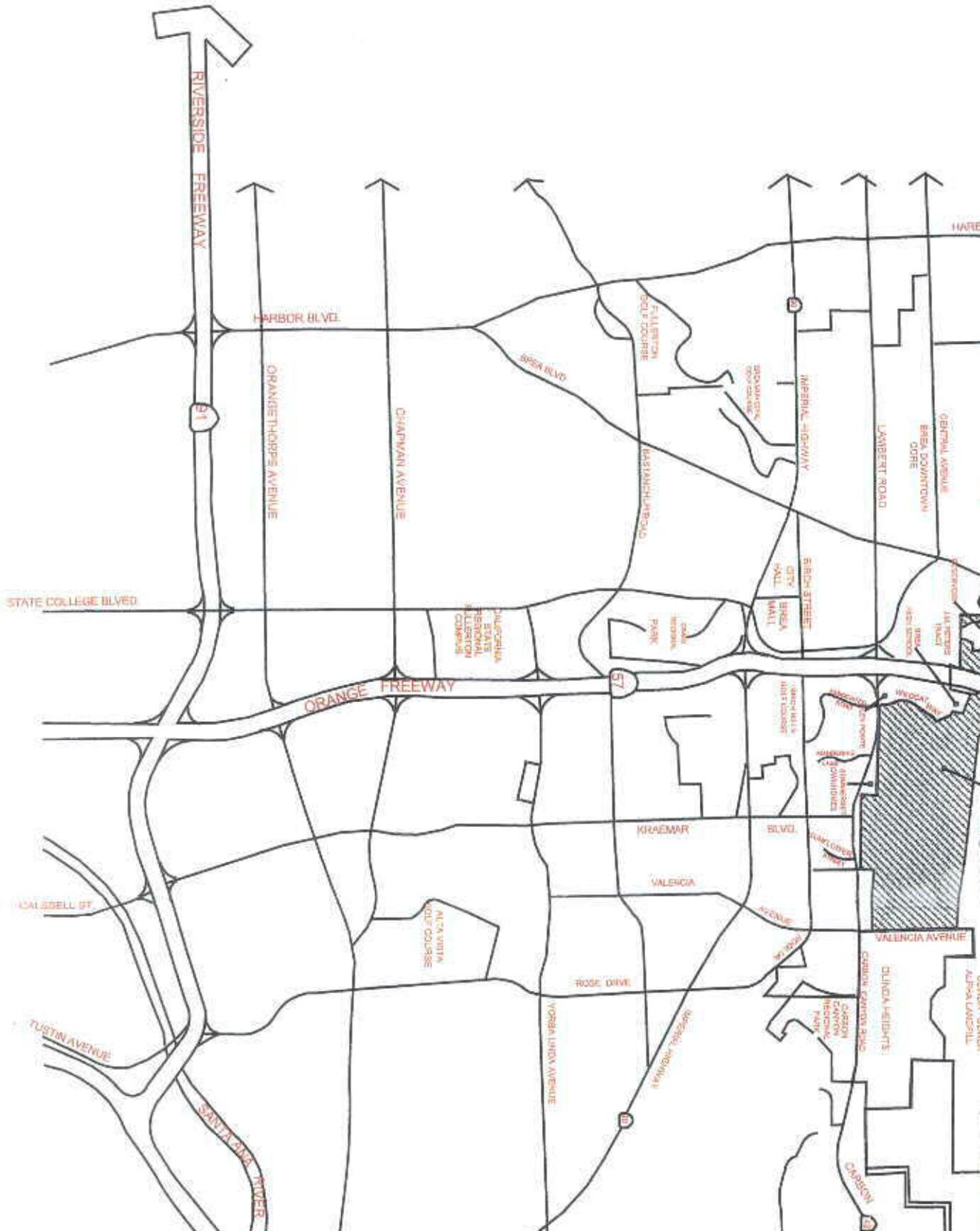
- a. Location, acreage, and type of land use for each Planning Area (Section 3).
- b. Number of dwelling units to be developed in each Planning Area, with identification of any candidate affordable housing sites (Section 3).
- c. General street layout and width (Section 4).
- d. General location and acreage of landscape, natural open space, and recreation areas (Section 3).

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- e. Park location, acreage, and implementation plan (Sections 3 and 6).
- f. Location and land use of all non-residential areas (Section 3).
- g. Existing and proposed topography (i.e., concept grading plan) (Sections 2 and 5).
- h. Existing structures and development on adjacent parcels, within a minimum of three hundred (300) feet from the Area Plan boundary presented in the form of an aerial photo. (Section 2).
- i. General location of bicycle, pedestrian, and equestrian trails (Section 3).
- j. General location of any significant vegetation and wildlife resource and an indication of the resources to be altered and the resources to be preserved (Appendix II).
- k. General location of extensions of off-site roads or utilities through a Planning Area to serve adjacent areas (Section 5).
- l. A list of all relevant programs, policies, and guidelines contained in the General Plan, together with a description of how they are being implemented by the Area Plan (Appendix IV).
- m. Designation of Planning Areas, with a Statistical Table allocating dwelling unit maximums to each Planning Area that permits residential uses (Section 3).
- n. Any additional background and supporting information that the project proponent, the Director, or the Planning Commission has deemed necessary for a clear presentation of the proposal. (Appendices I - IV).

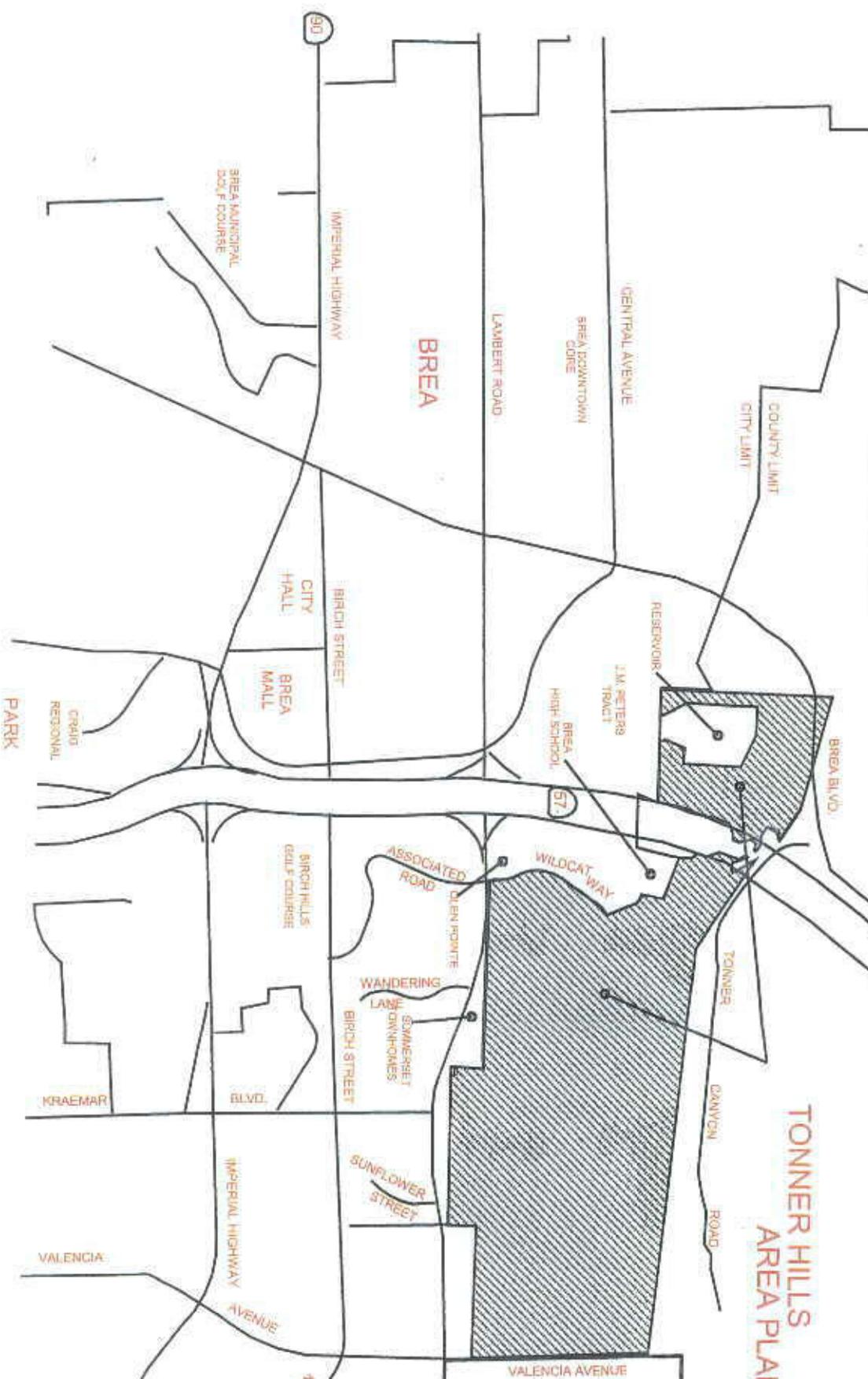
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This section describes the existing physical conditions within and surrounding the project site.

2.1 PROJECT SETTING AND SITE CHARACTERISTICS

The Tonner Hills Area Plan, (hereinafter referred to as the project site) is located in the northeastern portion of Orange County within the City of Brea Sphere of Influence. The

County of Orange General Plan land use designations for Tonner Hills are described below and illustrated on Exhibit 3. A summary of the County of Orange General Plan Land Use Designations and their application to the project site are as follows:

LAND USE DESIGNATION	PERMITTED USES
Suburban Residential	0.5-18 Dwelling Units per Acre. Housing types ranging from estates on large lots to attached dwelling units (townhomes, condominiums, apartments, and cluster housing).
Community Commercial	A wide range of facilities for convenience goods and retail trade including tourist recreation businesses and community services (i.e. childcare facilities). Supermarkets, restaurants, movie theaters, and banks are typical tenants of a community commercial center.

The project site is comprised of three oil/gas producing properties comprising 789.8 gross acres. Existing access to the project site is provided from Lambert Road at the 57 Freeway, Tonner Canyon Road, Carmichael Drive, Kraemer Boulevard, Valencia Avenue, and Wildcat Way. The primary access to the property east of the 57 freeway is at Kraemer Boulevard which intersects Lambert Road approximately one mile east of the 57 Freeway. Wildcat Way is adjacent to the westerly boundary of the project site located east of the 57 Freeway and intersects with Lambert Road. Both Kraemer Boulevard and Wildcat Way extend to the

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project site and are signalized intersections. Kraemer Boulevard offers the potential for extension north of Lambert Road to provide southerly access to the project development. Valencia Avenue, adjacent to the easterly boundary of the project site, extends for approximately 2,000 linear feet along the boundary and intersects with Lambert Road. This intersection is also signalized. Santa Fe Avenue extends from the adjacent master planned Olinda Ranch project located to the east of the project site and intersects with Valencia Avenue offering a potential access point to the project site. At the northwesterly boundary of the project site located east of the 57 Freeway, an existing northbound off-ramp from the 57 freeway at Tonner Canyon and a southbound off-ramp from the 57 at Brea Boulevard currently provide access to the project site via existing oil service roads.

Existing access for the portion of Tonner Hills located west of the 57 Freeway occurs from oil roadways extending from the Tonner Canyon exit at the 57 Freeway. Future access to this part of Tonner Hills would likely occur from State College Boulevard to either Balsa Avenue, Carmichael Drive, or from Brea Boulevard to Tonner Canyon Road. Existing terrain will preclude access from Brea Boulevard to the north. On-site circulation consists of existing paved and unpaved oil service roads. Existing circulation and access improvements are illustrated on Exhibit 4, "Existing Site Conditions".

2.1.1 EXISTING LAND USE

The project site has been utilized for oil production purposes since 1900 and has been steadily developed into its present industrialized condition. Existing site improvements resulting from this industrialized use include surface and subsurface gas lines, oil storage and processing facilities, paved roads, water storage facilities, maintenance facilities, and some operations office buildings. Restoration and remediation of the site from its current highly industrialized condition will be implemented while operation of oil and gas production facilities continues. Approximately 5 acres in the northeasterly portion of the project site are leased to a green waste facility. This facility may remain on the project site as development occurs. Approximately 6.1 acres comprised of two out parcels owned by the City of Brea are improved with two 10 million-gallon City of Brea water reservoirs and are served by access roads to serve the water reservoirs.

2.1.2 PHYSICAL CONDITIONS

The project site terrain is vegetated, but is susceptible to minor erosion as a result of the naturally steep hillsides and the ongoing oil operations. Exhibit 4, "Existing Site Conditions", illustrates the site's physical characteristics and existing improvements within the project site. The project site's topography, geotechnical, seismic, and hydrology conditions are described in Appendix I. The project site contains a mix of vegetation communities, including low to high

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quality coastal sage scrub, annual grassland, and riparian and woodland communities. Historic and current oil production activities have disturbed many areas on the site. A description of the existing vegetation, sensitive plant communities, and wildlife within the project site is provided in Appendix II.

2.1.3 EXISTING SURROUNDING LAND USE

The project site is bounded by open space and existing and proposed urban development including office uses, residential uses, oil production facilities, and public facilities. A description of the existing and planned land uses surrounding the project site is provided on Exhibit 5, "Existing Surrounding Land Use".

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BALSA AVE

CARMICHAEL DR.
57 FWY

LAMBERT RD.

WILDCAT WAY

KRAEMER
BLVD.

N.A.P.





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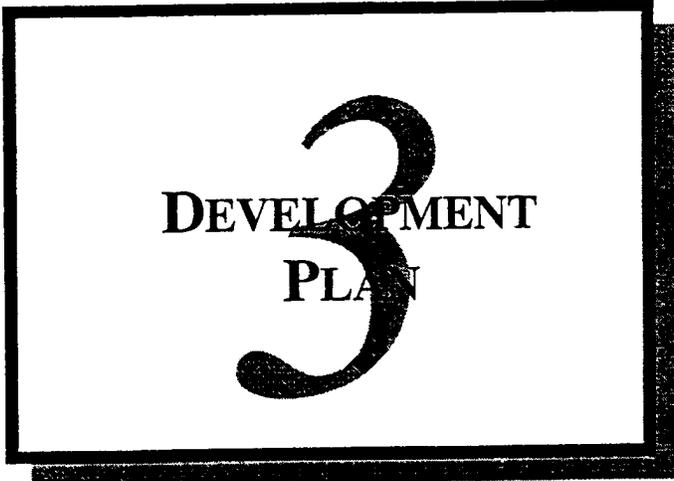
— SITE BOUNDARY



— SITE BOUNDARY

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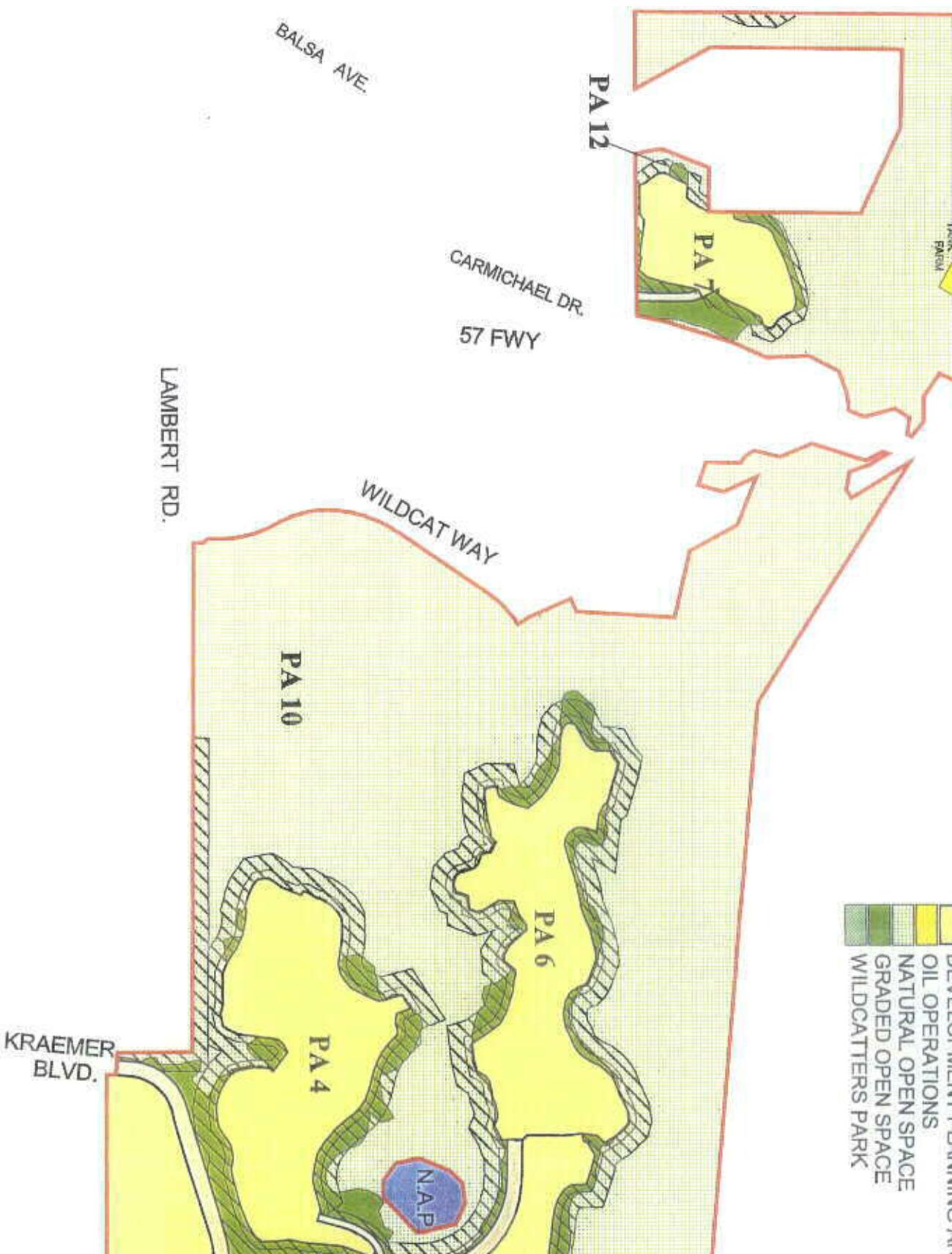
The Tonner Hills Area Plan is a comprehensive plan for the development of a 789.8 acre project site which has been used for oil and gas production for approximately 100 years. The Area Plan involves development of a master planned community that combines residential, open space, and public/institutional uses. The plan also incorporates continued operation of oil and gas production facilities. The development plan is mindful of existing topography and unique landforms and

minimizes impacts of development to existing undisturbed areas.

The Tonner Hills development plan maximizes the use of existing infrastructure improvements resulting from the industrialized use of the site, such as roadways, sewer, building pads, graded and paved areas, and oil operations equipment targeting new construction activities to areas already in a developed state. The Tonner Hills development plan addresses the vision of creating a community offering traditional neighborhood elements while promoting environmental stewardship and opportunities for social interaction. Residential development planned for Tonner Hills address a variety of economic segments of the market and lifestyle choices through provision of conventional single family detached, cluster single family detached, and attached single family housing types. The location, approximate size and use of each planning area are shown on Exhibit 6, "Tonner Hills Development Plan" and further described in Table 1, "Residential Summary".

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- LEVEL OF INTENT / DRAINAGE
- OIL OPERATIONS
- NATURAL OPEN SPACE
- GRADED OPEN SPACE
- WILDCATTERS PARK



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3.1 RESIDENTIAL

The Tonner Hills Area Plan is designed to provide flexibility in designating residential types within each planning area. A target number of units and target lot sizes have been designated for each residential planning area. A maximum of ten (10) percent of the total residential units developed within Tonner Hills will be provided as affordable units as fully described in the Tonner Hills Development Agreement. When affordable housing requirements are met in any planning area, the allowable density bonus for affordable units can be applied to reallocate total number of units for the planning area. The total number of dwelling units permitted within the Tonner Hills Planned Community shall not exceed 795.

Residential land uses within Tonner Hills comprise approximately 180 acres. The Area Plan proposes the development of up to 795 residential units providing a variety of single family detached homes, single family attached homes, and multifamily housing. The provision of a variety of lot sizes and product areas within Tonner Hills will address the housing needs of varying economic segments of the market. Residential land use areas have been provided in seven distinctive neighborhoods linked by a network of sidewalks and bikeways connecting all the neighborhoods east of the 57 Freeway to parks, open space, the public use area, Brea-Olinda High School, and commercial areas surrounding Tonner Hills.

Residential Access and Circulation

Access and circulation within Tonner Hills will be provided through a system of public collector and local streets. Access to residential Planning Areas 1 -6 is provided from either one of the two main collector streets within Tonner Hills or from a local street connecting with a collector street. Access to Planning Area 7 will be from an existing local street. Circulation within each planning area will be distinct to the planning area by means of interior local streets designed to serve only the residential planning area.

The collector street system will include a network of sidewalks and Class I bikeways to provide pedestrian and bicycle access to each planning area, public facilities, Wildcatters Park, and open space areas as well as to Olen Pointe, Brea-Olinda High School, and to planned and existing trails linking to the Brea Civic & Cultural Center, Brea Mall, Chino Hills State Park, and Carbon Canyon Regional Park.

Residential Neighborhood Planning

The types of residential uses proposed for each planning area are selected based upon their suitability to the topographic conditions, surrounding planned and existing land uses, relationship

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to one another, and the ability of each residential type to provide a high quality and distinctive environment in which to live. The planning concept for Tonner Hills includes the ability for developers to respond to market conditions over time and to create neighborhoods which incorporate a variety of housing types with diverse architectural styles within each planning area and in some instances along the same street.

To accomplish the goal of promoting a variety of housing types within each planning area, the Area Plan describes a variety of residential types for each planning area and establishes a target number of dwelling units and a target lot size for each planning area. Provisions within the Tonner Hills Planned Community Zoning allow the target number of units for any planning area to be exceeded provided the total number of 795 dwelling units is not exceeded. A minimum lot size (building site area) for each planning area is established in the event that the target number of dwelling units is exceeded. Table 1, which follows, describes the housing types proposed for Tonner Hills and the neighborhoods appropriate for each housing type.

TABLE 1
RESIDENTIAL SUMMARY

	GROSS ACRES	RESIDENTIAL TYPE(S)	MINIMUM LOT SIZE	TARGET LOT SIZE	TARGET DWELLING UNITS
PLANNING AREA 1	15.5	Conventional SFD	Conventional: 4,000 SF	5,000 SF	54
		Cluster SFD	Cluster: 2,600 SF	Cluster: 2,600 SF	
PLANNING AREA 2	11.4	Single Family Attached	SFA N/A	SFA : N/A	102
		Cluster SFD	Cluster: 2,600 SF	Cluster: 2,600 SF	
		Conventional SFD	Conventional: 4,000 SF	4,000 SF	
PLANNING AREA 3	42.6	Cluster SFD	Cluster: 2,600 SF	Cluster: 2,600 SF	233
		Conventional SFD	Conventional: 4,000 SF	Conventional: 4,000 SF	
PLANNING AREA 4	38.9	Conventional SFD	4,000 SF	5,000 SF	182
PLANNING AREA 5	23.6	Conventional SFD	4,000 SF	5,000 SF	97
PLANNING AREA 6	34.9	Conventional SFD	4,000 SF	6,000 SF	87
PLANNING AREA 7	13.1	Conventional SFD	8,000 SF	8,000 SF	40
<i>SUB TOTAL</i>	<i>180.0</i>				<i>795</i>

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SECTION 3

- Single Family Detached, Conventional - Planning Areas 1- 7

The predominant residential type proposed for Tonner Hills is the conventional single family detached house. The target lot sizes for conventional single family lots range from 4,000 square feet to 8,000 square feet. Planning Areas 1-6 are suitable for development of single family lots with target lot sizes ranging from 4,000 square feet to 6,000 square feet. Planning Area 7 is restricted to development of single family lots with a target lot size of 8,000 square feet.

- Single Family Detached, Cluster Housing - Planning Areas 1- 3

Planning Areas 1 through 3 are suitable for cluster type residential, a form of single family housing characterized by single family residential units grouped around a courtyard which serves as the driveway for each garage. In a cluster housing concept lots are owned by the homeowner while shared vehicular courts are owned and maintained by a junior homeowner association. Alternatively, Planning Areas 1 through 3 are also suitable for development of single family detached residential. A target lot size of 6,000 square feet is envisioned for conventional single family detached residential development within Planning Areas 1 while a target lot size for conventional single family detached residential development of 4,000 square feet is envisioned for Planning Areas 2 and 3.

- Single Family Attached (Townhomes, Paired Homes, and/or Stacked Flats), Cluster Housing - Planning Area 2

Development of single family attached residential (townhomes, paired homes, and/or stacked flats) is suitable within Planning Area 2. Single family attached residential development is characterized by single story and two story products with garage parking for each unit. Amenities within each single family attached residential development area may include pools and a community center facility.

3.2 PARKS

3.2.1 PUBLIC PARKS

The County of Orange Local Park Code (Title 7, Division 9, Article 5 of the Codified Ordinances) requires all residential subdivisions to either provide for public park land or provide for the payment of in-lieu fees according to the requirements of the Local Park Code. It is the intent of the Tonner Hills Area Plan to meet the County of Orange Local Park Code requirements through either the payment of in-lieu fees as established in the Local Park Code

and/or through dedication of land for park purposes.

Wildcatters Park

Planning Area 8 consists of 14.6 acres of which the existing Wildcatters Park, a private park, comprises approximately 5.8 acres. As part of the development of Tonner Hills, the 14.6 acre Planning Area 8 will be improved and dedicated as Wildcatters Park, a public park. Existing barbecue and picnic areas, passive recreation areas, restrooms, and parking within Wildcatters Park will be maintained. New improvements will include informal recreational areas and picnic areas. Public access will be available from Street A and from Valencia Avenue. Wildcatters Park is linked to the overall Tonner Hills community through the system of pedestrian sidewalks and bikeways provided as part of the development of Tonner Hills.

3.2.2 PRIVATE PARKS

Passive Parks

A minimum of one passive park will be located within each residential planning area of Tonner Hills. Passive parks will be a minimum of 2,500 square feet in area, adequate to accommodate informal gatherings, and will be improved with benches and thematic landscaping. The precise location of each passive park will be determined as part of the approval of a Level B tentative map.

3.3 PEDESTRIAN CIRCULATION

Off street pedestrian circulation is available throughout Tonner Hills by means of an interconnected paved sidewalk system located within the right of way of roadways. This pedestrian circulation network will incorporate areas for community gathering and social interaction and will be accessible to the public. The pedestrian circulation system proposed as part of the Tonner Hills Area Plan is depicted on Exhibit 7, "Sidewalks and Bikeways".

3.4 BIKEWAYS

Bikeways are an integral element to creating accessibility and mobility within Tonner Hills. A Class I paved bikeway system will be provided within the public right of way of collector streets within the community. The bikeway system will link residential neighborhoods to open space, parks, and public use areas within Tonner Hills, as well as to Brea-Olinda High School, employment centers such as Olen Pointe, the Brea Civic & Cultural Center, and Brea Mall. The Tonner Hills bikeway system will be accessible for public use and will ultimately provide

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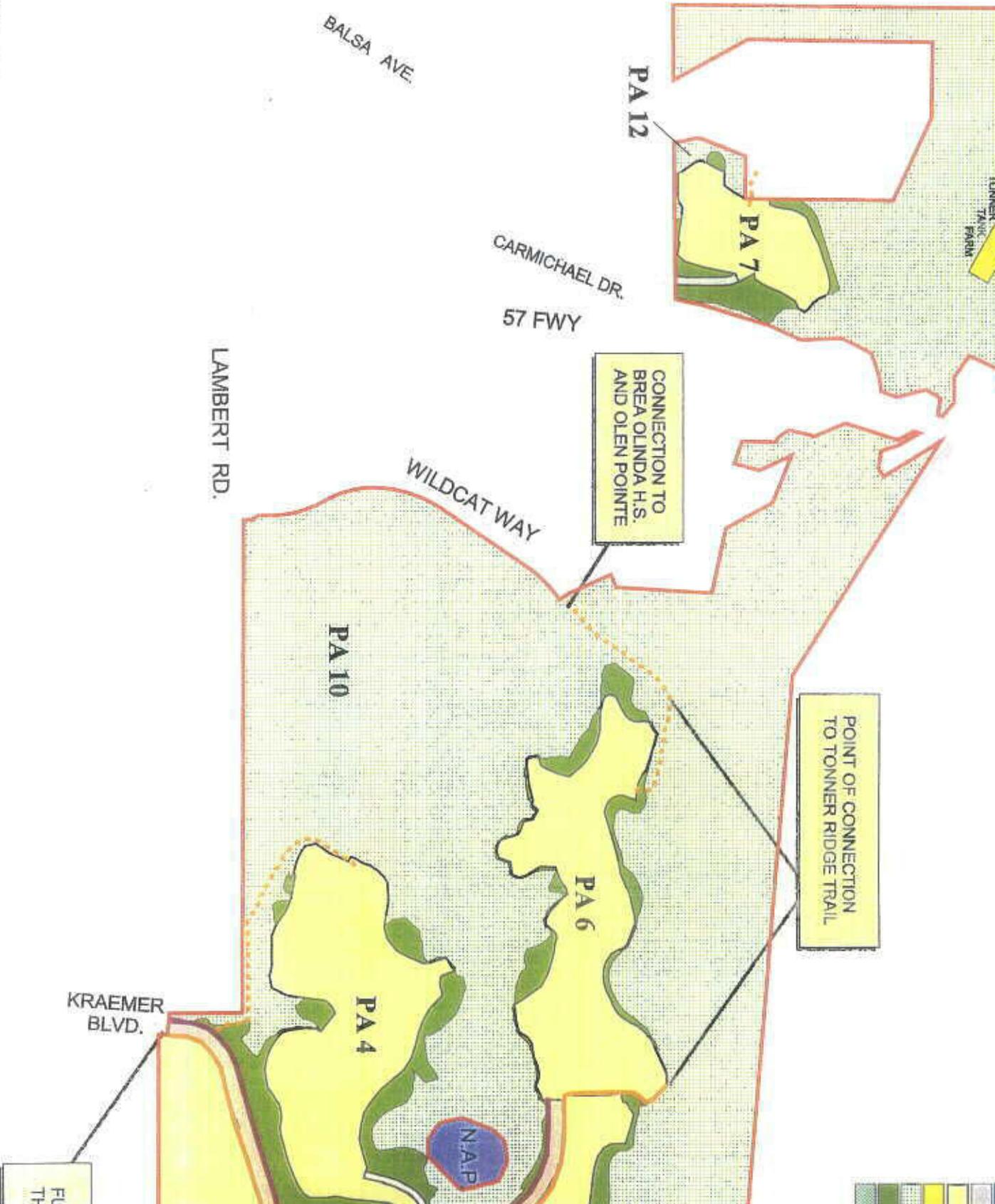
connections to Chino Hills State Park and Carbon Canyon Regional Park via the Tonner Ridge Trail as described in Section 3.5.

A Class III, on-street bicycle trail system within local streets and emergency access roadways will also provide linkages to a proposed multi-purpose trail to be developed within the Tonner Ridge Trail. The Tonner Ridge Trail will be a shared use trail utilized by hikers, equestrians, and mountain bikers. The Tonner Hills bicycle trail system is depicted on Exhibit 8.

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3.5 OPEN SPACE

The open space element of Tonner Hills is an important component contributing to the livability of the community. The Tonner Hills Area Plan proposes the preservation and/or enhancement of approximately 559.7 acres of open space. The Tonner Hills Area Plan will insure that existing wildlife corridors and sensitive habitat areas located within the boundaries of the project site are protected within open space areas. Protection of ridgelines, including Tonner Ridge which forms a backdrop to the neighboring City of Brea, will be implemented through the preservation and enhancement of the Tonner Hills open space area. Planning Areas 9-12 comprise the open space areas within Tonner Hills as described below and illustrated in Exhibit 8, "Trails and Open Space".

Open space is incorporated into the land use plan for Tonner Hills as a visual buffer between the continued oil uses located within the open space area and new uses and will provide a natural setback for residential planning areas from Lambert Road, Wildcat Way, and Valencia Avenue. Open space areas will include fuel modification zones to buffer developed areas and to protect natural open space from development.

3.5.1 OIL FIELD USES

The Tonner Hills Area Plan anticipates the retention and integration of elements of the existing oil field operations within the developed community. The major elements of the operations include: oil production and water injection wells, oil storage and processing facilities, natural gas plant and power generation turbines, and the gathering lines, utility lines, and access roads to serve these facilities. Oil operations and service facilities within Tonner Hills are illustrated on Exhibit 9. These operations come under the primary purview of the State of California Department of Conservation, Division of Oil, Gas and Geothermal Resources (Cal DOGGR). Oil operations and service facilities within Tonner Hills are illustrated on Exhibit 9.

EXISTING OPERATIONS

At the time of the adoption of the Tonner Hills Area Plan there were 196 active oil wells, 14 water injection wells, 82 idle wells, and 87 abandoned wells located on the property. There are two flow lines from each well, taking either oil and produced water or natural gas to gathering lines that then go to one of two existing tank farms; East Naranjal tank farm located in the south central portion of the property and the Tonner Canyon tank farm located in the north west of the property, on to the west of the 57 Freeway. The flow lines lie primarily on the surface of the property, following existing oil field service road alignments, and through relatively undisturbed open space areas. The individual flow lines are steel and typically two to

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three inches in diameter. Gathering lines also are also aligned with existing service roads or in open space. The lines range in size from four inches to ten inches, depending upon the volume of fluids to be accommodated in the line. All wells are run with electrical motors and served from an overhead power line providing 440-volts to the individual well motors.

The tank farms separate the oil from the produced water by running the fluids through a separation and clarification tank. The produced oil is then transferred by pipeline to a sales line the leaves the property at a location near Wildcat Way and Lambert. The sales line is operated by others. The produced water is either injected into the formation through the water injector wells, a process to enhance the oil production, or is taken from the property by a permitted sewer connection to the Orange County Sanitation District.

Natural gas is taken to the Main Oil Facility where it is processed into propane and Liquefied Natural Gas (LNG), the remaining product, methane, is burned in the two gas powered turbines at the facility. Electricity generated from the turbines is used to power the oil field, with the excess being sold to the ISP. Both the propane and the LNG is stored in pressure vessels and trucked from the site as needed.

FUTURE OIL FIELD OPERATIONS

Even though nearly 75% of the Tonner Hills Planned Community remains in open space, the development of the Tonner Hills Planned Community will require changes to the oil operations to accommodate the development of the residential neighborhoods.

Oil Wells

With the development of the property, many of the current oil wells will be abandoned. The oil well abandonment procedure is regulated, permitted, and inspected by the State of California Department of Conservation, Division of Oil, Gas & Geothermal Resources (Cal DOC, DOG&GR). Subject to the review of the Cal DOC, DOG&GR, it may also be necessary to re-abandon certain previously abandoned wells. It is expected that a total of 190 to 210 operating wells, including water injector wells, will remain in operation. The precise number of wells remaining after development will be at the sole discretion of the oil operator and may be impacted by economic conditions or the demand for oil at the time of development.

Prior to obtaining approval of a tentative tract map for development of any residential planning area, a conceptual plan shall be submitted to Cal DOC, DOG&GR and the County for the abandonment and/or undergrounding of wells located within the residential planning area. Prior to issuance of a precise grading permit for any residential planning area a final plan for the abandonment and/or undergrounding of wells shall be submitted to Cal DOC, DOG&GR and the County.

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No new wells will be drilled or existing wells re-drilled within any residential planning area after the County issues the first Certificate of Occupancy within that planning area. Any new wells drilled, or existing wells re-drilled outside of the residential neighborhoods, will be permitted and inspected by Cal DOG, DOG&GR. Prior to the first grading permit, the oil operator shall provide the County with a map providing survey coordinates for all current and abandoned wells. This plan shall be revised as conditions demand.

Oil wells to be retained in residential planning areas will be accommodated by replacing the existing pumping unit, pulling pad, and well cellar with a subsurface pumping unit enclosed within a concrete vault. The vault will have a lockable steel plate lid to isolate the unit from view or public access. The vault's size may vary, however a typical vault in a residential planning area will be 6 feet by 8 feet. The subsurface pumping unit will be electrically operated and will be equipped with an automatic shutoff valve, in the event of flooding, and a methane sensor equipped with an automatic shutoff valve. These wells will not be located within any private residential lot proposed in the Tonner Hills development. No habitable structure may be constructed within one hundred fifty feet of the retained subsurface well's wellhead or as otherwise approved by Orange County Fire Authority (OCFA) pursuant to Guideline C-02.

There may be no structures constructed over wells abandoned in the residential neighborhoods. Subject to the Combustible Soil Gas Mitigation Hazard regulations of OCFA, methane venting may be required of certain wells abandoned within or adjacent to the residential neighborhoods or collector streets.

Oil wells or water injector wells remaining in residential areas will require a setback from a habitable structure of one hundred feet. This setback may be reduced to fifty feet through an application to the OCFA under the terms of the OCFA's "Guideline for Residences Less than 100' from an Oil Well". Any well proposed to have a reduced setback will be required to be designed such that the surface aspect of the well is minimized in order that the primary operating equipment of the well is placed in an underground vault, thereby reducing the visual impact of the well. The modifications to the oil wells remaining in the development areas will take place during, and concurrent with the grading operation for each phase of development. No new oil wells or injector wells will be completed within the residential neighborhoods once the first Certificate of Use and Occupancy has been received for that neighborhood. Cal DOC, DOG&GR will review and approve the development site plan in relation to both existing and previously abandoned wells prior to the issuance of a building permit.

Oil wells remaining in open space will have security fencing in accordance with the requirements of Cal DOC, DOG&GR. Where the remaining wells lie within two hundred feet of the residential neighborhoods they will have visual screening from the neighborhoods in

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accordance with the design guidelines described in Section 6, "Design Guidelines". No new oil wells or injector wells will be completed within the open space area except on existing well pads as shown in the Coastal Sage Mitigation Plan approved with the Biological Opinion issued by the United States Fish and Wildlife Services.

Flow Lines and Gathering Lines

The development of the Tonner Hills Planned Community will disrupt the current flow line and gathering line system. The abandonment of a large number of existing oil wells will further disrupt the system. All lines associated with the abandoned wells will be removed at the time of well abandonment. New flow lines and gathering lines will be placed in underground trenches within the residential areas. These lines will be primarily within the public street right of way, or within the lots designated for the oil wells, and owned and maintained by the Master Community Association. There will be cases where the lines will be within easement areas adjacent to residential lots. The "B" level tentative maps will provide a schematic layout of the flow line and gathering line infrastructure in order to avoid a conflict with public or private utilities. An "as built" plan will be provided to the OCFA upon completion of each phase.

Electrical Service

Flow lines and gathering lines within open space areas will remain above ground and follow existing patterns to the extent possible. Electrical service to all wells within the residential areas will be provided by an underground conduit system. Electrical service in open space areas will remain on above ground pole lines.

Facilities

The development of the Tonner Hills Planned Community will require that the existing East Naranjal Tank Farm be decommissioned. With decommissioning, the soils beneath the tank farm will be cleaned up in accordance with the Remedial Action Plan for the Tonner Hills (Stearns Property) project approved by the Orange County Health Care Agency dated December 16, 1999, as amended October 3, 2001. The Tonner Canyon Tank Farm will be expanded as necessary to accommodate the lost processing capabilities of the East Naranjal Tank Farm. It is anticipated that the expansion will be limited to the construction of two additional five thousand barrel tanks, the associated expansion of the containment dike and the installation of additional manifolds, piping, and monitoring equipment to accommodate the new storage capacity. The footprint of the existing facility will be expanded by approximately twenty-five percent to handle the new facilities. The final design and size of the facility will be shown with the conservation easement to be dedicated over the open space area. The South Coast Air Management District retains the responsibility for permitting any changes to the

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Tonner Canyon Tank Farm and for continual inspection of the facility for compliance with the permit. Cal. DOC, DOG&GR and the OCFA will also provide oversight to the planned improvements at the Tonner Canyon Tank Farm.

The Main Oil operations will continue in operations at the existing location. Access to the facility will come through the project and through an existing access road connecting to Valencia Avenue. With the development of the Tonner Hills Planned Community access for any trucks carrying LNG or propane from the site will use the Valencia Avenue access point and will not utilize the collector or local streets of the Tonner Hills Planned Community. This facility will be screened from public view in accordance with the criteria found in the Design Guidelines.

3.5.2 NATURAL AND ENHANCED OPEN SPACE

Natural and enhanced open space areas proposed for Tonner Hills comprise approximately 493.9 acres within Planning Areas 10-12. These open space areas primarily include areas supporting native plant communities and preserved and restored native plant communities valuable for both wildlife habitat and public recreation. Natural and enhanced open space areas are primarily comprised of coastal sage scrub and woodland habitats. California walnut and coast live oak woodlands also provide food, cover, and nesting habitat for a variety of birds, amphibians, reptiles, and mammals. Riparian woodlands along Tonner Creek will be preserved. The natural open space areas will provide connectivity between open space areas in Tonner Creek west of the 57 Freeway and Chino Hills open space areas located east of Tonner Hills so that wildlife species are free to move through the area.

Open space areas will be enhanced to provide a diversity of plant communities that are valuable for both public recreation and wildlife value. The existing terrain, including ridgelines which provide a backdrop to the community and the City of Brea, will be incorporated into the natural open space in order to preserve the wilderness value and character of the site. Within this open space area, productive oil wells and related facilities currently in operation as well as the existing green waste recycling facility will remain. Improvements within open space areas may include enhancement of native habitat that will improve the habitat value and trail improvements designed to minimize human disturbance to native habitats.

3.5.3 GRADED OPEN SPACE AND FUEL MODIFICATION

Approximately 44.3 acres of Tonner Hills is comprised of graded and/or revegetated open space areas located within Planning Areas 10-12. Fuel modification zones adjacent to residential development will be permitted within these areas as a buffer between the residential and natural open space areas. Emergency access roads from residential areas and development

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of three water storage tanks to serve the community will also be permitted within this open space area.

3.5.4 PUBLIC OPEN SPACE

Planning Area 9 consists of 21.5 acres identified on the land use plan as open space reserved for development of public uses. This area could be developed for a variety of public recreational or assembly uses including a park, school, museum, library, or any combination of these uses. The specific acreage and types of public improvements will be identified prior to development of any portion of Planning Area 9.

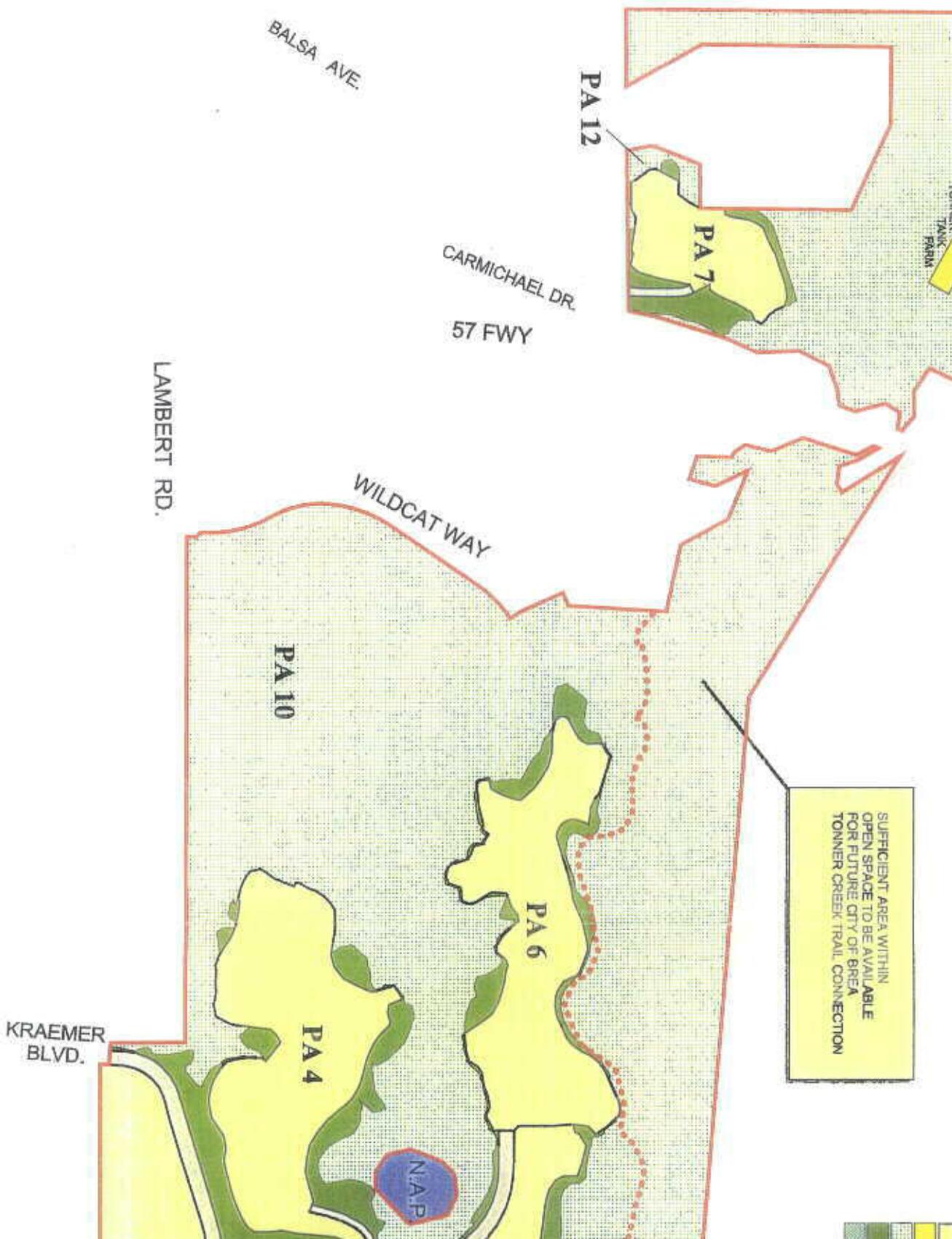
3.5.5 TONNER RIDGE TRAIL

The Tonner Hills Area Plan includes the development of the Tonner Ridge Trail, a City of Brea Master Planned Trail. Development of the Tonner Ridge Trail will extend approximately two miles of hiking and riding trail within the open space area in the northerly portion of the project site. This hiking and riding trail will also be shared with mountain bikers. Pedestrian and bicycle access to the trail is provided through the system of public sidewalks and bikeways. The Tonner Ridge trail will be improved as part of development of the Tonner Hills project. The approximate location for the development of the Tonner Ridge Trail is described in Exhibit 8.

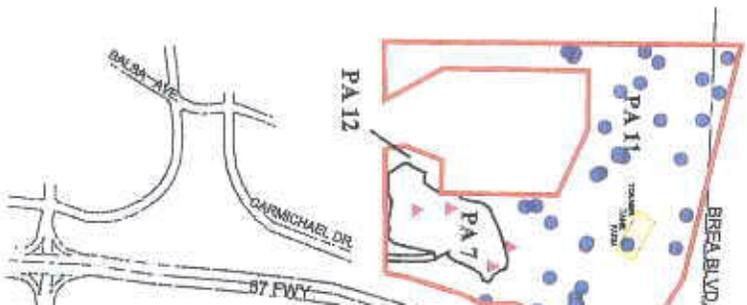
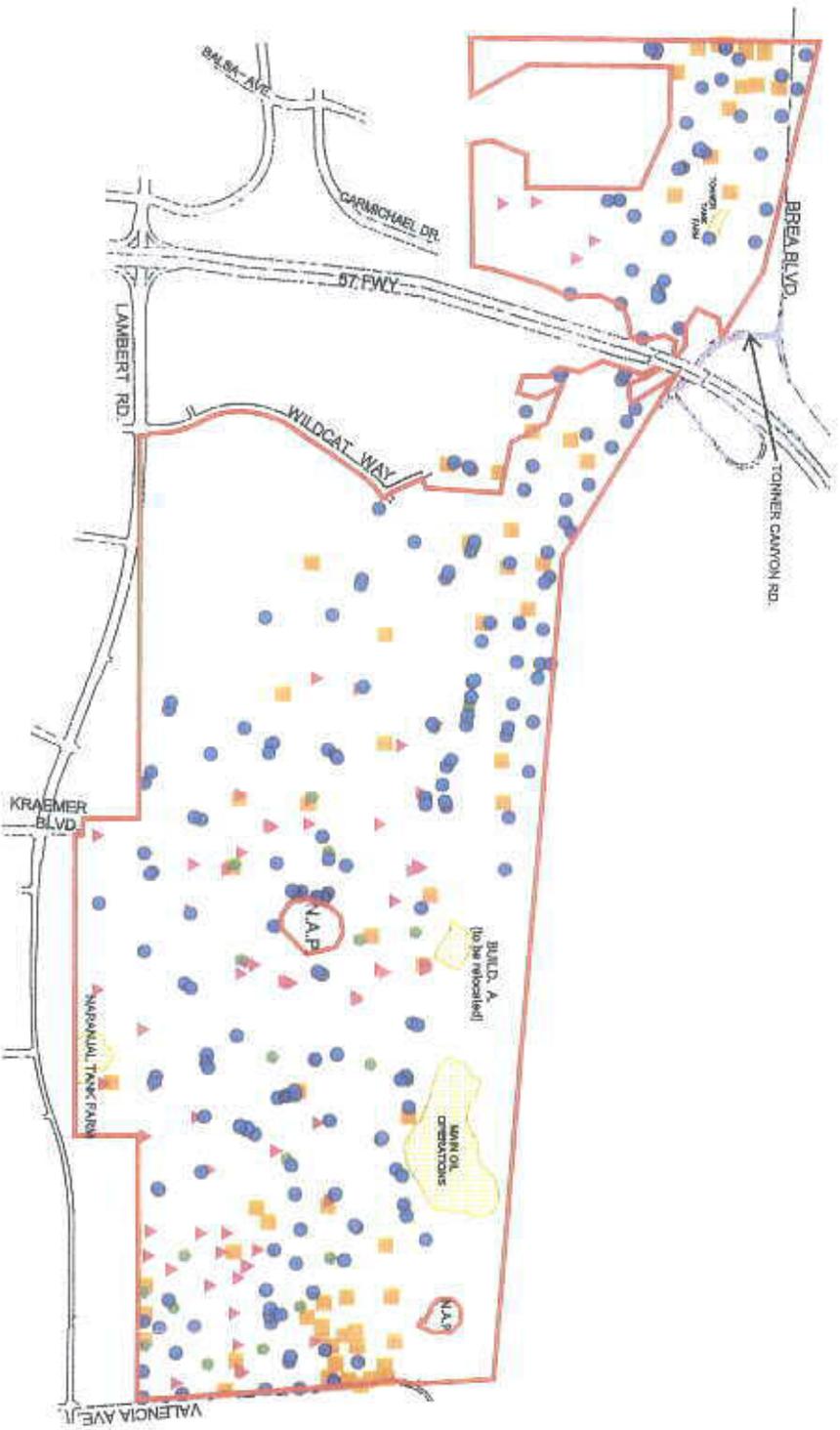
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SUFFICIENT AREA WITHIN
OPEN SPACE TO BE AVAILABLE
FOR FUTURE CITY OF BREJA
TONNER CREEK TRAIL CONNECTION



CURRENT STATUS

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3.6 ART IN PUBLIC PLACES

An outdoor art program established for Tonner Hills will result in the purchase of art to be placed within the community in public places and potentially will include the establishment of an endowment for a community art education program. Artwork purchased as a part of the Tonner Hills Art in Public Places program will be accessible to the public via public sidewalks and bikeways as well as within open space areas and at entries to Tonner Hills.

3.6.1 ESTABLISHMENT OF ART IN PUBLIC PLACES PROGRAM

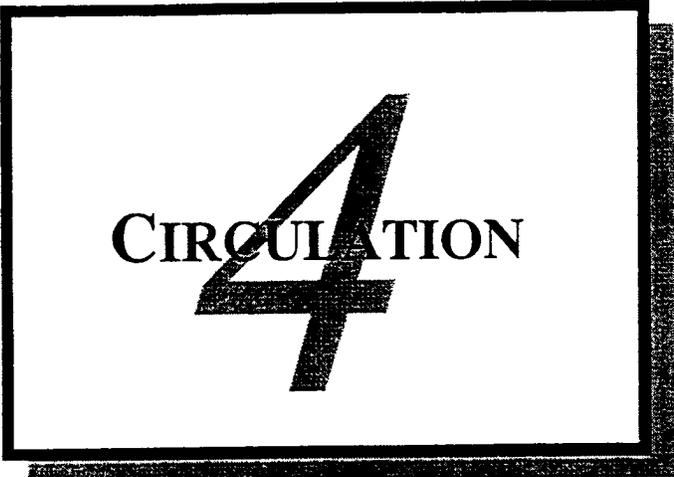
The Tonner Hills Art in Public Places Program will be funded through a developer funding mechanism established as a percentage of the value of all residential building permits issued for Tonner Hills and will be collected by the County. The total valuation and the method and timing of collection of the Art in Public Places funds will be specified in the Tonner Hills Development Agreement. A maximum of fifty (50)% of the total dollar value of the program may be utilized to establish an endowment for a community art education program in cooperation with the Brea-Olinda School District. The determination as to whether an educational endowment will be made as part of the program and how it will be implemented will be specified in the Tonner Hills Development Agreement.

3.6.2 PROGRAM ELEMENTS

Multiple pieces of art may be purchased through the Tonner Hills Art in Public Places program fund and sited at the project's entrances, along streets within the project, and at other selected locations.

3.6.3 MAINTENANCE

Art pieces located within Tonner Hills will be sited on land owned or leased by the Tonner Hills Master Community Association and will be owned and maintained by the Tonner Hills Master Community Association.



4 CIRCULATION

The Area Plan proposes standards for three categories of streets: Collector Streets, Local Streets, and emergency access roadways.

4.1 STREET DESIGN

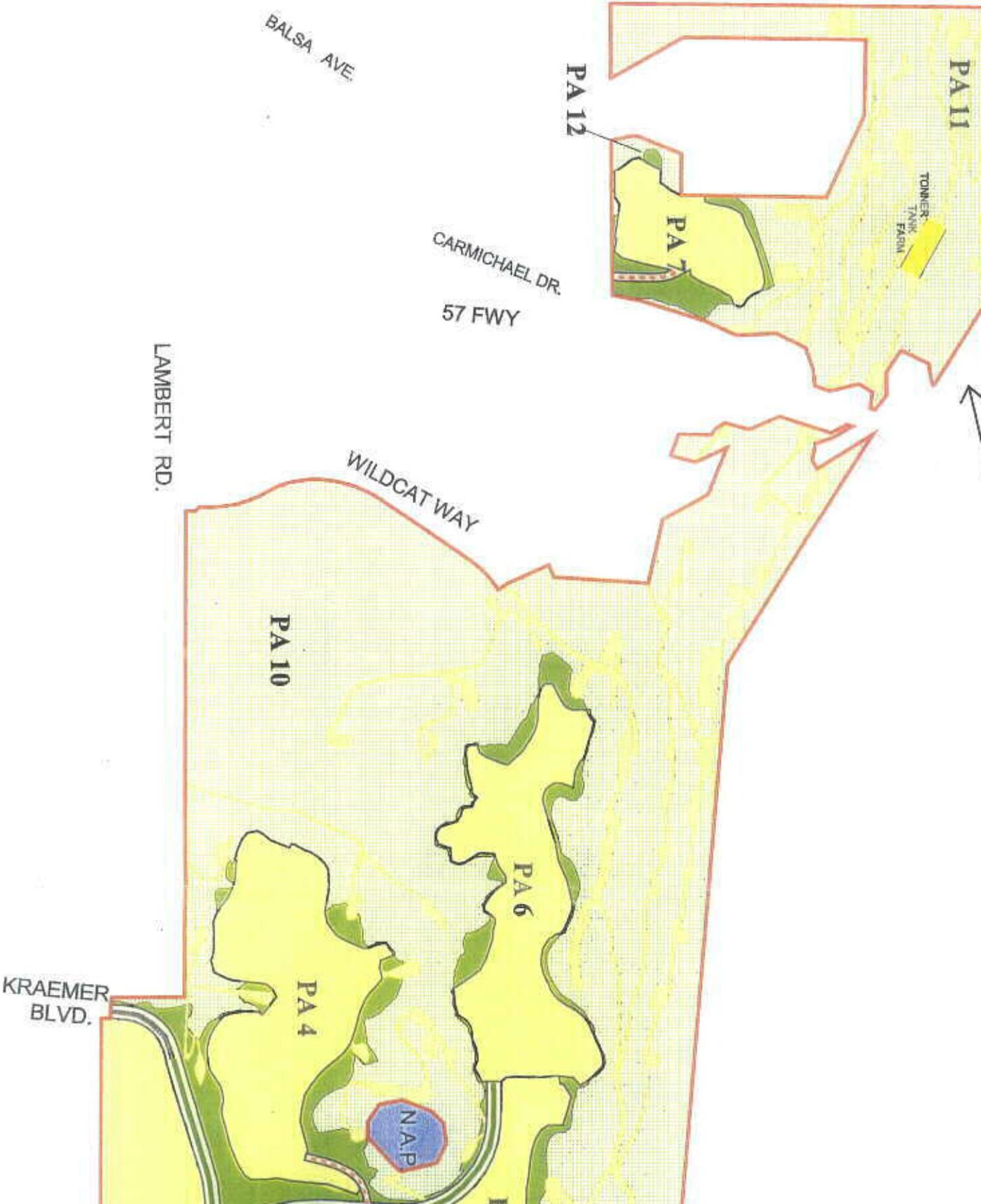
Streets will be laid out in a manner responsive to the terrain in order to reduce grading impacts. The two collector streets have been designed to follow existing major oil field roadway alignments. In some instances cul-de-sac streets are used to create the least impact to a hillside or habitat sensitive area. The Master Circulation Plan for Tonner Hills is included as Exhibit 10. The street sections on Exhibits 11-13 describe the dimensions for each level of street.

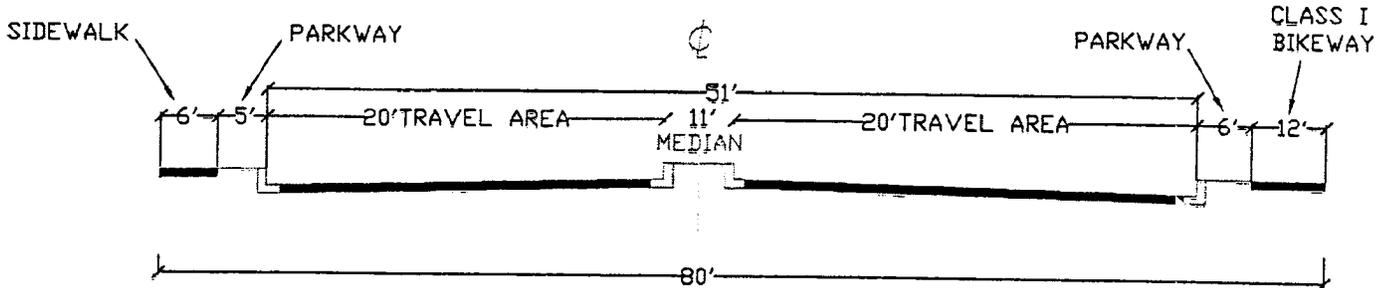
Continuing oil field operations will be served through a network of roadways of varying dimensions. Oil field service roads are illustrated on Exhibit 14, "Oil Field Service Roads".

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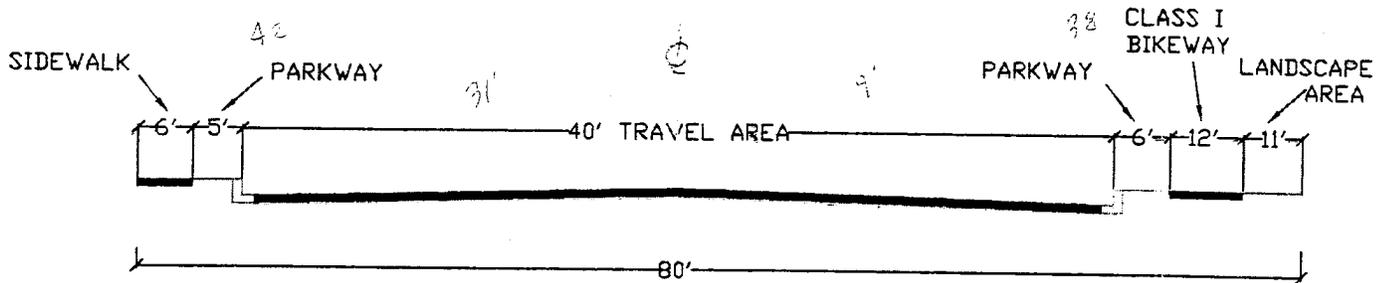
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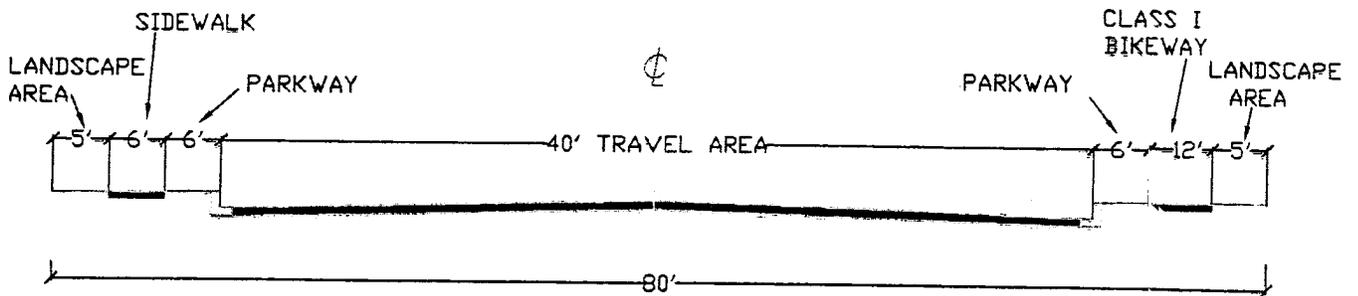




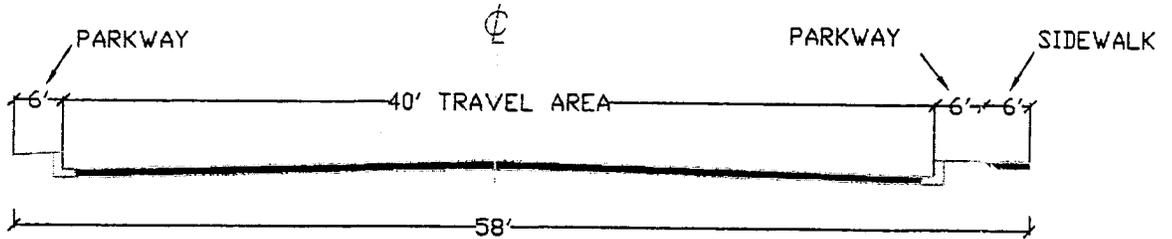
COLLECTOR TYPE "1"
80' RIGHT OF WAY



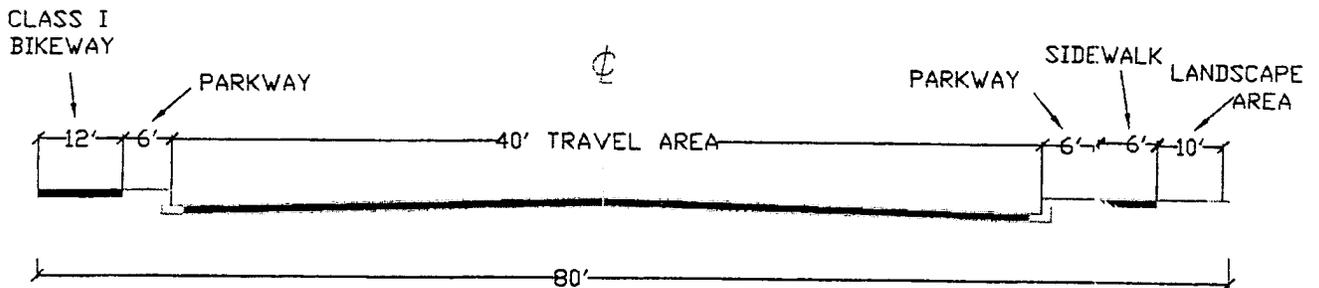
COLLECTOR STREET TYPE "2"
80' RIGHT OF WAY



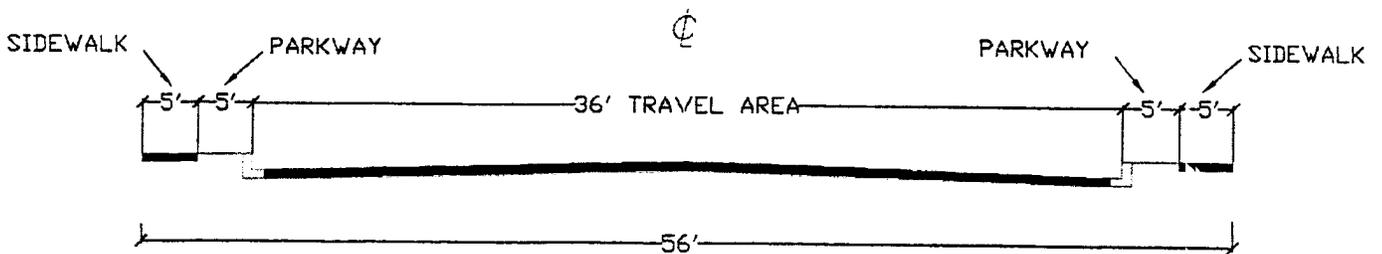
COLLECTOR STREET TYPE "3"
80' RIGHT OF WAY



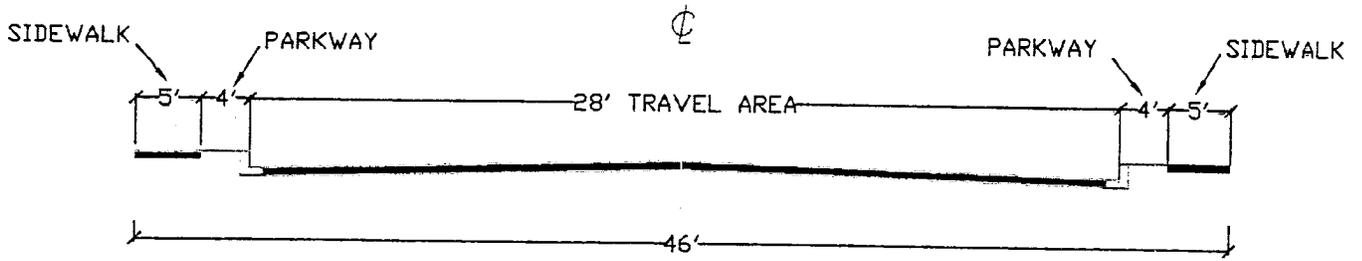
COLLECTOR STREET TYPE "4"
58' RIGHT OF WAY



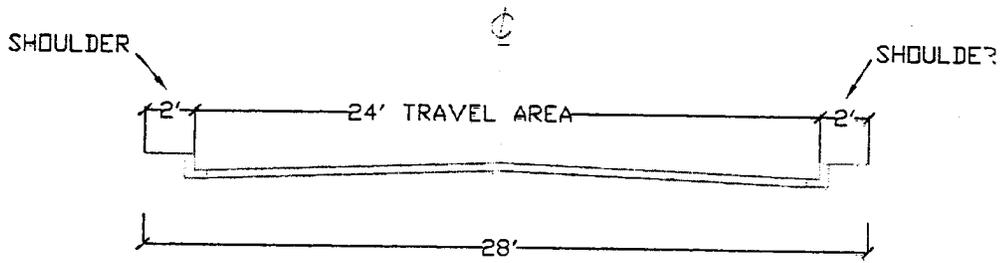
COLLECTOR STREET TYPE "5"
80' RIGHT OF WAY



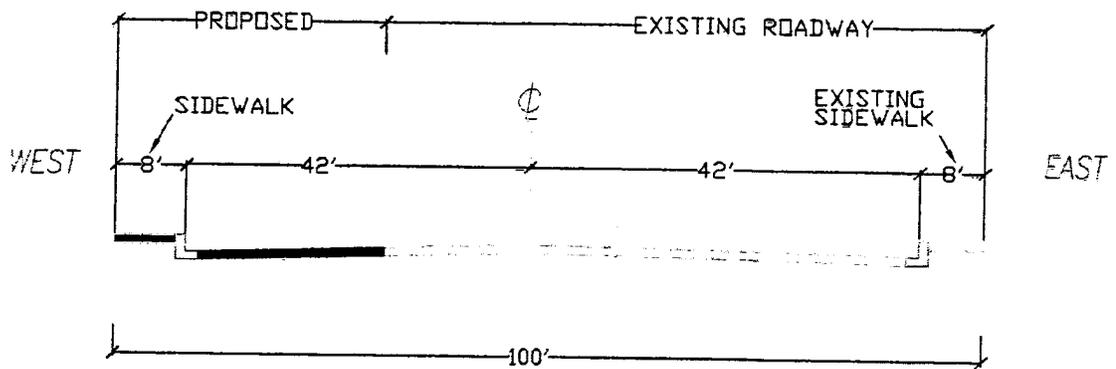
LOCAL STREET (PARKING ON BOTH SIDES)
56' RIGHT OF WAY



LOCAL STREET (PARKING ON ONE SIDE)
46' RIGHT OF WAY



EMERGENCY VEHICLE ACCESS 28' RIGHT OF WAY

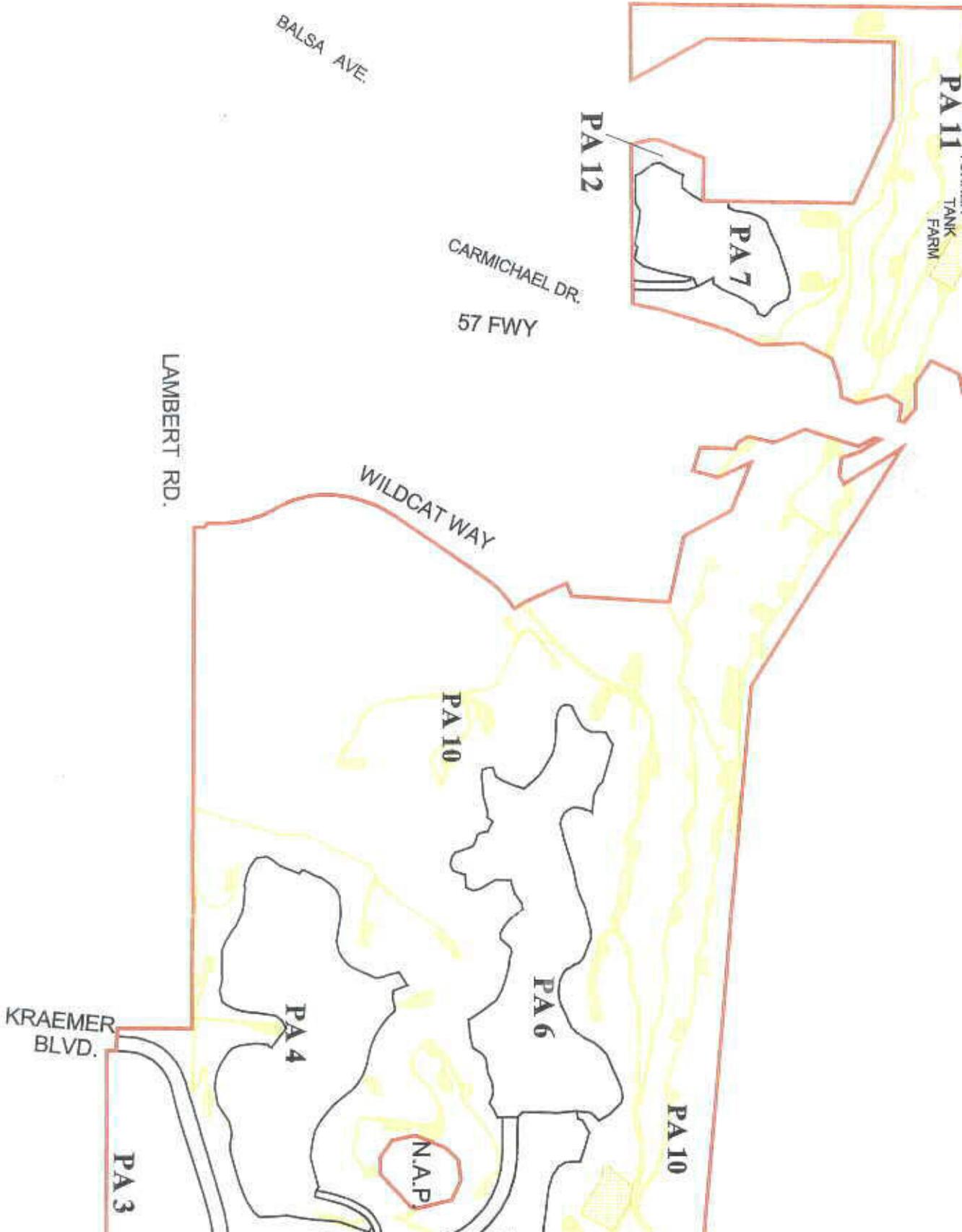


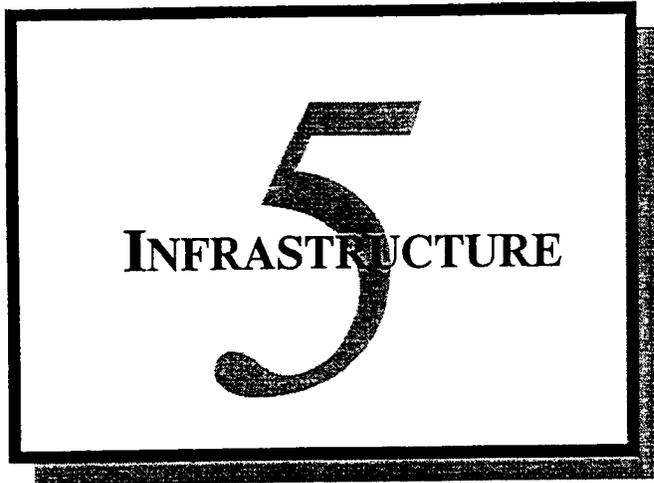
100' RIGHT OF WAY
VALENCIA AVENUE

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Infrastructure requirements, utilities, and public services necessary to serve Tonner Hills are discussed in this section.

5.1 DOMESTIC WATER SUPPLY

Southern California Water Company (SCWC), an investor-owned public utility will provide domestic water service to the Tonner Hills development. Prior to occupancy, SCWC will be required to obtain a Certificate of Public Convenience and Necessity under Section 1001 of the Public Utilities Code from the California Public Utilities Commission (CPUC). SCWC rules and regulations on file with the CPUC will comply with all matters regarding the Tonner Hills water system.

The water source will be an existing SCWC connection, OC-37, of the Metropolitan Water District 96-inch Lower Feeder pipeline located in Kraemer Avenue, south of the development. An internal water loop system with three reservoirs and two pumping stations will provide service to the two service zones within the Tonner Hills development. Water flow and pressure will meet Orange County Fire Authority fire flow requirements.

5.2 SEWER SERVICE

Sewer service for Tonner Hills project will be provided by the Southern California Water Company (SCWC). The project area is not currently within the SCWC service area. SCWC will be required to obtain a Certificate of Public Convenience and Necessity (CPCN) under Section 1001 of the Public Utilities Code from the California Public Utilities Commission (CPUC). SCWC rules and regulations on file with CPUC, in particular Rule No. 15 of the Tariff Rules, will comply with all matters regarding the Tonner Hills water system.

The internal sewer system will utilize an existing connection to an Orange County Sanitation District (OCS D) trunk sewer line at Imperial Highway and Kraemer Boulevard. This line is currently in use and permitted with OCS D. This line and underlying easements will be conveyed to SCWC prior to development. The use of a single sewer trunk line will require two holding facilities and a pump station to serve the property but will allow service to be made to the entire

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property without the need to construct new trunk lines in existing public streets.

5.3 STORM DRAINS

In the undeveloped condition, the project site has its storm water runoff splitting along Tonner Ridge which runs in an east/west direction near the north end of the site. Runoff on the north side of Tonner Ridge will continue to run northerly into Tonner Creek. Flows to the south will drain southerly to existing storm drains under Lambert Road.

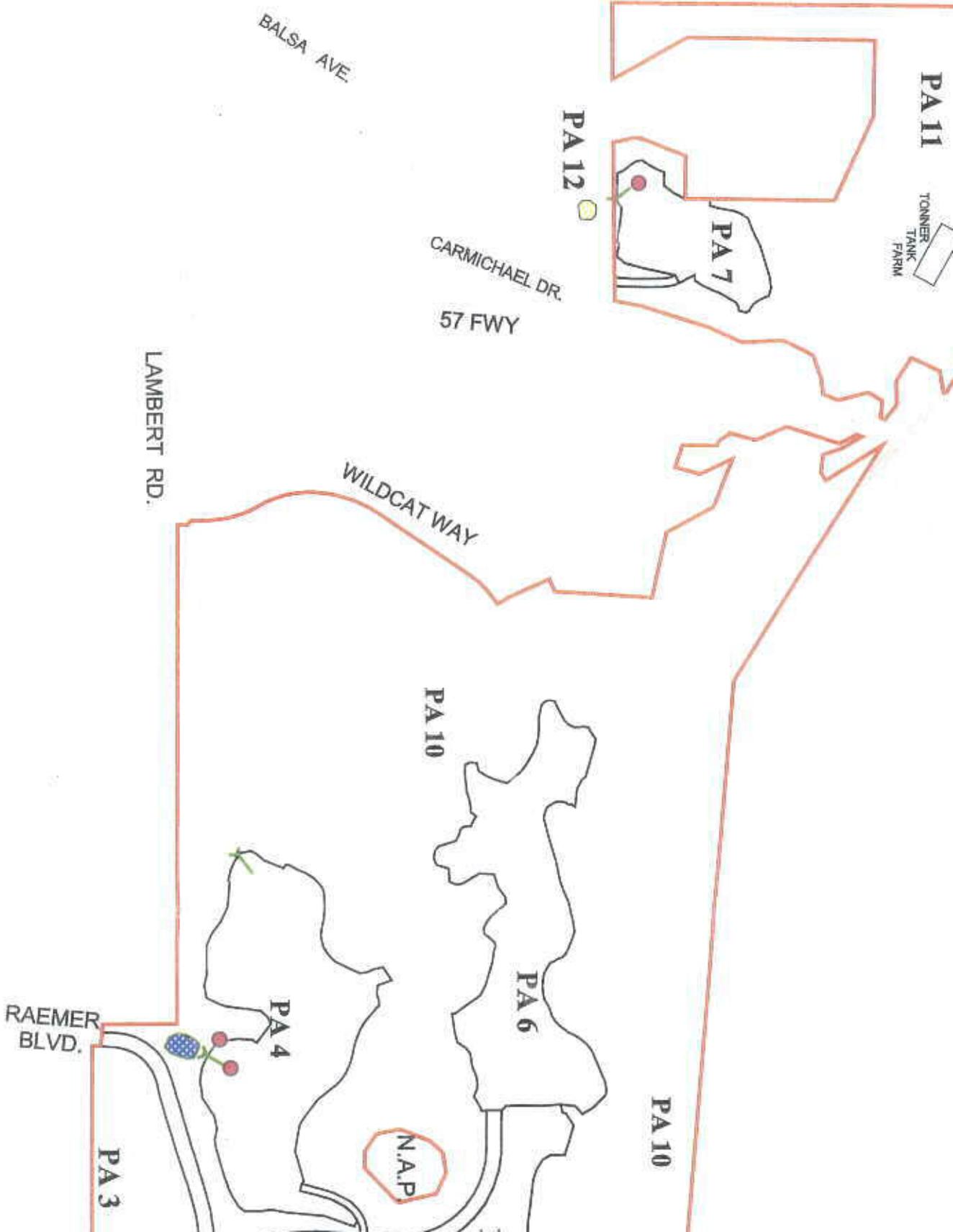
No development is proposed north of Tonner Ridge, therefore there are no storm drain improvements proposed in this area. On the south side of the ridge, storm drainage improvements will include detention basins located throughout the project site designed to reduce the increased flows resulting from development of the project site to existing 100 year flows. Tonner Hills will include construction of approximately three detention basins ranging in size from one to three acres. The existing basin above the J.M. Peters tract located west of the 57 Freeway is utilized for debris and will be relocated to the northerly side of the project site. Seven additional debris basins will be provided within the project site where drainage from natural areas enters the site. These debris basins will capture sand and gravel as well as large floating debris.

The general location and size of proposed storm drainage improvements are depicted on Exhibit 15, "Drainage Master Plan". The basins are proposed to be primarily located in canyon areas that are either natural or part of oil operations.

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5.4 GRADING CONCEPT

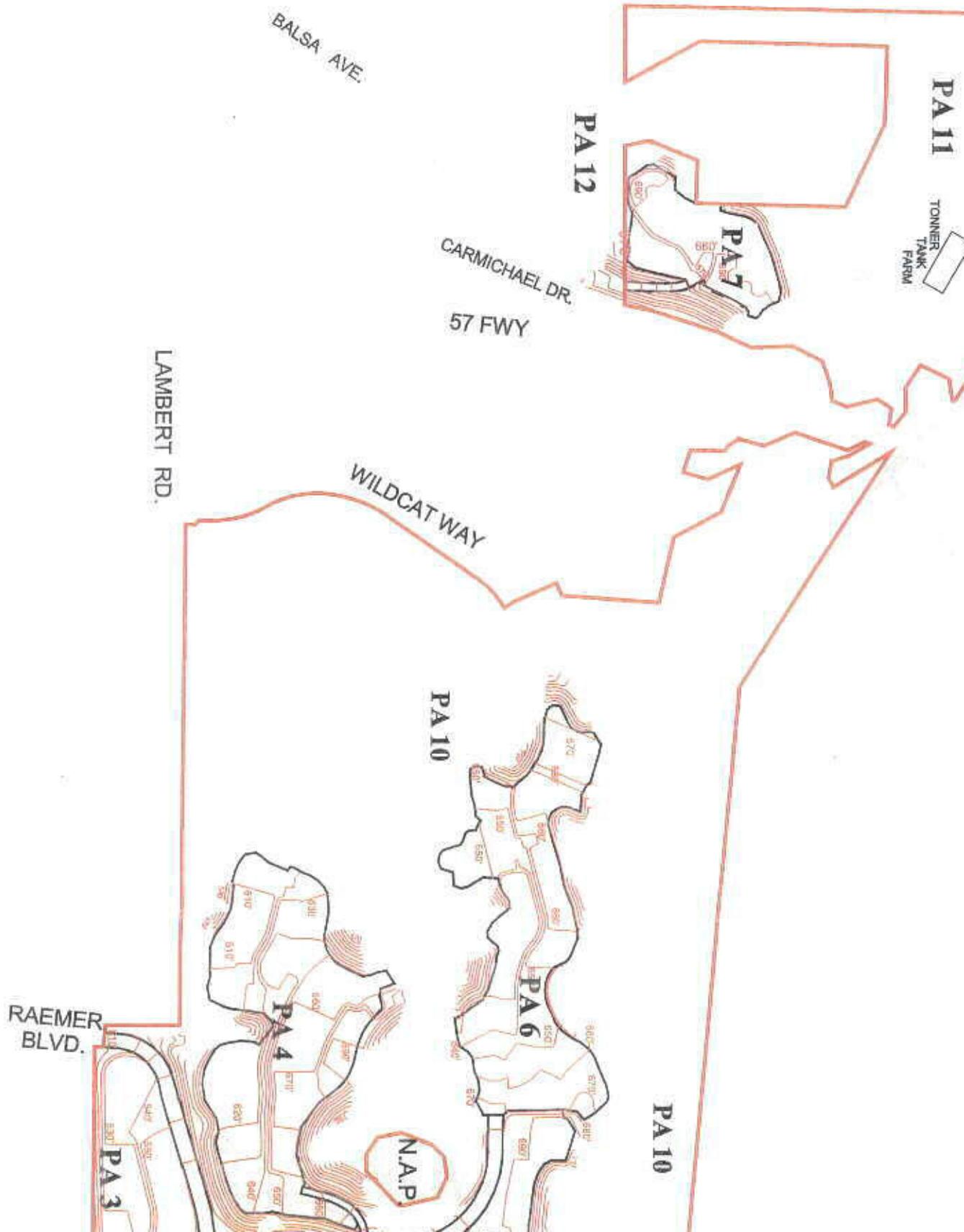
The Tonner Hills Conceptual Grading Plan, Exhibit 16, illustrates the overall grading concept for the Tonner Hills Planned Community. Grading will result in the movement of approximately 4.2 million cubic yards of earth with balancing of cut and fill on-site. Grading design for the Tonner Hills project is based upon the retention of open space areas with value as wildlife habitat, the avoidance of natural hazards, and consideration of topographical features that comprise the visual backdrop to the neighboring communities. Edge conditions of residential planning areas will seek to replicate natural conditions, wherever practical given habitat or geological constraints, through the use of contour grading and landform grading. Contour grading creates a curvilinear pattern to slopes by using variations of horizontal and vertical curves and provides for a general rounding of slopes at slope intersections and at areas of transition to open space, given geologic conditions and habitat restoration activities underway. Landform grading replicates the irregular shapes of natural slopes resulting in aesthetically pleasing elevations and profiles.

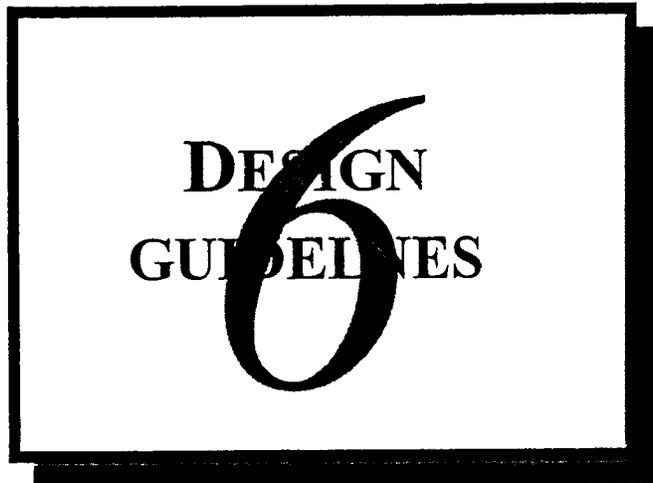
The major roadway system utilizes existing oilfield roads that have evolved with the historical industrial use of the property. These major roads have been historically used to provide access for major well drilling and work over rigs to the property. Development areas are contiguous to these major roads, primarily on areas that have been most impacted by the industrial development of the property. The graded planning areas reflect appropriate setbacks from active faulting and seek to avoid known areas of near surface oil bearing sands. The major contiguous ridges that provide a visual backdrop to neighboring communities are retained, and no new development is proposed adjacent to Cable Canyon, a significant ephemeral stream, or Tonner Creek, an established wildlife corridor.

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The community design guidelines have been prepared to ensure that Tonner Hills develops as a special place within Orange County to live and recreate. The design guidelines contained in this section are intended to establish a consistent design expression among site planning, engineering, architectural, and landscape architectural components while allowing reasonable flexibility in design.

The purpose of the guidelines is to provide a consistent approach to streets and streetscapes, pedestrian ways and bicycle ways, neighborhood planning and design, building design and articulation, landscaping, walls and fences, and other design elements that will endure for the life of the community. The guidelines are provided to promote a quality development and aesthetically pleasing environment. Some examples of desired design themes are provided on the following pages. The illustrations are conceptual and do not depict final designs, nor should they limit the range of expressions among individual builders and their professional design teams.

The Tonner Hills design guidelines are provided for the benefit of the master developer, merchant builders and their planners and designers, and the County of Orange staff and decision-making entities in the review of future Tonner Hills site development proposals.

6.1 ORGANIZATION OF THE DESIGN GUIDELINES

The design guidelines are comprised of the following sections:

- Community Concept Statement – This section describes the planning and design concepts that are the foundation of the Tonner Hills Area Plan and the design guidelines and criteria that follow.
- Planning – This section addresses community level and neighborhood level planning/design issues pertaining to:
 1. Circulation
 2. Grading
 3. Neighborhood Development.

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- Residential Architecture – This section provides criteria for residential architecture to ensure that the community’s neighborhoods are enhanced by the homes, that the homes are of a unifying quality, and that the design theme within the various residential neighborhoods is of a compatible nature.
- Landscape Architecture – This section provides the criteria for the implementation of the community landscape and the integration of the built environment with the natural environment. Community elements addressed include:
 1. Streets
 2. Entries
 3. Slopes/Fuel Modification and Interface Zones
 4. Open Space.
- Parks – This section addresses the improvement of parks within Tonner Hills.
- Community Public Trails – This section addresses the community’s bikeways and Tonner Ridge Trail.
- Oil Field Operation Screening – This section addresses criteria for screening those oil operations visible from community development areas.
- Community Walls and Fences – This section provides criteria to ensure consistency in the use of and character of walls and fences within the community.

6.2 TONNER HILLS COMMUNITY DESIGN CONCEPT STATEMENT

The Tonner Hills community design concept addresses the vision of creating a community offering traditional neighborhood elements while promoting environmental stewardship and opportunities for social interaction. The Tonner Hills community design concept provides the foundation for site planning and landscape design guidelines for the various land uses and facilities within Tonner Hills. The community design concept envisions the following for Tonner Hills:

- A. The preservation and enhancement of significant open space, natural habitat areas and existing wildlife corridor via the careful siting, planning and design of community development areas.

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- B. The preservation of major ridgelines which maintain the unique backdrop of Tonner Hills and is of benefit to the community as a whole.
- C. Significant landforms are preserved and utilized to buffer the community and development areas from oil operations.
- D. Sustainability via the conservation of natural resources and the introduction of new development which will incorporate sustainable technology into the design wherever possible, examples of both which are:
 - 1. Energy operations and oil production which will be maintained in a manner compatible with residential development;
 - 2. The preservation of approximately 559.7 acres of the project site as open space and the retention of a significant portion of the natural drainage courses resulting in less paved area thereby encouraging groundwater retention and replenishment through reduction of sheet flow of rainwater;
 - 3. Residential developments that will be equipped with the latest technology for internet access, thus reducing vehicle trips, and technologically adaptable to encourage the use of vehicles powered by alternative fuel sources; and
 - 4. Residential developments that will be located on south facing slopes to provide opportunities for use of passive solar energy.
- E. Neighborhoods with quality architecture and landscape expressions, having intimate tree-lined streets with sidewalk setback from the street edge.
- F. A circulation plan that provides for a comprehensive system of bikeways along collector and local streets for non-automotive travel while providing for the safe and efficient movement of vehicles.
- G. The encouragement of "non-automotive mobility" and "connectivity of community elements and development areas" by providing community bikeways and sidewalks set in pleasant landscape environs and a community trail extending through open space with links to adjacent residential development areas. The system of bikeways is integrated into the community design to encourage bicycle travel as an alternative to the automobile.
- H. Collector and local streets with landscape parkways separating sidewalks from the street, creating an intimate environment for the pedestrian and promoting walking and social interaction.

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- I. Diversity and choice of housing types and neighborhoods to provide for a variety of lifestyles and economic segments of the marketplace.
- J. Parks within the community for social gatherings, entertainment, and play, easily accessible from neighborhoods via pedestrian walkways, bikeways, and streets.
- K. An outdoor community art program for the placement of art within Tonner Hill's public spaces, reinforcing the community's identity and providing enhanced locations for gatherings and social interaction.

6.3 PLANNING

The following criteria address planning and design issues pertaining to circulation, grading and neighborhood development.

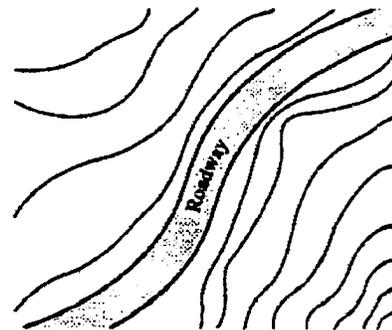
6.3.1 CIRCULATION

The circulation plan for Tonner Hills provides an enjoyable and safe environment for vehicular, pedestrian and bicycle uses. It encourages the considerate layout and alignment of community collector streets to maximize the preservation of significant natural features and provides standards for the planning and design of neighborhood level local streets. The following criteria is provided:

- A. **Community Level** (See "Streetscapes", section 6.5.1 for street design graphic exhibits)

The following criteria have been applied to the alignment and design of the project's community circulation system and collector streets as shown on the Development Plan (Exhibit 6) and Master Circulation Plan (Exhibit 10).

- 1. Collector Streets
 - a. Wherever practical collector streets shall parallel existing contours, be curvilinear in fashion, and blend with existing topographic features.



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- b. Collector streets shall follow the alignment of existing oil field roads whenever feasible.
- c. Collector streets shall be aligned to allow for views of and/or abut significant natural landforms, features, and open space whenever possible.
- d. Collector streets should have curb adjacent landscape parkways planted with trees to visually reduce the scale of the travel area (thus encouraging slower travel speeds), separate vehicles from pedestrians and bicyclists, and to reduce glare, pavement temperature, and direct radiation from the sun. Trees between the curb and sidewalk are encouraged to shade both sidewalk and street surfaces.

2. Sidewalks

- a. Sidewalks along the collector street should provide connectivity between residential neighborhoods (planning areas), parks, trails, and open spaces.
- b. Sidewalks should be setback from the curb, separated from the street by the landscape parkway.
- c. Sidewalks along the collector street shall be 6 feet wide.
- d. Sidewalks should be provided with landscape enhancements (landscape parkways, landscape areas, open space, slopes, or parks) and should not directly abut community walls. Sidewalks should be provided on two sides of the street (double loaded streets) and on one side of the street (single loaded streets, house side) along all local streets.
- e. Sidewalks along community collector streets should be accented with sitting benches for resting. The benches should be located adjacent to the sidewalk in landscape areas, located approximately 500 feet to 750 feet apart.

3. Bikeways

- a. A Class I bikeway with a 12-foot wide paved surface shall be provided along all community collector streets to encourage "non-automotive" travel.
- b. The Class I bikeway shall connect to all residential planning areas east of the 57 Freeway, Wildcatters Park, and Tonner Ridge Trail.
- c. The Class I bikeway shall be setback from the collector street via a landscape parkway.

- d. The Class I bikeway should be provided with landscape enhancements on both sides of the bikeway (landscape parkways, landscape areas, open space, slopes, or parks) and should not directly abut community walls.

B. Neighborhood Level

1. Local Streets

- a. Whenever possible streets should be curvilinear in nature and avoid long straight lengths.
- b. Streets should provide for direct access to neighborhood amenities (parks, view area, recreation centers) and when possible be aligned with such amenities for views. This type of connection and alignment encourages walking and bike riding within the neighborhood.
- c. Street design should provide a safe and enjoyable pedestrian environment through the use of landscaped areas separating sidewalks from vehicular travel. All streets shall provide for a landscaped parkway separating the sidewalk from the vehicular travel areas.
- d. Trees should be planted along the streets to reduce glare, pavement temperature, and direct radiation from the sun. Trees between the curb and sidewalk are encouraged to shade both the sidewalk and the street surface.
- e. Plans for single family attached residential developments should promote the use of the neighborhood street by pedestrians. Designs which encourage pedestrian access to the neighborhood streets should be considered, such as providing gates from private patios to the street, connecting walkways from clusters of units to the street, and locating residents' mail boxes in pavilions along the street, instead of scattering them around the parking lots.
- f. In single family attached developments streets and parking areas should be designed to emulate the character of single family detached developments utilizing the following techniques:
 - 1.) Incorporating a street tree program to provide a pleasant streetscape. Submittal of a street tree program will be required as part of the approval of any residential tract map and/or site plan of development within Tonner Hills.

2.) Buildings adjacent to streets and parking areas should have principal windows, balconies, and front doors facing the street.

2. Sidewalks

- a. Sidewalks shall be provided on two sides (double loaded streets) and on one side (single loaded streets, house side), along all local streets.
- b. Sidewalks shall be setback from the curb, separated from the street by a landscape parkway.
- c. Sidewalks along local streets shall be 5 feet wide.
- d. Sidewalks along local streets within residential neighborhoods shall connect to the sidewalk system along the adjacent community collector street.

3. Bikeways

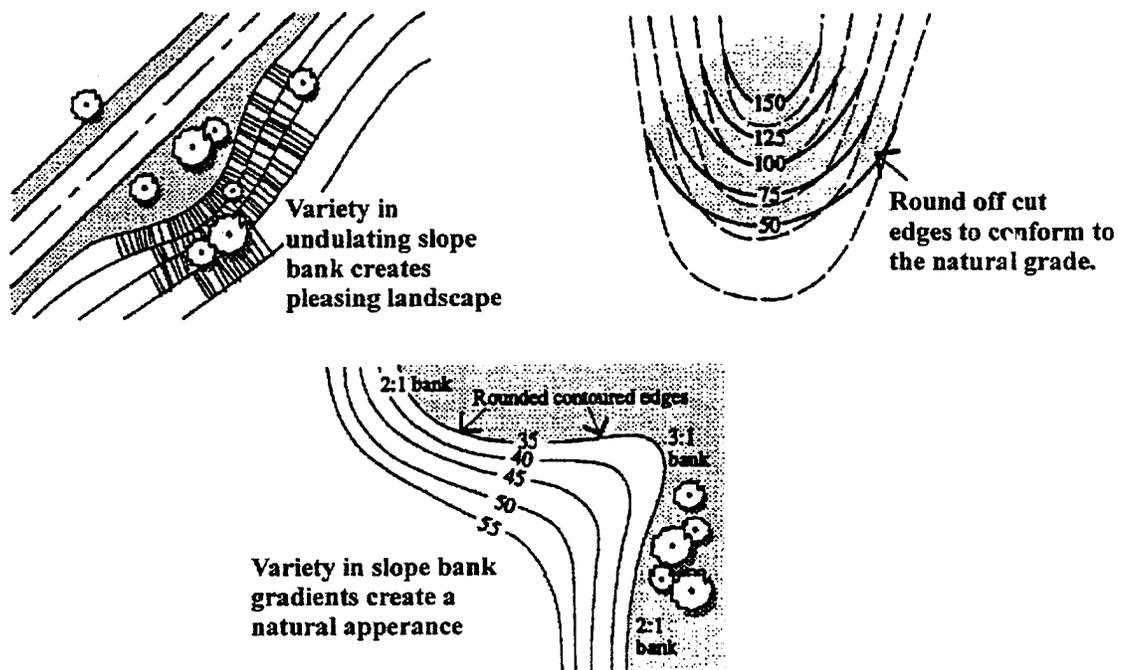
- a. A Class III bikeway shall be located within all residential neighborhoods.
- b. Class III bikeways within residential neighborhoods shall connect to the Class I bikeway along the adjacent community collector street.

6.3.2 GRADING

The grading concept for Tonner Hills respects the natural topography while recognizing that the site is within an industrial setting that has been used to exploit subsurface minerals for over 100 years. The Tonner Hills plan looks to minimize grading impacts by utilizing existing oil field road patterns where possible and/or feasible. Areas of the project site having the highest degree of industrialization have been examined first for community development opportunities. The proposed grading plan for Tonner Hills takes into consideration the constraints of existing geologic conditions and ongoing oil operations. No conflict shall occur with current and/or future habitat or resource preservation. The preservation of significant landforms and drainage corridors has occurred to a large extent as well.

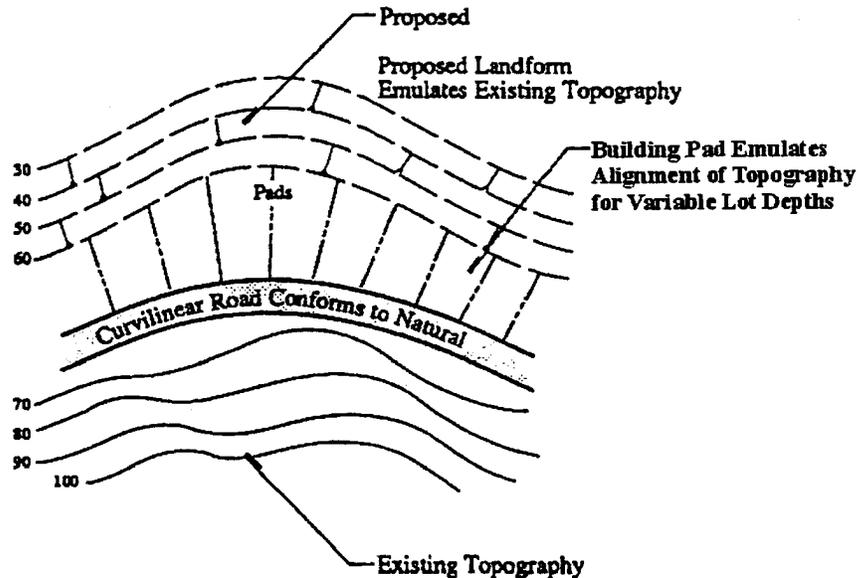
- A. **Grading Techniques** - On perimeter manufactured slopes, slopes that provide a transition to open space, and other publicly visible slopes, the following grading concepts shall be implemented to reflect the characteristics present in the natural landforms:

1. Contour Grading – This technique results in slopes having many characteristics present within natural landforms.
 - a. Create a curvilinear pattern to slopes by using variations of horizontal and vertical curves.
 - b. Provide for a general rounding of slopes at slope intersections and at areas of transition to open space, given geologic conditions and habitat restoration activities underway.
2. Landform Grading – This technique replicates the irregular shapes of natural slopes resulting in aesthetically pleasing elevations and profiles.
 - a. Community collector streets shall follow the underlying topographic features whenever possible.
 - b. Provide for a variation in both slope percentage and direction.



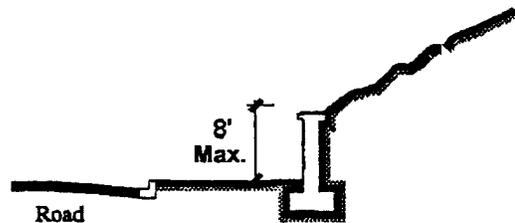
- B. **Building Pads** – Building pads and neighborhood edges shall conform to or replicate the natural topographic edge condition whenever possible. The following criteria shall apply:

1. A variety of lot depths shall be provided along variable edges to allow variable setback of homes.
2. Cut/fill slopes resulting from development areas and building pads shall have contour or landform grading techniques applied when located along a publicly visible edge.



C. **Retaining Walls** – In order to blend with the natural surroundings retaining walls along community collector streets and within residential planning areas that are publicly visible shall have the following criteria applied:

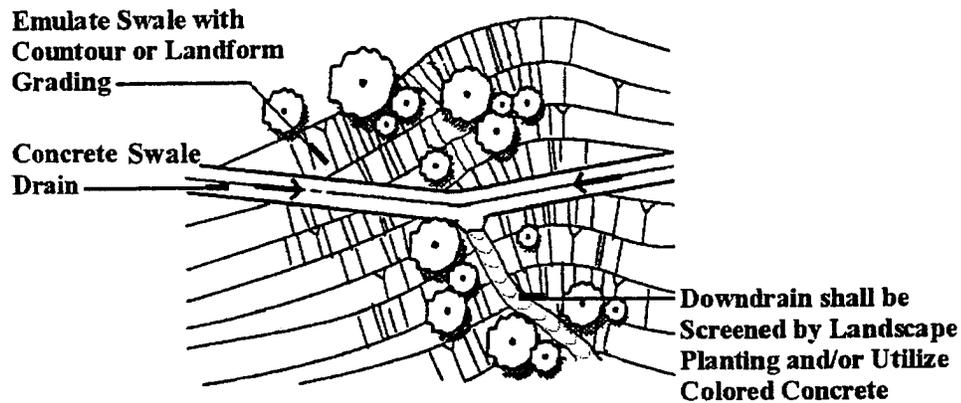
1. Retaining walls should be constructed of masonry or other permanent, durable, low maintenance material.
2. Retaining walls should be consistent in terms of materials and color.
3. Retaining walls should be enhanced with landscape planting and or wall covering vines.
4. Any wall in excess of 8 feet in height shall be of the wall type that allows for insertion of plant materials and irrigation into the wall to ensure wall coverage and screening by plant materials.



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D. **Drainage Devices** – Where drainage devices are required, the following criteria shall apply:

1. Down drains shall be screened by landscape plantings and/or utilize colored concrete to reduce visibility.
2. Drainage devices shall be constructed in accordance with Orange County standards for design and construction.



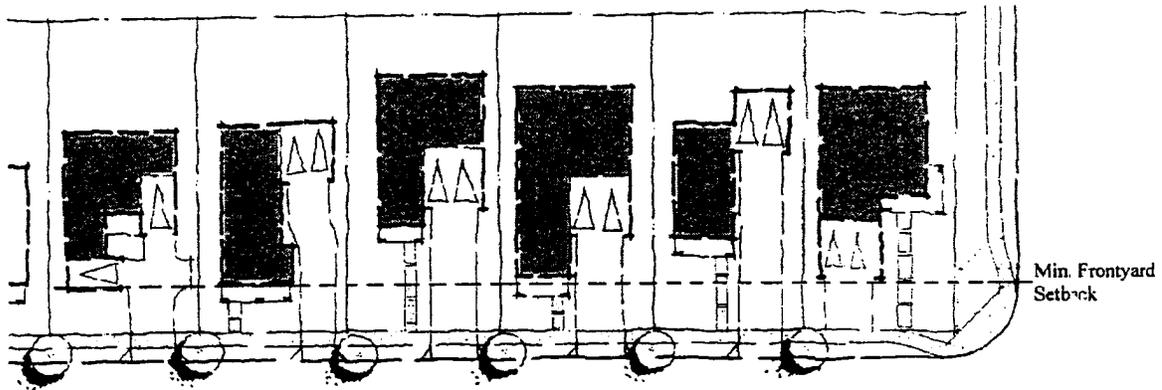
6.3.3 NEIGHBORHOOD DEVELOPMENT

The design of Tonner Hills is based on the planning principal that a community is composed of distinct neighborhoods, each with a particular sense of place. A sense of place is established within Tonner Hills through the relationship of residential neighborhoods (planning areas) to open space edges, neighborhood parks (see "Passive Parks, 6.6.2) and connectivity to community-wide bikeways and sidewalks and the other community amenities linked by them. Sense of place is also established through the inclusion of tree-lined streets throughout Tonner Hills (see "Streetscapes, 6.5.1), quality residential architecture (see "Residential Architecture", 6.4) and planning and design criteria that is applicable to the neighborhood's overall fabric. Accordingly, the following criteria is provided:

- A. Neighborhoods should be organized around a clear hierarchy of streets. Curvilinear street patterns are encouraged to enhance streetscapes. Extended lengths of straight streets should be avoided unless dictated by topographic and/or habitat constraints.

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- B. Varying front yard setbacks from the street should be utilized to create a more interesting streetscape. A minimum of 15% of lots within any residential planning area should exceed the minimum front yard setback as described in the project's "Residential Site Development Standards".



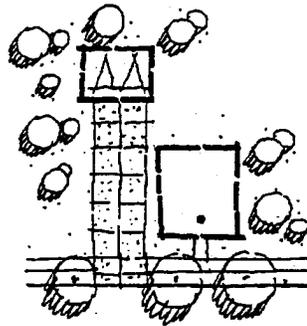
- C. Orientation in the layout of lots to parks, open space, and off-site views should be incorporated into the residential development area whenever possible.
- D. To the degree possible orientation of development edges, lot layout, and the siting of structures should be done to take maximum advantage of the natural and manmade view orientation.
- E. When provided, recreation areas should be visible upon entry into the neighborhood to enhance neighborhood value and appeal.
- F. Varying house configurations on corner lots is encouraged to promote variety in the street scene.
- G. One-story homes should be interspersed along neighborhood streets and along publicly viewed residential development edges whenever possible. These homes help to "break-up" the streetscape and avoid a monotony of building forms.



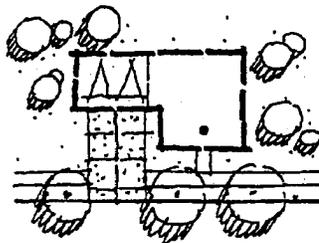
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H. Placement and orientation of the garage should vary within residential neighborhoods to reduce the visual presence of the garage door on the neighborhood street scene. Consideration should be given to the following variables:

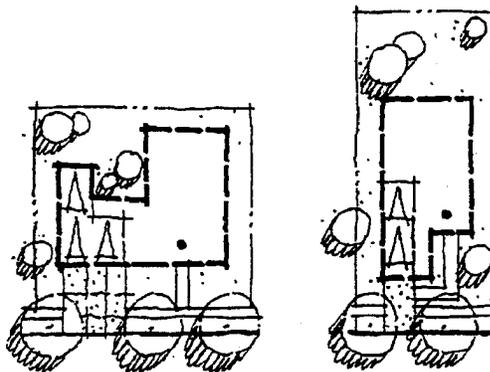
1. A combination of side-entry and front-entry garages and varied driveway locations along any given residential street are encouraged, thus breaking up repetitive curb cuts and yard patterns.
2. Garages can be located to the rear of the lot behind the main house, connected by a breezeway or detached, with driveway access from the local street or rear alley.



3. Front entry garages should be set back from the main house or offset with a covered front porch extending forward of the garage.

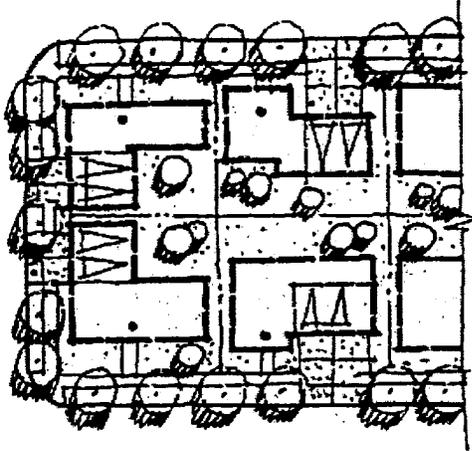


4. Garages can be separated into two-bay/one-bay configurations allowing for entry courts and gardens along the neighborhood street.
5. Tandem garages are encouraged to reduce the amount of garage door on the front façade.



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6. On corner lots special plans can be designed to place the garage on the side elevation instead of the front elevation.



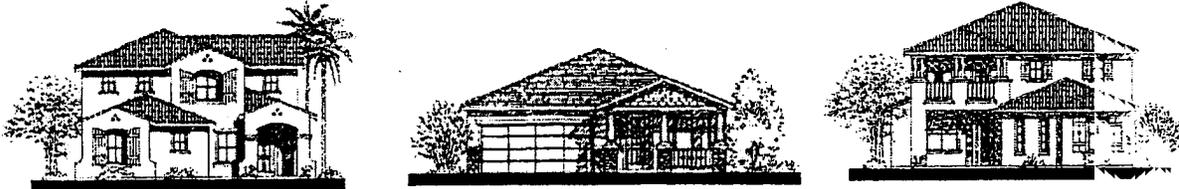
- I. Guest parking should be located to provide easy access to residential units.
- J. Accent paving to delineate neighborhood/project entrances and key pedestrian crossings is encouraged.
- K. Walkways shall be provided within single family attached and multiple family neighborhoods.
- L. In single family attached neighborhoods the maximum use of auto courts is encouraged. Long linear stretches of parking are to be avoided.

6.4 RESIDENTIAL ARCHITECTURE

The community theme and architectural goal for Tonner Hills is that of “compatible variety”. Rather than specify particular architectural styles, builders and their professional design teams are encouraged to develop architectural designs based upon styles historic to Orange County and the Southern California region.

The design goal of Tonner Hills is to achieve appropriate interpretations of the historical styles rather than exact recreations. In order to achieve an appropriate interpretation of a particular style it is important to maintain honesty within the architectural style. An individual architectural style must be identified for the home being designed and “signature” features of that style must be noted and expressed in the homes façade design recognizing the parameters of current day economics and building codes.

For each residential planning area, and in the spirit of “compatible variety” builders will be required to identify and provide a variety of architectural styles for their project. Three different elevations will be required within each architectural style. Elevation variations can be accomplished through the creative use of material and color palettes and different floor plans. Primary building colors must provide a visually noticeable variation when the homes are grouped together along each neighborhood street.



6.4.1 ARCHITECTURAL DESIGN COMPONENTS

Residential buildings of any architectural style are comprised of certain basic design components. These components establish the character and identity of not only the individual home but of the neighborhood as well. Tonner Hills requires that builders and their design teams pay special attention to the proper application of these components as noted below.

A. Mass and Scale

Building mass and scale are two of the primary design components used to establish appealing communities and personable neighborhoods. Controlling the mass of a building through design articulation of the building facades, attention to rooflines, and variation in vertical and horizontal planes effectively reduce the visual mass of a building. The development of one-story elements and/or one-story houses along neighborhood streets and at street corners, which allow the building to “step back” from a given edge, provides for a manageable building scale. Both components, mass and scale, will be primary design considerations during the development of the street friendly and pedestrian scale architecture that will be used throughout Tonner Hills. Articulation, delineation and variation in building form and mass/scale should reflect the particular architectural style selected.

It is important to provide variation in front yard setbacks, building types and architectural styles along any neighborhood street so as to provide variation in the mass and scale of the buildings. This will provide desirable and necessary visual variety within neighborhoods.

The following design criteria shall be followed:

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1. Simple one-story and two-story volumes reflective of the selected architectural style.
2. The inclusion of one-story elements and one-story homes interspersed along neighborhood streets and at street corners, whenever possible.
3. Articulation of one-story and two-story forms within the building mass to provide delineation in the facade by incorporating design features and components appropriate to the selected architectural style.
4. Rooflines that are "broken" to emphasize and articulate delineation in the building mass. Extensive roof overhangs (if appropriate to the selected architectural style).
5. Projections and recesses to provide shadow and depth.
6. Angles within the floor plan (if appropriate to the architectural style) for visual interest and as an element of contemporary form.
7. Control of extensive lengths of horizontal architecture through the use of U-shaped building plans, side-on garage placement, front yard arrival courts, and auto courts.
8. Covered front porches, balconies and loggias, walkways, and porte-cocheres (if appropriate to the selected architectural style).



B. Building Materials and Colors

Building materials and colors are important elements when used to achieve a true representation of a specific architectural style. Colors should be as authentic as possible when compared to the traditional color palette of the selected style. Consideration will also be given to colors available in the contemporary market. Material breaks, transitions, and termination should produce complimentary and clear definitions of separation while maintaining a prescribed color and materials theme.

The use of building materials and colors plays a key role in developing community character and ambiance. The composition of the materials and colors of the homes significantly affect the character and personality of a residential neighborhood. Consideration must be given to selecting a variety of complimentary color and material palettes along any given street. This will avoid a monotonous appearance of multiple buildings of the same colors and tones.

The following design criteria shall be followed:

1. A variety of different architectural styles will be required for each residential planning area. Each architectural style shall have a minimum of three elevation variations. The elevation variations can be achieved by the use of different floor plans in combination with varying material and color palettes.
2. The basic color palette of the building should be true to the historic architectural style while expanding subtly to respond to the contemporary market.
3. Identical building facades on the same street must be minimized. Variations in the selected colors and materials shall be incorporated to minimize likeness and provide a sufficient degree of architectural variation and diversity within the neighborhood. A minimum of three different front elevations per each selected architectural style will be required within any residential planning area. Color palettes should vary from elevation to elevation within each style. Variations in materials from elevation to elevation should occur as appropriate to each style.
4. In the architecture's color palette tonal accents should be used to highlight the character of the building and provide variation and depth to the building mass.
5. Material breaks, transitions and terminations should produce complimentary and clear definitions of separation by utilizing extended or recessed architectural elements or patterns, as appropriate. Where more than one material is used, each must be architecturally integrated. Materials are required to wrap around the corners of the front elevation. The materials must be continued to a reverse corner, side fence or change in wall plane. The return may not be less than 4 feet.



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C. Roof Materials and Colors

Roofs and rooflines of a house are significant components of a building's composition when used to define a particular architectural style. A roof's composition should allow for a clean interface with the building and the building facade. The two elements should not be overbearing or give the appearance of being disjointed or cut-up. It is important to choose the appropriate roof pitch, characteristics and materials that are consistent and true to the selected architectural style. Varying roof pitches on the same building should be avoided unless they are integral to the architectural style or extending over porches and balconies.

A roof's color is an important consideration in most architectural styles and should be in keeping with the total presentation of the overall building. Roof materials and colors selected for an architectural style must reflect the elements that are typically used in that style. Bright orange colored roof tiles must be avoided. Roof colors should be soft and warm rather than bright and bold, thus avoiding an overpowering visual intrusion to the community's appearance and character. Roofs shall be of non-combustible materials.

The following design criteria shall be followed:

1. Roofs and roof pitches should be appropriate to the architectural style of the house.
2. Roofs should end cleanly whether fascia, exposed rafters, opened or boxed eaves are used.
3. Roof design styles (hip, gable, etc.) and rooflines should vary along any given street.
4. Roof materials and colors should accent and compliment the color and material palette of the house and architectural style.

D. Windows and Doors

Window and door details are architectural components that carry a strong visual impact through their placement and design. The proportion of the windows and doors to the wall massing varies according to the architectural style chosen.

Feature windows that are appropriate to the selected architectural style are important to the building elevation due to their character. They should enhance rather than dominate the overall architectural character of the home and the neighborhoods.

Entry doors should be designed proportionally to the walls surrounding them, appropriate to the selected architectural style, and prominent in character.

Additional design criteria is as follows:

1. Feature windows and their placement should be given careful attention to design and detail and should be appropriate to the selected architectural style.
2. Window design should take into consideration the purpose and function of the window as well as it's placement and hierarchy within the buildings elevation.



3. Single or multiple window groups should be used as focal elements of a house when appropriate to the architectural style.

4. Windows, when stacked vertically, should have a hierarchy to them.

5. The size and shape of windows should be carefully considered to ensure a balanced relationship with the surrounding walls and roof.



6. The choice of windows should be in keeping with the selected architectural style.

7. Window trim, shutters, coverings and other details should be used as accents appropriate to the selected architectural style.

8. Window shutters should reflect the form and size of the window.

9. When primary entries are placed on the side of the house, windows and window treatments should accent the building façade adjacent to the entry walk.



10. Entry doors should be design proportional to the walls surrounding them, appropriate to the selected architectural style and prominent in character.

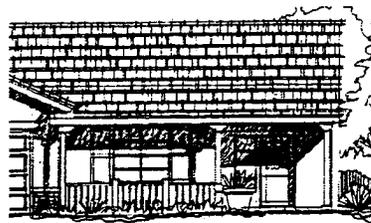
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E. Porches and Balconies

The incorporation of front porches and front and rear balconies as part of the architectural vocabulary is encouraged for both aesthetic and practical reasons. Porches and balconies integrate indoor and outdoor living spaces, allow for elevated garden locations that provide light and air to the interior, and also provide shelter. Porches and balconies break up large wall masses and reduce the scale of the house at the street and sidewalk edge. Along a neighborhood street, front porches add an element of personal scale and ambiance, where neighbors can sit and gather, or talk with others walking by. The result of this opportunity is the added security that is provided within the residential neighborhood.

The following design criteria shall be followed:

1. Front porches with a minimum useable width of 6-feet are encouraged, and expected, along neighborhood streets as important design feature appropriate particular architectural styles.
2. When possible front porches should be raised slightly from the front yard to provide a clear separation of spaces. A porch rail should be included when appropriate to the architectural style, to define the space and add architectural detail to the porch and the front elevation of the house.
3. Second-story "verandah-style" front balconies with open railings are encouraged along neighborhood streets.
4. Second-story rear balconies and loggias are encouraged within neighborhoods facing community open spaces and parks.



F. Columns and Posts

Columns and posts are important design components in many architectural styles appropriate for Tonner Hills and are often signature elements to a particular style. Columns and posts should be incorporated as structural and aesthetic design elements and should be dimensioned appropriately so that a solid and durable image is conveyed. The scale and dimension of these elements varies depending upon the architectural style. The elements should reflect the selected style when they are introduced in the design proposals.



G. Garage Doors

Garage doors are a major visual element and should be simple in design. Individual bays should be provided which are offset and separated. This will eliminate visually extensive "garage door facades". Three and two car garage configurations can be divided into two/one and one/one configurations to allow for entry courts and auto arrival courts (see "Neighborhood Development" 6.3.3 H).

The following design criteria shall be followed:

1. Garage door design should reflect a slightly recessed door. Recess garage doors a minimum of 12" to create depth and shadow patterns.
2. Accent colors should be used to compliment the architecture and provide visual variety along the streetscape.
3. Garage door windows, when used, should correspond to the window forms of the house.
4. Landscape vines, trellises and tree wells should be introduced to soften the visual impact of the garage door and accent the garage facade.
5. Weather-treated wood, wood-like materials or metal doors are allowed.

6. Side-facing garage conditions should provide for a window or other decorative design element on the building wall facing the street.
7. The inclusion of a porte-cochere should be considered when appropriate to the architectural style and when the garage is set back from the front of the house. This design element assists in reducing the scale of the garage and second story element as viewed from the street and also provides a covered walkway connecting the driveway area to the main house.

H. Side and Rear Facade Treatment

Within Tonner Hills the side and rear of many homes will face onto parks, streets, and open spaces. It is required that the builders and their design teams enhance the side and rear facades of homes which back onto parks, streets, and open spaces, to improve the community appearance. Such enhancement considerations shall include one or more of the following: color accents and tonal variations, window design and trim, shutters, architectural banding, rear balconies, and other design details and amenities.

I. Additional Building Components

1. Mechanical Equipment - All air conditioning/heating equipment, soft water tanks, gas and electric meters, pool, spa, and fountain equipment must be screened from public view through the use of plant materials and walls. Sound attenuation of motor operations is encouraged.
2. Gutters and Down spouts - Gutters and down spouts may be concealed or exposed if designed as a continuous architectural feature. Exposed gutters and down spouts shall be painted to match the adjacent roof or wall material.
3. Chimneys - As an architectural form chimneys are to be reflective of the selected architectural style.
4. Flashing, Sheet Metal and Vents - All flashing, sheet metal, vents and pipes shall be painted to match the adjacent surface.
5. Skylights - Skylights are to be designed as an integral part of the roof. Their form, location and color should relate to the building.
6. Solar Panels - When provided or added, solar panels are to be integrated into the roof design flush with the roof slope. Frames must be colored to complement the roof. Natural aluminum frames are not allowed. Support solar equipment must be located in the rear yard and screened from public view.

7. Accessory Structures - Patio trellises, arbors and other exterior structures may be of stucco or wood as allowed by the governing codes and fire protection requirements, with finishes complying with the home's materials and color palette.

6.5 LANDSCAPE DESIGN CONCEPT

The "Master Landscape Plan", Exhibit 17, is intended to create a distinctive, diverse environment that will lend identity and character to the developed and natural areas of the project. In this regard, the landscape concept integrates the built environment with the natural features of the land. Landscape features are included which are designed to enhance the project's interface with the surrounding environment and the adjacent community. A master list of tree and plant materials is provided in Appendix III, "Plant Palette".

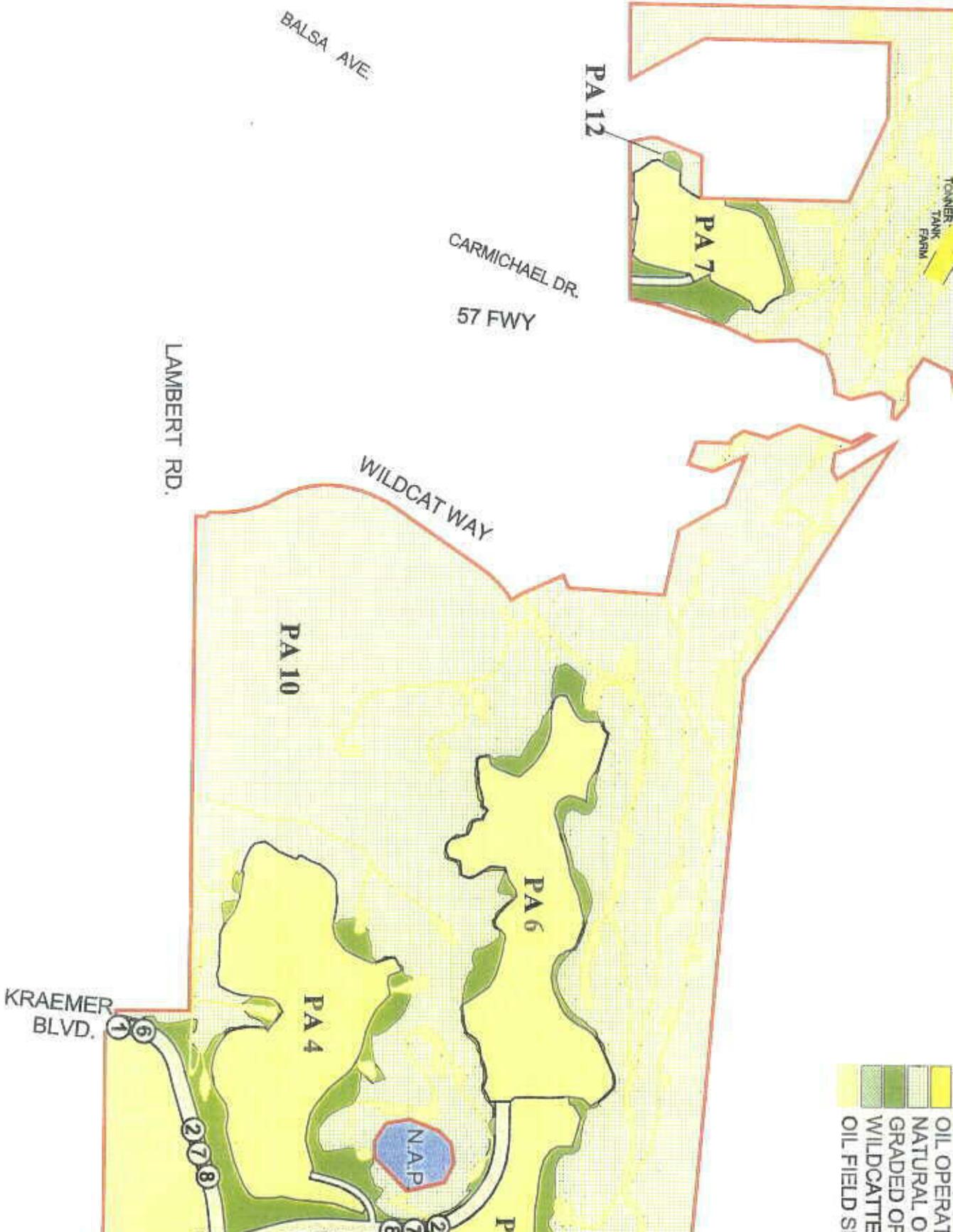
The Landscape Design Concept includes the enhancement and restoration of native vegetation communities in a large portion of the open space areas. Restoration of the native vegetation communities will include the planting of coastal sage scrub plant species as well as native oak and walnut trees. In addition, enhancement will include the removal of exotic, invasive, and weedy plant species from the open space areas. This will serve not only to improve the aesthetics of the vegetation in the open space but also to improve the habitats for native wildlife species. The habitat restoration plan for the Tonner Hills project will serve to enhance the project's interface with the surrounding environment and the adjacent community.

In single family attached and multi-family residential projects, landscaping will be installed by the builder and privately maintained through either a homeowner's association or by the project owner as applicable. In single family detached residential projects, front yard landscaping will either be installed and maintained by individual homeowners or installed by the builder and maintained by a homeowners association. Landscaping will be installed and maintained in accordance with the rules and regulations adopted as part of the master covenants, conditions, and restrictions (CC&R's) which will be reviewed by the County at the time of tentative tract map approval.

Oil wells retained in residential areas will be set on non-residential lots or parcels that will be landscaped and maintained by the homeowners association. The wells will be in subsurface vaults and will be accessed by way of a drive allowing any service vehicle to be completely off the neighboring roadway. Low profile landscaping will be placed immediately surrounding the well vault, with larger shrub and tree placement towards the perimeter of the lot.

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TONNER HILLS

Area Plan
 November 19, 2002

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 All graphics in this document are examples only and should not be interpreted literally.
 Other solutions and concepts may be proposed and reviewed during the Area Plan Amendment/ Site Plan Process.



6.5.1 STREETSAPES

Streetscapes are designed to promote community character and complement the form and function of the collector and local streets. Landscape treatment in medians, parkways, and adjacent slopes are a major component of the Tonner Hills landscape concept. These areas will convey the immediate impression of the overall community image, provide primary pedestrian and circulation routes, and provide a landscape interface between traffic corridors and adjacent land uses. Streetscape treatment will be established along all of the roadways within the planned community. The landscaping treatment should be designed as linear spaces, with tree placement and massing providing the primary spatial definition of the corridor.

The community streetscape will consist of trees, turf, vines, shrubs, and groundcovers. The landscape will enhance a network of streets that physically link all areas of the community. Consistency will be achieved through the use of plant materials selected from a master plant list.

- Landscape treatments of each street should be consistent throughout the entire length of the street in the neighborhood.
- A street tree program will be required as part of the approval of any residential tract map and/or site plan review submitted for development approvals
- Landscape treatments should generally utilize regularly planted street trees planted 30 ft. to 50 ft. on center. Street trees should be placed no closer than eight feet to street light standards.
- Street tree planting, as described below, should generally utilize one or two primary species for each street, with a limited number of additional species used as accents.

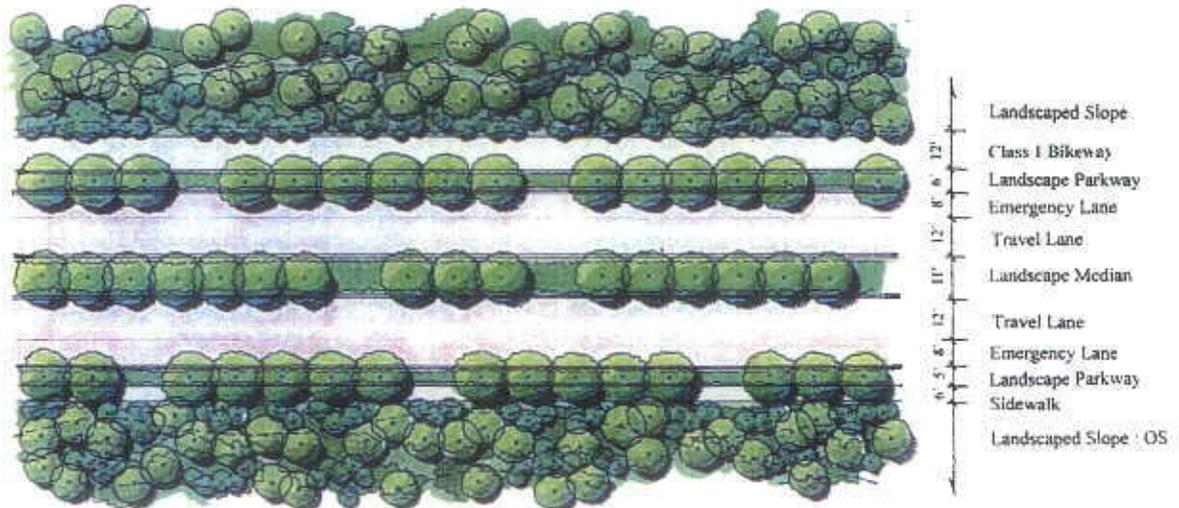
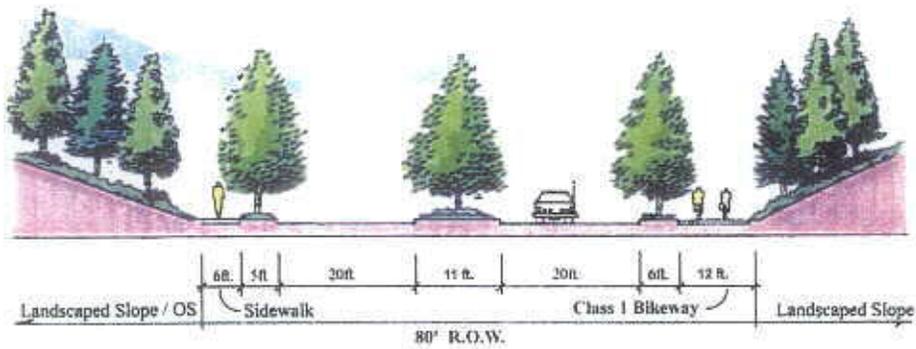
Collector Streets

The objective for the collector streets is to create a pedestrian scale two-lane street. Collector streets should create a shaded street corridor. Medians should occur at community entry locations. Landscaping of collector streets is illustrated in Exhibits 18 - 22 and may consist of the following:

- Large street trees: one grouping of trees planted on each side of the roadway, flanking the sidewalk, an average of 40 feet or less on center. One grouping should be planted within the parkway strip between the curb and sidewalk, and the groves should be planted behind the sidewalk/ bikeway no less than five feet from the edge of the sidewalk / bike way.

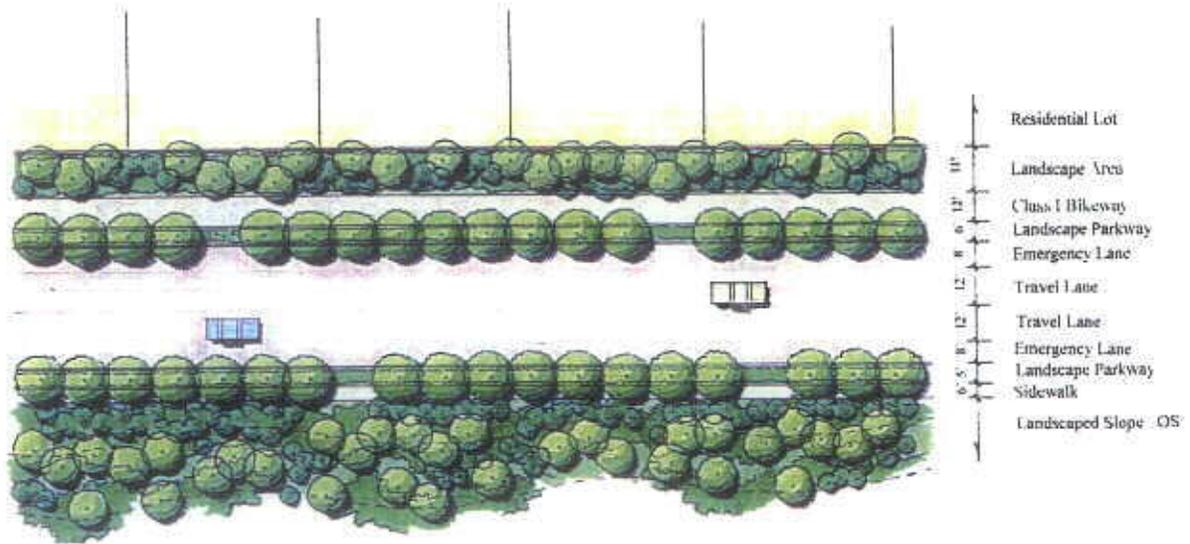
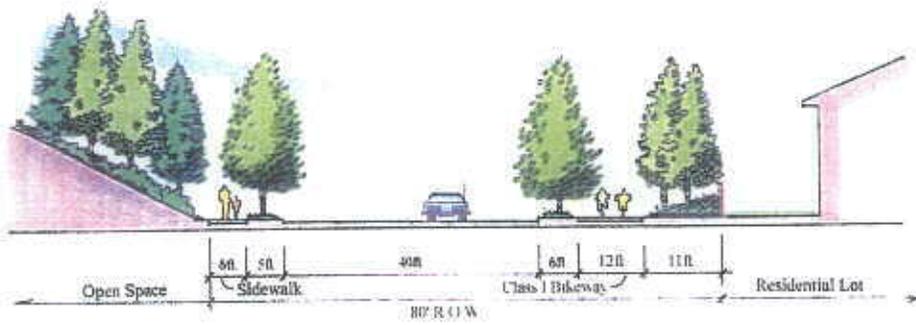
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- Low, spreading, groundcover or turf in the parkway strips adjacent to the walks.
- A 6 ft. sidewalk should be located on one side of the roadway separated from the roadway by planted parkway strip. A Class 1 bikeway will be located on the other side of the roadway separated from the roadway by a planted parkway strip.



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Exhibit 18
COLLECTOR STREET TYPE 1

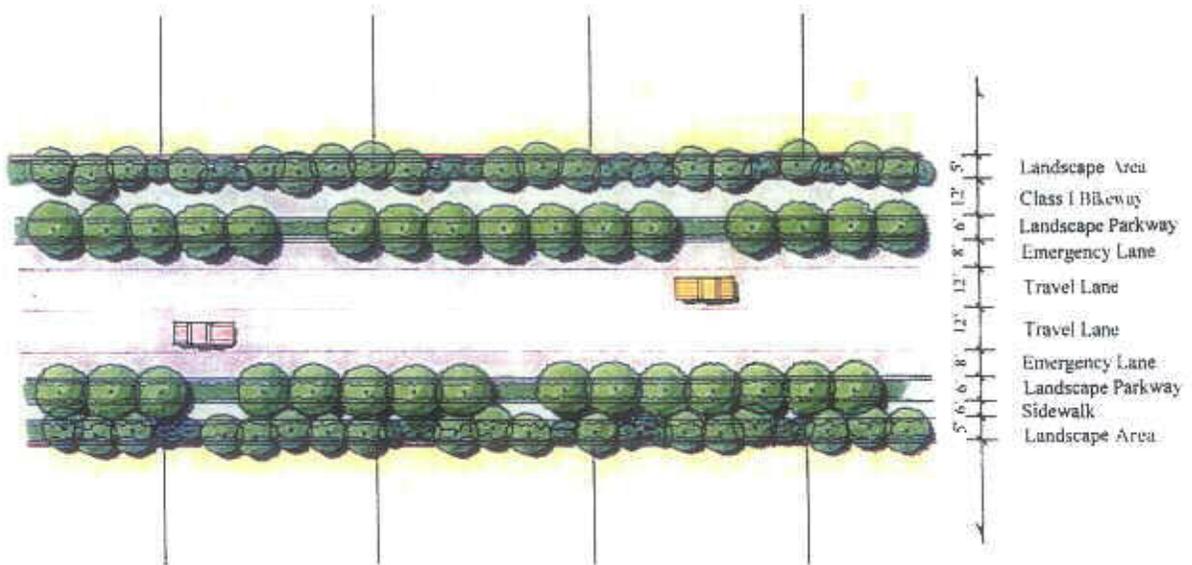
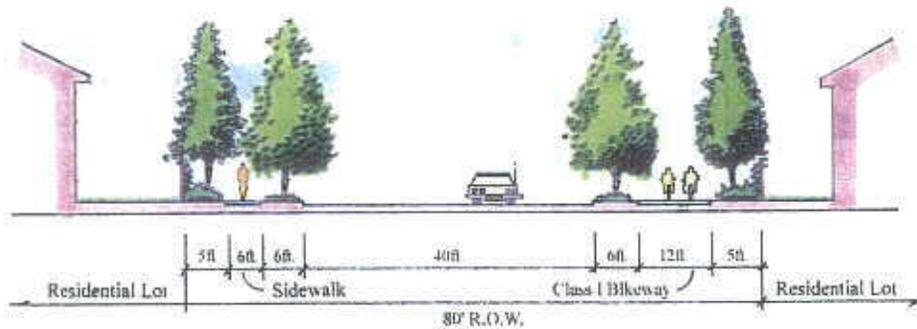


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Exhibit 19
COLLECTOR STREET TYPE 2

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Area Plan
November 19, 2002

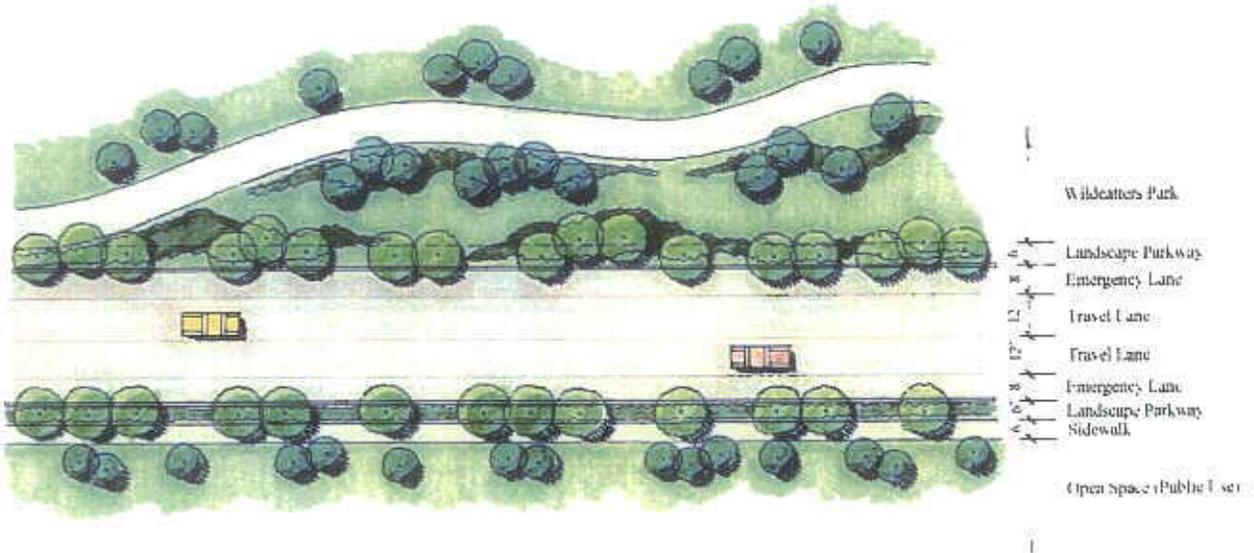
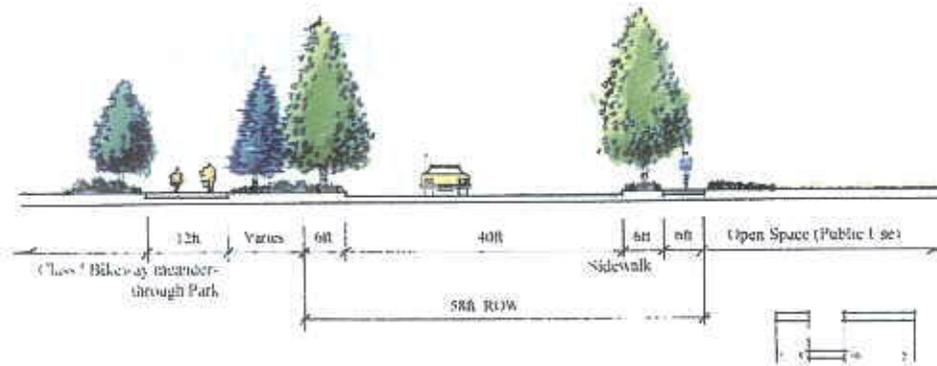


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Exhibit 20
COLLECTOR STREET TYPE 3

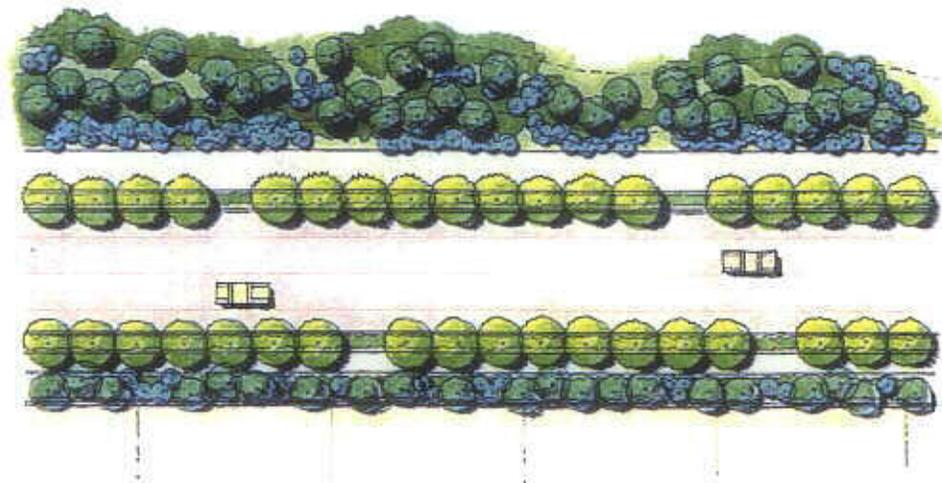
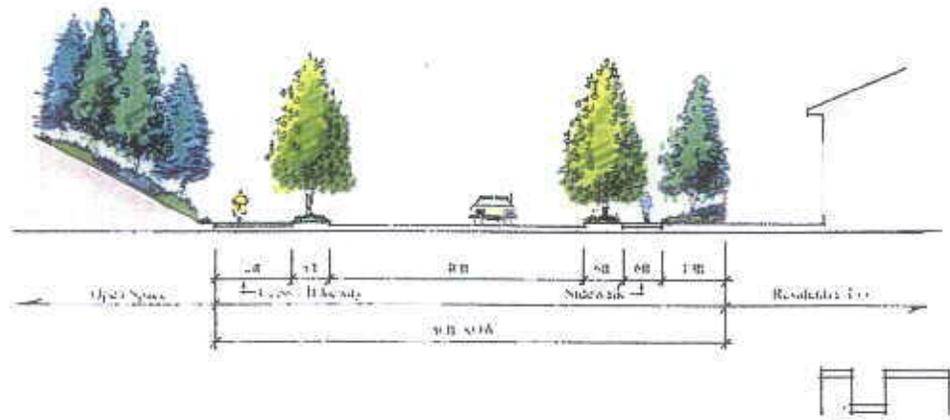
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Exhibit 21
COLLECTOR STREET TYPE 4



- 1 Landscape Slope / Open Space
- 2 Curb / Sidewalk
- 3 Landscape / Parkway
- 4 Planting / Lane
- 5 Travel Lane
- 6 Travel Lane
- 7 Entryway / Lane
- 8 Landscape / Parkway
- 9 Sidewalk
- 10 Landscape / Area
- 11 Right-of-Way

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Exhibit 22

COLLECTOR STREET TYPE 5

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Local Streets

The objective for local streets is to create a network of tree-lined, pedestrian scale streets serving residential areas within each Planning Area. Each street should utilize a distinct tree species. Landscaping of local streets may consist of the following:

- A single, consistent, species of street tree for each street within the Planning Area.
- A single row of street trees planted on each side of the roadway centered between the curb and sidewalk. In general, trees will be regularly spaced, no greater than 50 feet apart. Spacing may vary based upon lot width and driveway spacing.
- Low, spreading groundcover or turf in the parkway strips adjacent to the walks. Parkway ground cover planting should be consistent for each street.
- Sidewalks separated by a planted parkway.

6.5.2 ENTRIES

Entries are an important component of the Tonner Hills landscape environment. The consistent treatment of community entries and neighborhood entries will reinforce the overall community character while distinguishing individual Planning Areas as unique.

Community Entries

Community entries occur at Kraemer Boulevard and at Valencia Avenue. These entries introduce the theme and character for the community landscape and streetscape elements. Treatments for the community entries are illustrated on Exhibits 23 and 24 may include the following:

- Accent/Specimen trees, shrubs and ground cover.
- Community signage /logos.
- Thematic walls and pilasters.
- Backdrop landscapes.
- A sidewalk and Class 1 bikeway

Neighborhood Entries

Neighborhood entries shall occur at the entry points to each Residential Planning Area. The landscape treatments for neighborhood entries shall be similar in character to community entries

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with a less extensive treatment of the ground plane and pilasters. Treatments for neighborhood entries are illustrated in Exhibits 25 and 26 and may include the following.

- Accent trees.
- Bands of ground cover or turf.
- Entry pilasters with signage, smaller than the community entries.

Entry landscape treatments shall vary among Planning Areas, thereby creating a distinct image for each area. Each neighborhood entry shall use a tree species unique to that Planning Area.



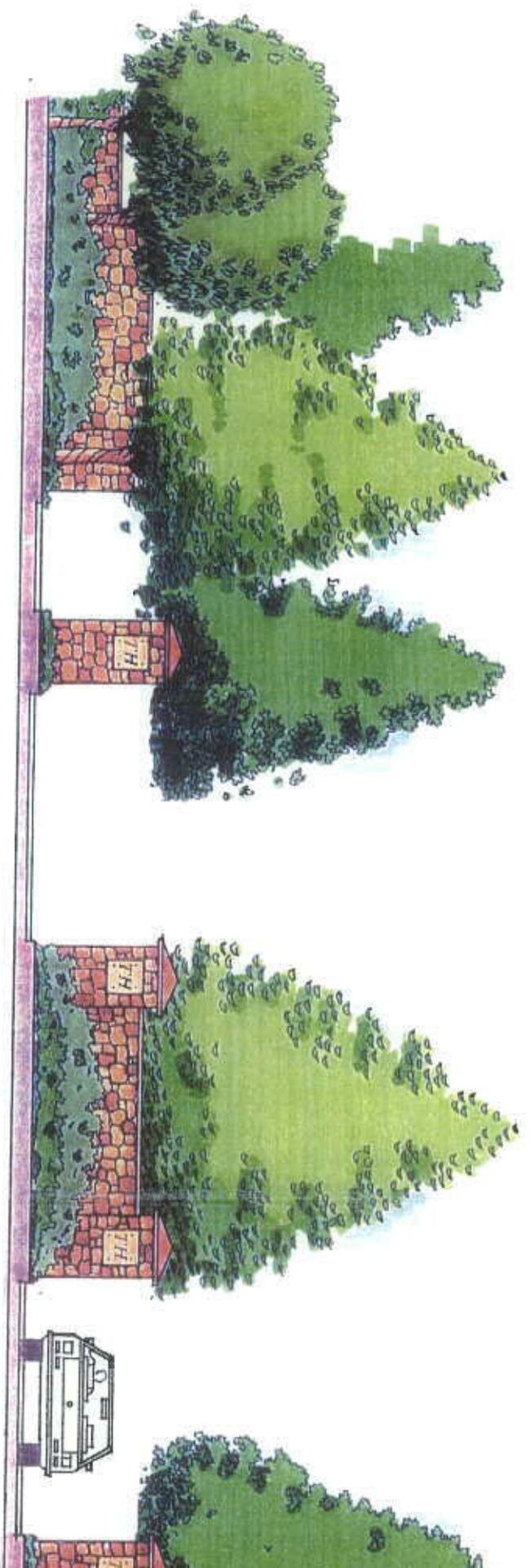
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Exhibit 23

COMMUNITY ENTRIES AT KRAEMER BOULEVARD AND VALENCIA AVENUE

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Pedestrian Entry
5ft.

Vehicle Exit
12ft.

Landscape Parkway 6ft.

Community Logo
Placard

Vehicle Entry
12 ft.

Landscape Parkway 6ft.

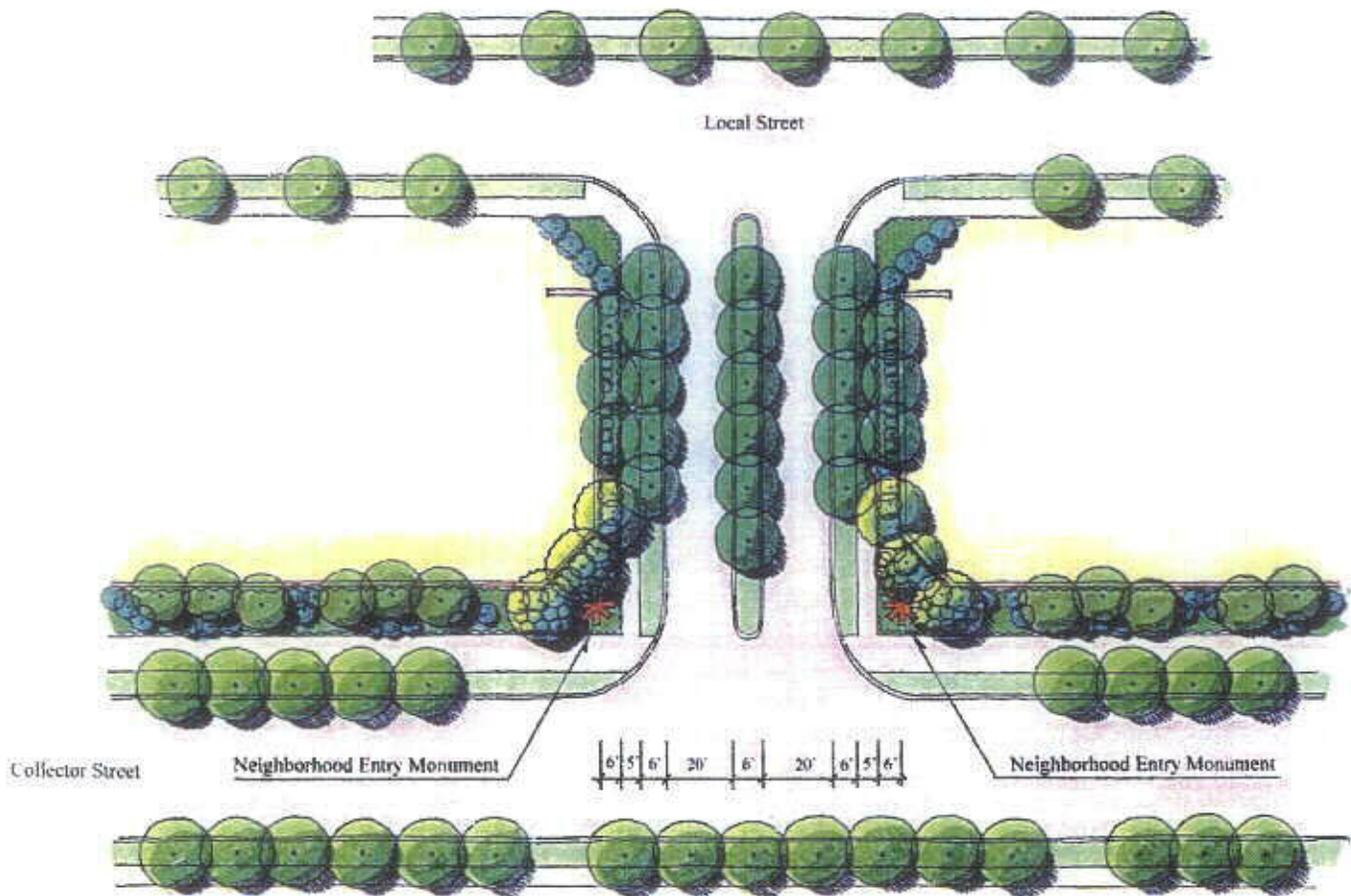
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Exhibit 25
NEIGHBORHOOD ENTRY: CONDITION A

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6.5.3 SLOPES, BUFFER ZONES, AND OPEN SPACE

The community landscape concept includes slopes and fuel modification design as illustrated in "Open Space and Fuel Modification," Exhibit 27. Slope landscape proposes a design complementing the community streetscape character and emulates surrounding natural hillside character. The slopes will form an important element which integrate the various community components into a single cohesive community. The design considers views, fire danger adjacent to natural open space areas, water conservation, erosion control, visual prominence within the community, transition zones between existing natural and manufactured landscapes, major slopes, and interior slopes. Slope landscaping should be perceived as integrated with the street parkway and landscaping when adjacent to these elements.

- **Manufactured Slopes**

All re-contoured slopes will be revegetated in a manner consistent with the concepts discussed above.

- **Natural Hillside Interface**

Transitional areas between residential and open space areas should be treated to provide a natural appearing landscape between the built environment and the native slopes. A variety of plant materials indigenous to the area will be incorporated into the palette. Those areas deemed to be fuel modification zones will be planted in accordance with the Orange County Fire Authority standards.

- **Brush Management / Fuel Modification**

Fuel modification zones will be established by graduated decreases in native plant densities and the addition of fire resistant plants near development areas. These modification zones will be provided in place of standard firebreaks. The pattern of vegetation removal and species introduction will be consistent with the Orange County Fire Authority criteria as illustrated in "Fuel Modification Sections," Exhibit 28.

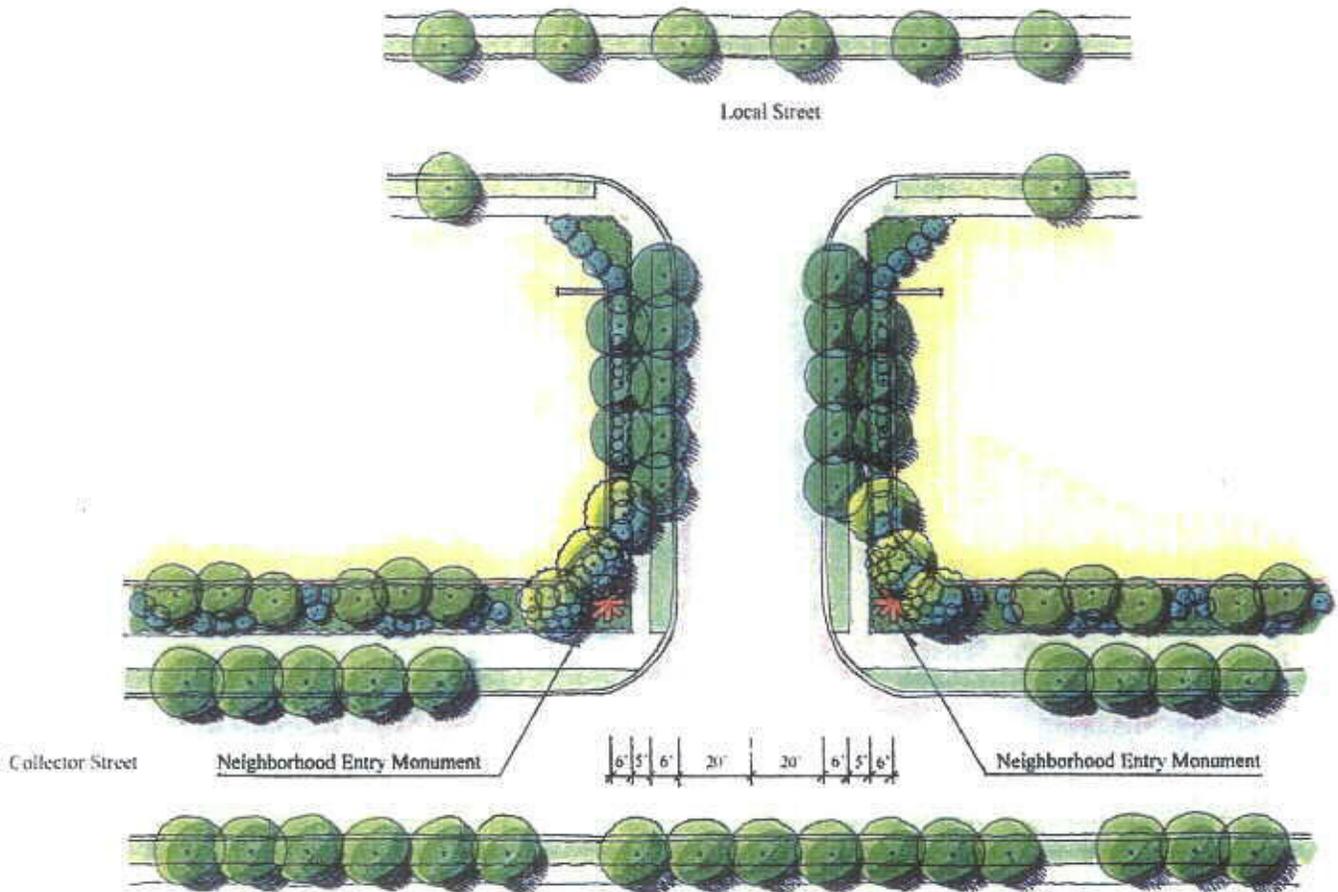
- **View Corridors**

In an effort to maintain views from public spaces and residential lots, open space tree planting should occur at the lower half of the adjacent slope. Other trees and plantings should occur at property lines to allow for framed views.

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- **Natural Open Space**

The project will retain areas in the existing condition and will maintain the character and magnitude of the planting. As part of project development, revegetation of areas designated as developed or disturbed, as well as areas currently occupied by non-native and ornamental vegetation communities will occur thus enhancing existing natural open space areas. The revegetation plan will utilize native materials such as coastal sage scrub; southern cactus scrub, and other natives currently found within the project site. The transitions from the open space to the manufactured areas will consist of a gradual decrease in the native planting to a plant palette that is in the theme of the community. Open space areas will be enhanced where there is habitat value.



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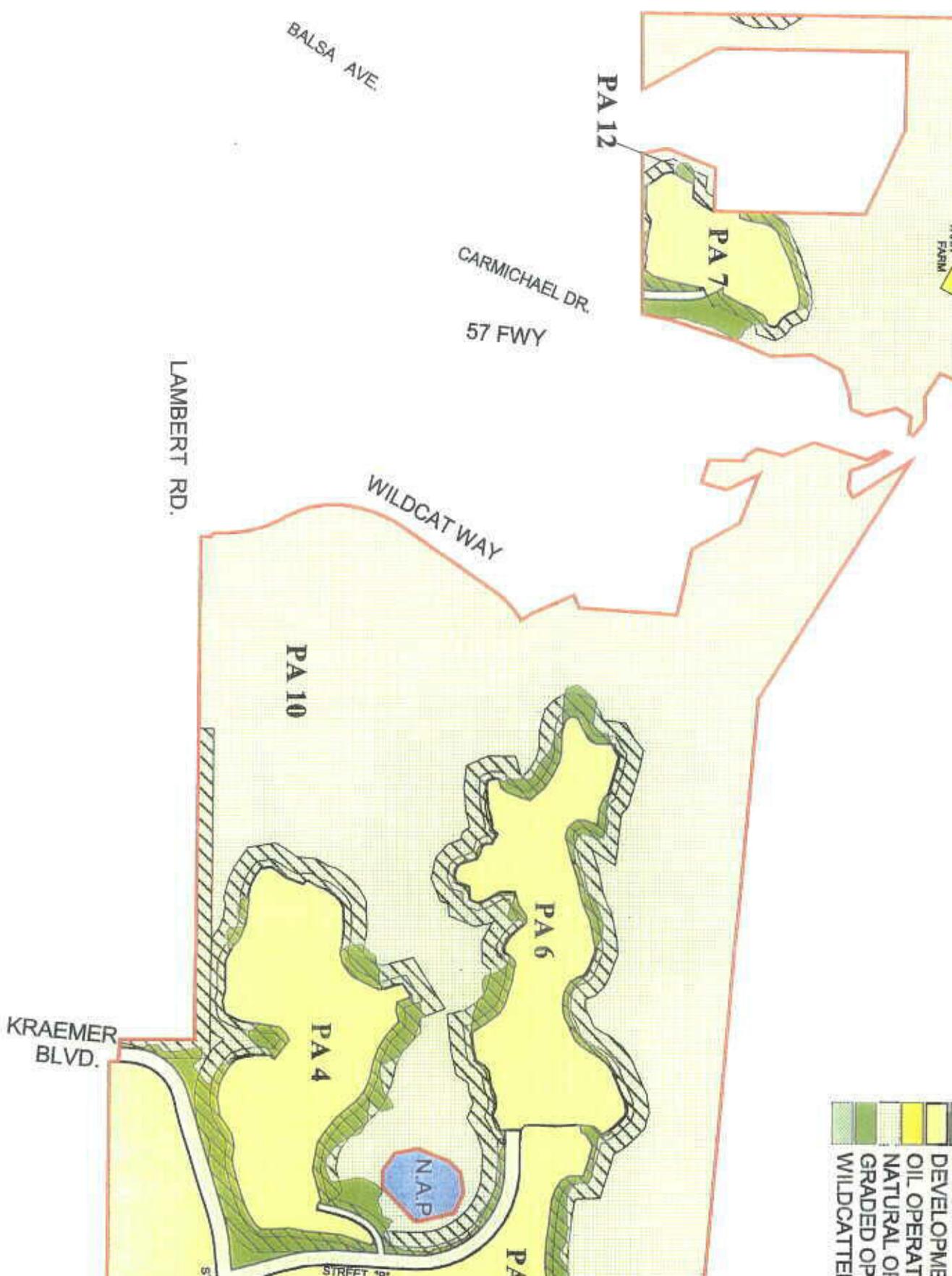
Exhibit 26

NEIGHBORHOOD ENTRY: CONDITION B

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DEVELOPME
 OIL OPERAT
 NATURAL OF
 GRADED OP
 WILDCATTE

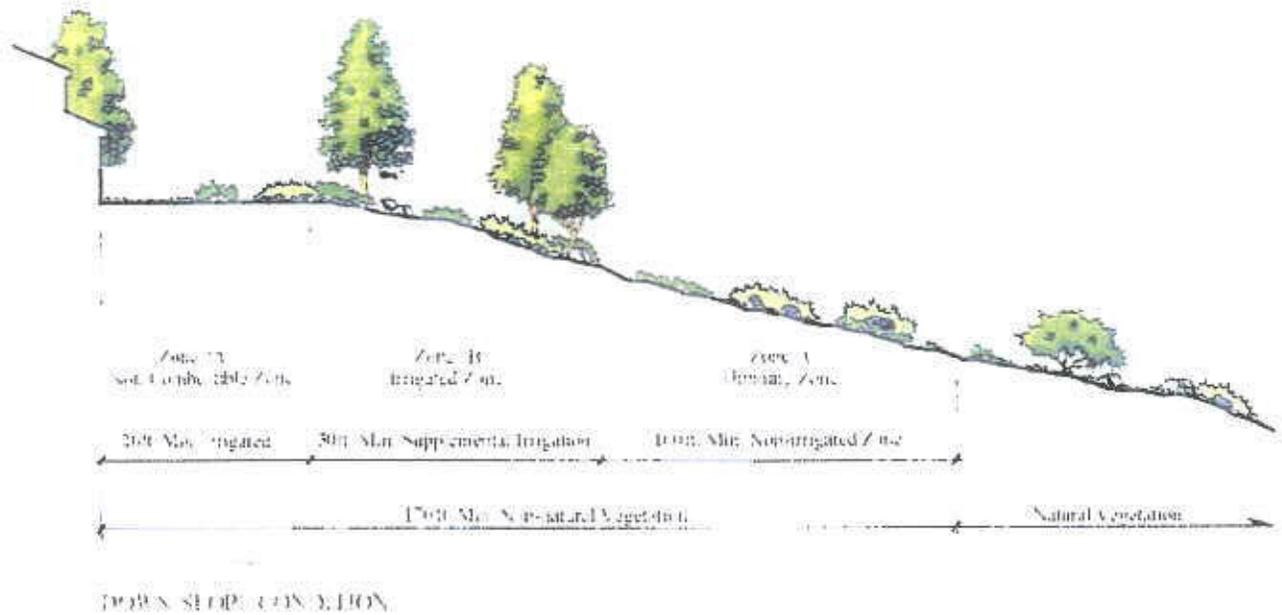


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Exhibit 28
FUEL MODIFICATION SECTIONS

6.6 PARKS

6.6.1 WILDCATTERS PARK

The existing Wildcatters Park located in Planning Area 8, will be improved and expanded as a 14.6 acre public park. Wildcatters Park will consist of barbecue/ picnic areas, passive recreation areas, restroom facilities, open play areas, and a parking area as illustrated in Exhibit 29. Vehicular access is available to Wildcatters Park off of "A" Street from Kraemer Boulevard and from Valencia Avenue.

6.6.2 PASSIVE PARKS

A minimum of one passive park will be located within each residential planning area of Tonner Hills. Passive parks will be a minimum of 2,500 square feet in area, adequate to accommodate informal gatherings and will be improved with benches and thematic landscaping. The precise location of each passive park will be determined as part of the approval of a Level B tentative map.



Planning Area 1

11/19/2002 11:51 AM

Existing Overhead Electric Structure

Existing Highway (PA) Utilities

Existing Building, over 1:500 scale

Existing, Suspension Bridge

Service Lane (1:500 scale)

Paved Spans

Coastal Street, Landscape w. Bicycle Trail

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6.7 COMMUNITY PUBLIC TRAILS

6.7.1 TONNER RIDGE TRAIL

Tonner Ridge Trail, a City of Brea Master Planned Trail, is proposed to traverse the project's northerly slope within open space areas in an east/west course. Per the City of Brea standards the trail is proposed to have a 26-foot wide easement and a 20-foot wide trail surface. Simple pilasters will provide trail signage at the entries, accented with open space plantings. The trail is illustrated in Exhibit 30.

6.7.2 COMMUNITY BIKEWAY

The community bikeway (Class I bikeway) will travel throughout the collector streets with links to Kraemer Boulevard, Valencia Avenue, Tonner Ridge Trail, and Wildcat Way. Residents will have easy access to this trail from any of the planning areas.

6.8 OIL FIELD OPERATION SCREENING

6.8.1 ACCESS

In select areas, service will be required in order to provide access to oil wells that will continue operation. Vehicular access will include curb cuts at the street and access gates to the oil well operation area.

- Access for *Above-Ground Pump* locations by maintenance vehicles will be via existing oil field service roads.
- Access for *In-Ground Pump* locations will include a turf block, or equivalent, surface for maintenance vehicles measuring 21 feet wide and a minimum of 60 feet long. A concrete service pad of 11 ft. x 19 ft. will be provided at the pump area which will also include the 6 ft. x 8 ft. vault. Oil well accessibility and screening are illustrated in "Oil Well Screening Within Residential Areas," Exhibit 31.

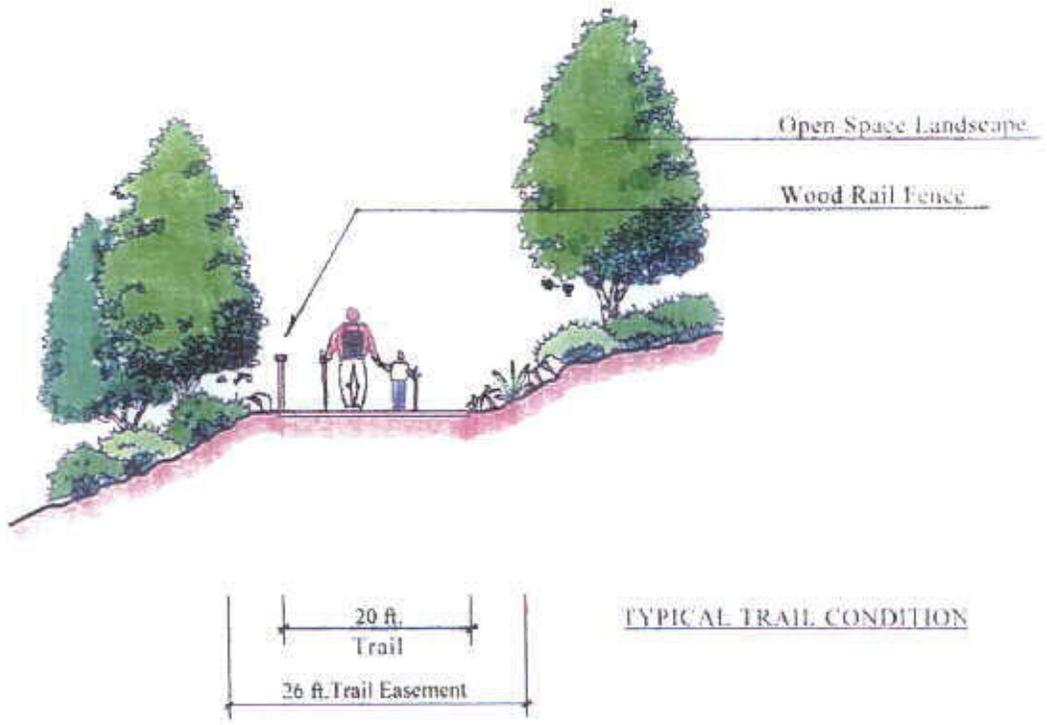
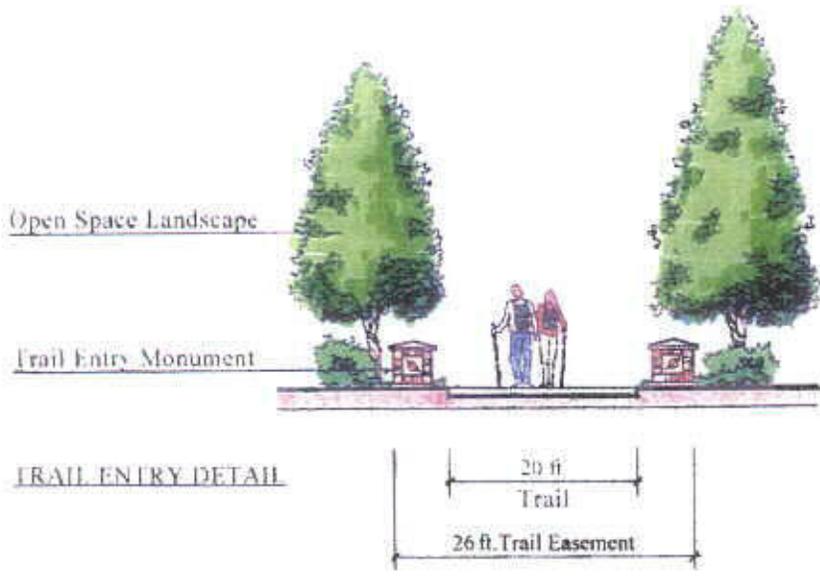
6.8.2 SCREENING/FENCING

In compliance with safety and visibility requirements from Cal DOGGR, oil fields within the Tonner Hills Planned Community shall be secured by appropriate fencing. The existing fencing along Lambert Road, Valencia Avenue, Wildcat Way, adjacent to the high school, above Carmichael Drive, and along Brea Boulevard will remain.

TONNER HILLS

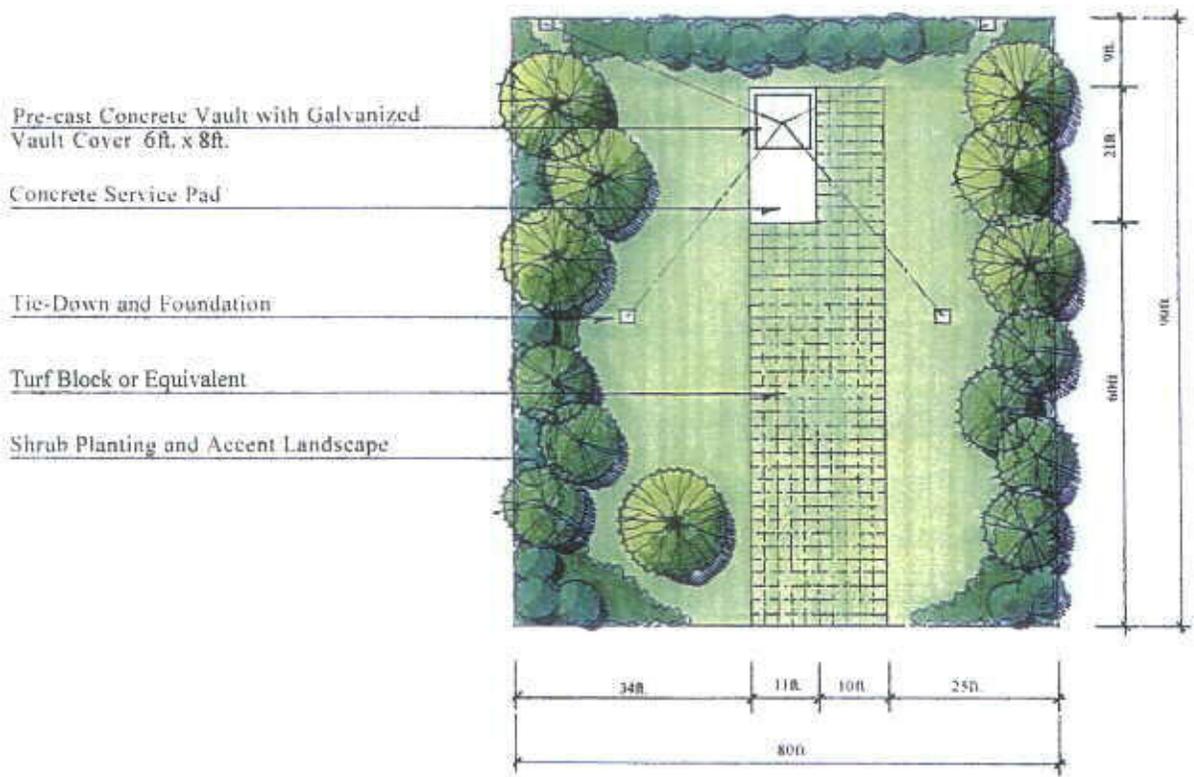
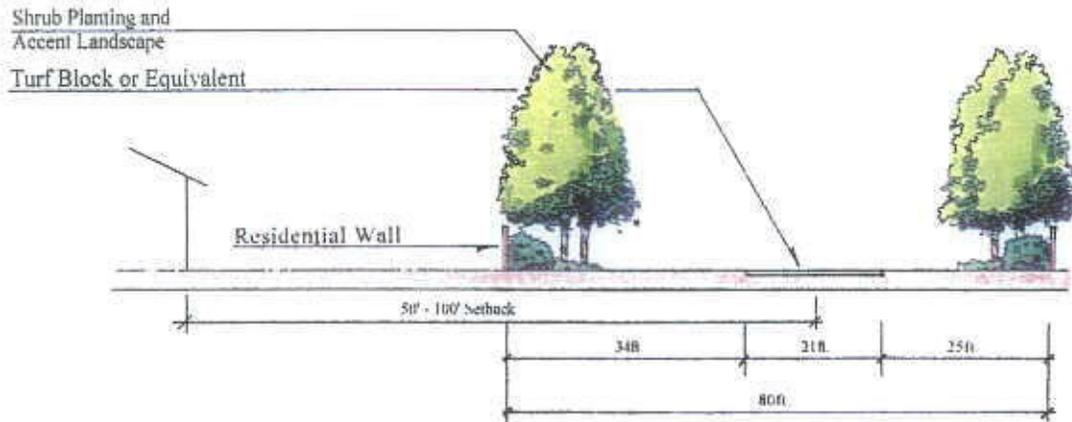
As residential development occurs, perimeter tract fences will be replaced, or new fences will be installed as required. These fences will be tubular steel or wrought iron depending upon design compatibility with the residential architectural theme of the development. Where there is an interface between residential development and an oil field road, there will be a gate built with either tubular steel or wrought iron, and gates will remain locked for security purposes.

Existing above-ground pumps within visual proximity of residential or recreation areas will be screened from view through the use of fencing a minimum of 7 feet high which is covered with vines and/or landscape plantings. The gas plant facility will be screened with a 6 ft. high fence with landscaping. Tree planting will be accomplished within informal groves as illustrated in "Gas Plant Facility Screening," Exhibit 32.



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Exhibit 30
TONNER RIDGE TRAIL



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Exhibit 31

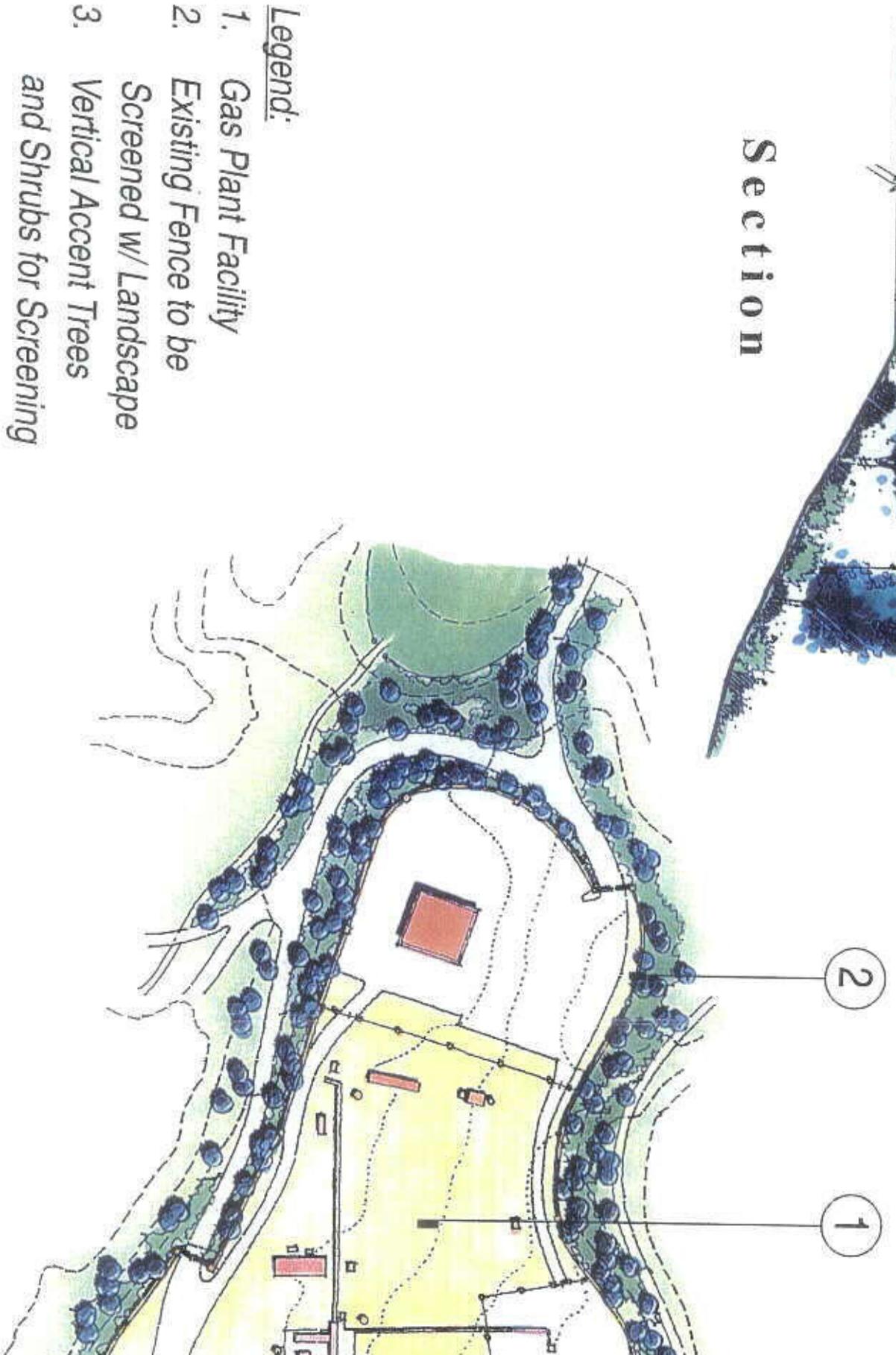
OIL WELL SCREENING WITHIN RESIDENTIAL AREAS

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Section



Legend:

1. Gas Plant Facility
2. Existing Fence to be Screened w/ Landscape
3. Vertical Accent Trees and Shrubs for Screening

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6.9 WALLS AND FENCES

Walls and fences will be an important component in the environment of Tonner Hills. They will provide privacy and security, shape important public spaces, and help establish the character of the community. All fencing and walls are to be provided by the builder of each planning area at the time of development and as approved by the County. The "Conceptual Master Fence/Wall Plan," Exhibit 33, illustrates the approximate locations of fences and walls within Tonner Hills.

6.9.1 COMMUNITY AND PERIMETER WALLS AND FENCES

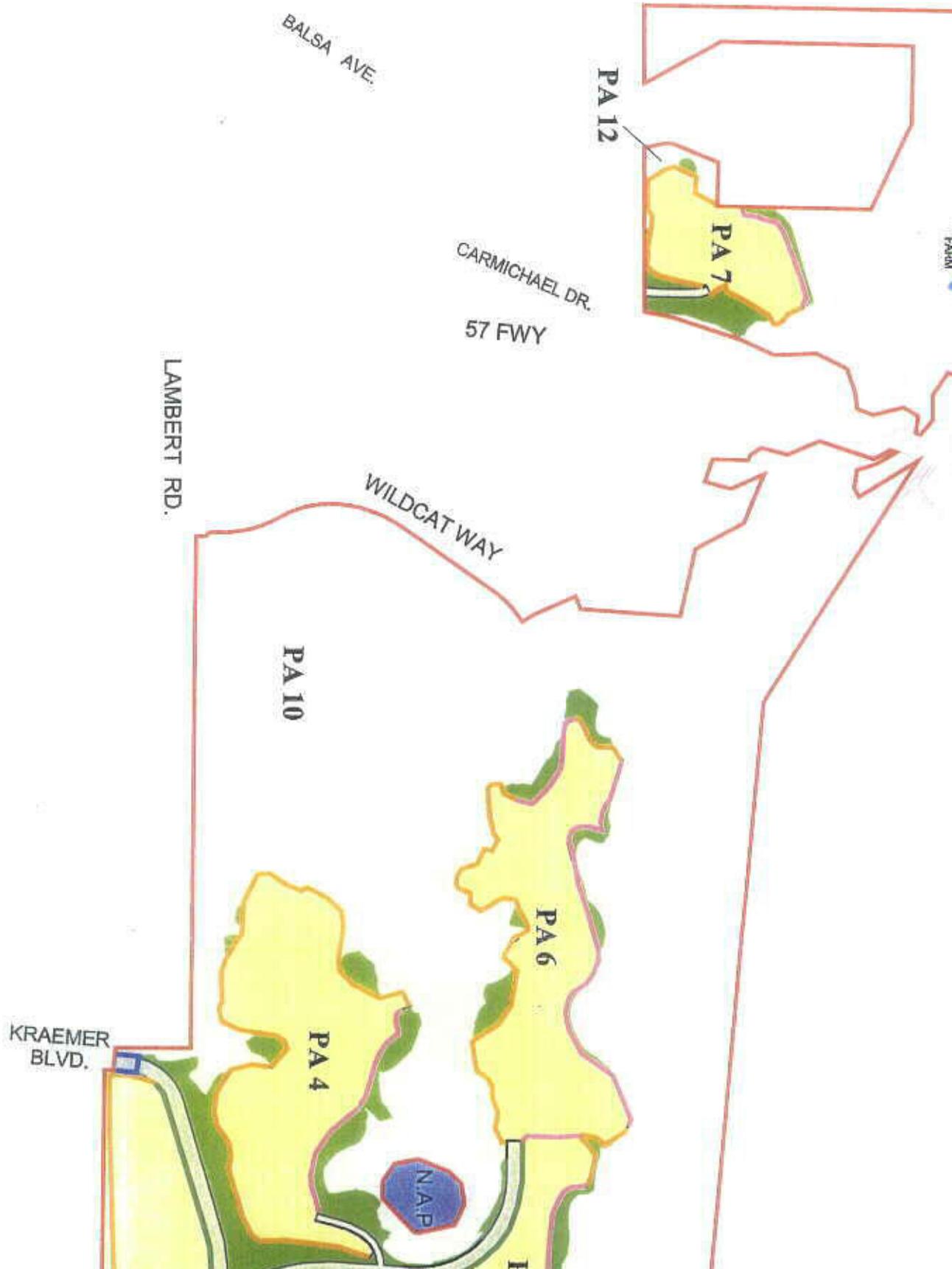
Community and perimeter walls include all walls that adjoin collector streets, parks, public use areas, and community entrances. In general, walls within the community shall not become the dominant visual element, and care should be taken to blend the walls into the overall landscape. Community walls are intended to provide protection from roadway noise and offer privacy and security.

- Community walls shall be located along all uses abutting collector streets.
- Walls should be constructed of masonry or other permanent, durable, low maintenance materials.
- On the public exposed side of community walls plant materials should be installed.
- When changes in elevation occur the wall should be stepped in equal, vertical, intervals.
- Wall types should suit the character of the architecture and theme of the planning area.
- View fencing should be located adjacent to uses abutting open space areas.

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6.9.2 NEIGHBORHOOD WALLS AND FENCES

- Neighborhood walls and fences will be used to separate individual lots or residential parcels.
- Neighborhood walls and fences should be “finished” on both sides, with particular attention paid to the “public” side. Design of private fences should be consistent in terms of material, color, and detail within each residential planning area or subdivision.
- Fencing and walls may be made of plaster, stucco, concrete, masonry finish, tubular steel, tempered glass, wood-like materials, weather treated wood, or similar quality material. Finish colors must be approved by the County and be consistent with the architectural palette.
- All pool and spa enclosures must meet pool safety code requirements for height and picket spacing.

6.9.3 VIEW FENCES

- View fences are intended to allow views of scenic vistas and open space from private residences while providing security.
- View fences may include decorative tubular steel, clear glass, plexiglas, or similar quality materials. View fencing shall utilize a common design for each character zone.
- View fences shall be designed to provide security for rear yard pools or be easily modified for security purposes in the event pools are added after initial construction. Such additions must be compatible with the fence design for the development area or overall community fences as applicable.
- View fences may include a solid or “open” base of approximately three feet in height with view fencing above the solid portion.

APPENDICES

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BALSA AVE.

CARMICHAEL DR.

57 FWY

LAMBERT RD.

WILDCAT WAY

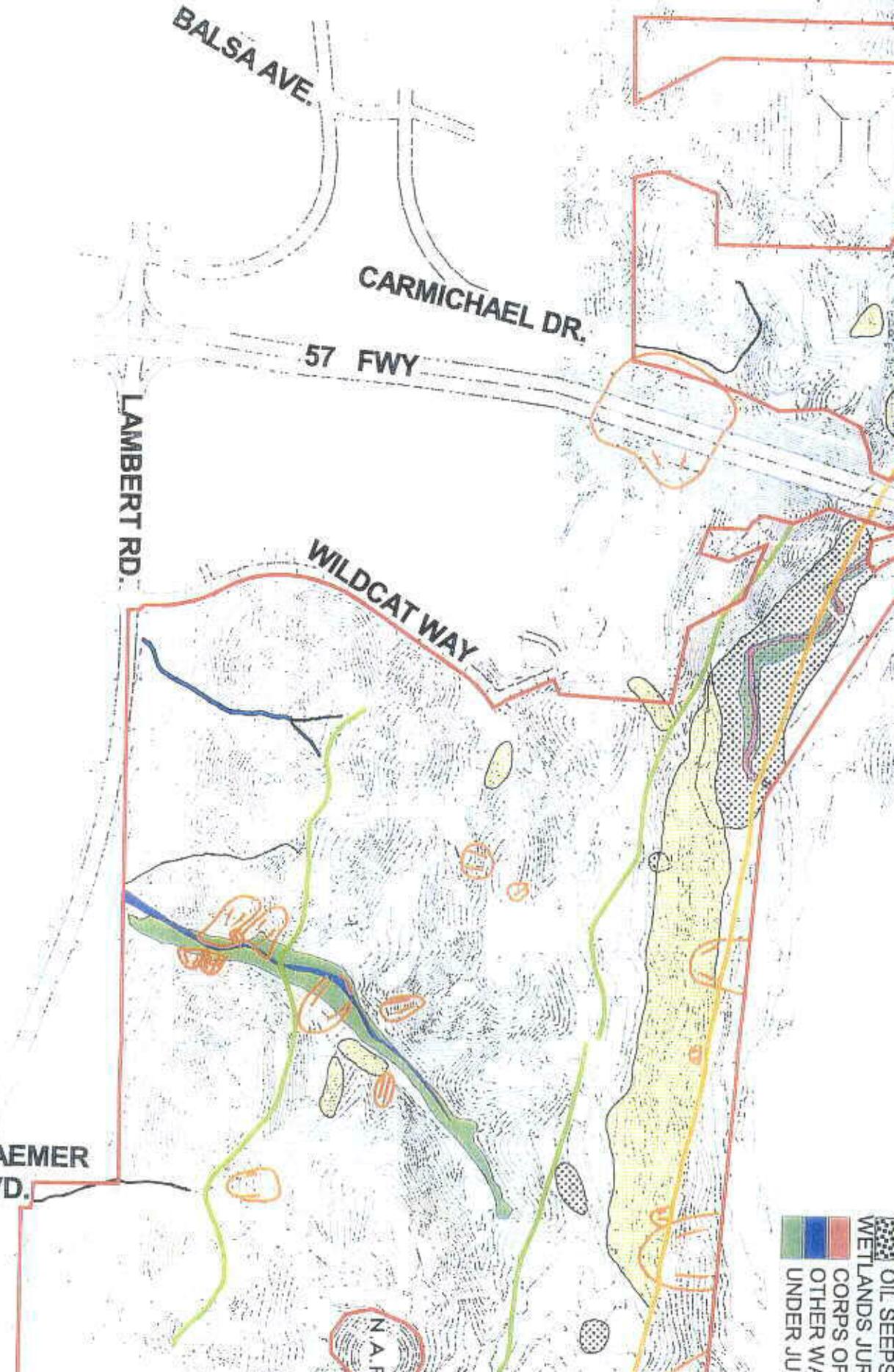
KRAEMER BLVD.

N.A.P.



OIL SEEP
WETLANDS JUF
CORPS OF
OTHER WA
UNDER JU

SITE TO



- Developed
- Coyote Brush
- Coyote Sagebrush
- CSS Sagebrush
- CSS Sagebrush
- CSS Mixed/Sagebrush



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APPENDIX III

TONNER HILLS PLANT PALETTE

TREES FOR LANDSCAPE CORRIDORS

Botanical Name

Common Name

COLLECTOR ROADWAYS

Street Trees

Platanus racemosa

California Sycamore

Pinus halepensis

Aleppo Pine

Median Trees

Cinnamomum camphora

Camphor Tree

Jacaranda mimosifolia

Jacaranda

Pinus pinea

Italian Stone Pine

Platanus racemosa

California Sycamore

Podocarpus gracilior

Fern Pine

Prunus spp.

Cherry

Pistachia chinensis

Chinese Pistache

Platanus spp.

Sycamore

LOCAL STREETS

Agonis flexuosa

Peppermint Tree

Bauhinia blakeana

Brazilian Butterfly Tree

Cupamopsis anacardioides

Carrotwood

Geijera parviflora

Australian Willow

Gleditsia triacanthos

Golden Honeylocust

Lagerstroemia indica

Crape Myrtle

Liquidambar styraciflua

Sweet Gum

Liriodendron tulipifera

Tulip Tree

Melaleuca quinquenervia

Cajeput Tree

Prunus spp.

Cherry Tree

Pyrus a. 'Bradfordii'

Bradford Pear

Tristania conferta

Brisbane Box

ENTRIES / CUL-DE-SACS

Cinnamomum camphora

Camphor Tree

Platanus racemosa

California Sycamore

TREES (All Neighborhoods)

Botanical Name

Common Name

Agonis flexuosa

Peppermint Tree

Alnus rhombifolia

White Alder

Arbutus unedo

Strawberry Tree

Betula pendula

European White Birch

Cercis occidentalis

Western Redbud

Cinnamomum camphora

Camphor Tree

Cordyline australis

Cordyline

Cupaniopsis anacardioides

Carrotwood

Cupressus sp.

Cypress

Dracaena draco

Dragon Tree

Eucalyptus spp.

Eucalyptus

Geijera parviflora

Australian Willow

Ginkgo biloba

Maidenhair Tree

Jacaranda mimosifolia

Jacaranda

Lagerstroemia indica

Crape Myrtle

Ligustrum japonicum

Japanese Privet

Ligustrum lucidum

Glossy Privet

Liquidambar styraciflua

American Sweet Gum

Liriodendron tulipifera

Tulip Tree

Melaleuca linarifolia

Flaxleaf Paperbark

Melaleuca quinquenervia

Cajeput Tree

Olea europaea

Olive

Phoenix canariensis

Canary Island Date Palm

Phoenix dactylifera

Date Palm

Pinus canariensis

Canary Island Pine

Pinus halepensis

Aleppo Pine

Pinus eldarica

Mondell Pine

Pinus pinea

Italian Stone Pine

Pistacia chinensis

Chinese Pistache

Pittosporum undulatum

Victorian Box

Platanus acerifolia

London Plane Tree

Platanus racemosa

California Sycamore

Podocarpus gracilior

Fern Pine

Prunus caroliniana

Carolina Laurel Cherry

Pyrus calleryana

Ornamental Pear

Quercus agrifolia

Coast Live Oak

Quercus illex

Holly Oak

Quercus lobata

Valley oak

Quercus suber	Cork Oak
Quercus virginiana	Southern Live Oak
Rhus lancea	African Sumac

TREES (Continued)
(All Neighborhoods)

<i>Botanical Name</i>	<i>Common Name</i>
Tipuana tipu	Tipu Tree
Tristania conferta	Brisbane Box
Umbellularia californica	California Bay Laurel
Ulmus parvifolia	Chinese Elm

SHRUBS

<i>Botanical Name</i>	<i>Common Name</i>
Agapanthus	Lily-of-the-Nile
Aloe spp.	Aloe
Bougainvillea spp.	Bougainvillea
Bergenia crassifolia	Winter-Blooming Bergenia
Buxus microphylla japonica	Japanese Boxwood
Camellia sasanqua 'Yuletide'	Camelia
Ceanothus griseus 'Horizontalis'	Carmel Creeper
Cistus purpureus	Orchid Rockrose
Cistus hybridus	White Rockrose
Coleonema pulchrum	Pink Breath of Heaven
Coprosma kirkii	Mirror Plant
Cotoneaster spp.	Cotoneaster
Cyperus papyrus	Papyrus
Dietes bicolor	Fortnight Lily
Echium fastuosum	Pride of Madeira
Eriobotrya deflexa	Bronze Loquat
Escallonia fradesii	Pink Escallonia
Feijoa sellowiana	Pineapple Guava
Fuchsia hybrida	Hybrid Fuchsia
Hemerocallis spp.	Daylily
Heteromeles arbutifolia	Toyon
Ilex vomitoria	Yaupon
Kniphofia uvaria	Red Hot Poker
Lantana spp.	Lantana
Lavandula spp.	Lavender
Lavatera assurgentiflora	Tree Mallow
Leptospermum scoparium	New Zealand Tea Tree
Ligustrum j. 'Texanum'	Japanese Privet

<i>Liriope muscari gigantea</i>	Big Blue Lily Turf
<i>Miscanthus sinensis</i>	Eulalia Grass
<i>Muhlenbergia rigens</i>	Deer Grass
<i>Myoporum pacificum</i>	Pacific Myoporum
<i>Myrica californica</i>	Pacific Wax Myrtle
<i>Nephrolepis cordifolia</i>	Southern Sword Fern
<i>Osmanthus fragrans</i>	Sweet Olive
<i>Phormium spp.</i>	New Zealand Flax
<i>Pittosporum tobira</i>	Tobira
<i>Plumbago auriculata</i>	Cape Plumbago
<i>Podocarpus spp.</i>	Fern Pine
<i>Prunus spp.</i>	Hollyleaf, Catalina, Carolina Cherry
<i>Pyracantha spp.</i>	Firethorn
<i>Raphiolepis spp.</i>	India Hawthorn
<i>Rhamnus californica</i>	Coffeeberry
<i>Rhus integrifolia</i>	Lemonade Berry
<i>Ribes spp.</i>	Gooseberry
<i>Rosa spp.</i>	Rose
<i>Rosmarinus spp.</i>	Rosemary
<i>Rudbeckia hirta</i>	Black-eyed Susan
<i>Salvia spp.</i>	Sage
<i>Santolina spp.</i>	Lavender Cotton
<i>Scirpus cernuus</i>	Fiber Optics Plant
<i>Stachys byzantina</i>	Lamb's Ears
<i>Strelitzia nicolai</i>	Giant Bird of Paradise
<i>Strelitzia reginae</i>	Bird of Paradise
<i>Taxus spp.</i>	Yew
<i>Viburnum tinus</i>	Laurustinus
<i>Xylosma congestum</i>	Shiny Xylosma

VINES AND ESPALIERS

<i>Botanical Name</i>	<i>Common Name</i>
<i>Clematis armandii</i>	Evergreen Clematis
<i>Clytostoma callistegioides</i>	Violet Trumpet Vine
<i>Distictis buccinatoria</i>	Blood-Red Trumpet Vine
<i>Ficus pumila</i>	Creeping Fig
<i>Jasminum polyanthum</i>	Pink Jasmine
<i>Lonicera japonica</i>	Japanese Honeysuckle
<i>Parthenocissus tricuspidata</i>	Boston Ivy
<i>Passiflora spp.</i>	Passion Vine
<i>Podocarpus gracilior</i>	Fern Pine
<i>Pyracantha 'Santa Cruz'</i>	Firethorn
<i>Pyrus kawakamii</i>	Evergreen Pear
<i>Rosa banksiae</i>	Lady Banks' Rose
<i>Solanum jasminoides</i>	Potato Vine
<i>Wisteria sinensis</i>	Chinese Wisteria

GROUNDCOVERS

<i>Botanical Name</i>	<i>Common Name</i>
Acacia redolens	Acacia
Allium peninsulare	Wild Onion
Baccharis pilularis	Dwarf Coyote Bush
Carpobrotus edulis	Iceplant
Ceanothus spp.	Wild Lilac
Clarkia spp.	Clarkia
Cotoneaster spp.	Cotoneaster
Dichelostemma pulchellum	Wild Hyacinth
Elymus spp.	Lyme Grass
Eriogonum fasciculatum	California Buckwheat
Eschscholzia californica	California Poppy
Festuca spp.	Fescue
Hedera helix 'Hahnii'	English Ivy
Helictotrichon sempervirens	Blue Oat Grass
Heuchera sanguinea	Coral Bells
Iberis sempervirens	Evergreen Candytuft
Lonicera japonica	Honeysuckle
Lupinus nanus	Sky Lupine
Mahonia spp.	Oregon Grape
Mimulus spp.	Monkeyflower
Muhlenbergia rigens	Deer Grass
Myoporum 'Pacificum'	NCN
Oenothera berlandieri	Mexican Evening Primrose
Pelargonium spp.	Geranium
Phyla nodiflora	Lippia
Ribes viburnifolium	Evergreen Currant
Rosmarinus o. 'Prostratus'	Prostrate Rosemary
Sollya heterophylla	Australian Bluebell Creeper
Stipa pulchra	Purple Needlegrass
Trachelospermum jasminoides	Star Jasmine
Verbena spp.	NCN

REPLANTING OF EXISTING TREES

No remaining Schinus molle specimen trees are to be removed without the prior approval of the Developer and Landscape Architect. The specimen trees are to be chosen and boxed up with the help of a licenced arborist using current state of the art methods.

APPENDIX IV

GENERAL PLAN CONSISTENCY

Land Use

The land use element of the General Plan establishes land use designations of Suburban Residential (0.5-18 dwelling units per acre) and Community Commercial for the Tonner Hills Area Plan. The suburban residential land use designation includes a wide range of housing types, from estates on large lots to attached dwelling units (townhomes, condominiums, and clustered arrangements). The community commercial land use provides for a wide range of facilities for convenience goods and retail trade including tourist recreation businesses, and community services (i.e. childcare facilities). The proposed land uses within the Tonner Hills Area Plan are consistent with the General plan land use designations for the project site.

The Tonner Hills Area Plan includes a variety of housing types such as conventional single family, single family cluster, and single family attached housing to address several market segments with an overall density of approximately 1.0 dwelling unit per acre.

The Tonner Hills Area Plan complies with the following specific policies contained within the Land Use Element of the General Plan.

Policy 1. Balanced Land Use

To plan urban land uses with a balance of residential, industrial, commercial, and public land uses.

Implementation:

The Tonner Hills Area Plan is a balanced community comprised of 789.8 acres with a mix of land uses. Residential development planned for approximately 180 acres includes several housing types providing housing opportunities to various segments of the market through the provision of single family attached, conventional single family detached, and single family cluster housing. The Area Plan also includes a 14.6 acre public park and 559.7 acres of open space which includes a 21.5 acre site for development of public recreational and/or assembly uses.

Policy 2. Phased Development

To phase development consistent with the adequacy of public services and facilities within the capacity defined by the General Plan.

Implementation:

As appropriate levels of infrastructure, community facilities, and open space dedications are provided, residential development will be phased in.

Policy 3. Housing Densities

To provide a variety of residential densities that permits a mix of housing opportunities affordable to the County's labor force.

Implementation:

Tonner Hills will provide a range of residential densities offering affordable, entry level housing as well as "move up" and executive housing through a variety of attached and detached housing types distributed throughout the master planned community, all of which are located close to job centers such as Olen Pointe, the Brea Mall, and the City of Brea Civic & Cultural Center. A maximum of ten (10) percent of all residential units within Tonner Hills will be provided as affordable units as described in the Tonner Hills Development Agreement.

Policy 4. Land Use/Transportation Integration

To plan an integrated land use and transportation system that accommodates travel demand.

Implementation:

Collector and local streets form the backbone circulation system for Tonner Hills providing for the safe and efficient movement of vehicles through the community as well as a backbone for a comprehensive system of bikeways. Streets will include landscaped parkways and pedestrian walkways separated from the street and will be designed to slow vehicular traffic through the use of open space, landscaped areas, and narrowed intersections to influence a driver's peripheral vision and encourage drivers to proceed more slowly.

Policy 6. New Development Compatibility

To require new development to be compatible with adjacent areas.

Implementation:

The Tonner Hills Area Plan is consistent with existing surrounding land uses. The Tonner Hills Area Plan area is bounded by existing and proposed urban development including office and

residential uses, oil production facilities, public facilities, and open space.

Policy 7. Creative Design Concepts

To encourage innovative concepts that contribute to the solution of land use problems.

Implementation:

The topographic and geographic features of the land within Tonner Hills define distinct residential neighborhoods. Sensitive ridgelines and natural open space areas including a wildlife corridor will be preserved. Streets will be laid out in a manner responsive to the terrain in order to reduce grading impacts.

Policy 8. Enhancement of Environment

To guide development so that the quality of the physical environment is enhanced.

Implementation:

Natural and enhanced open space areas proposed for Tonner Hills will primarily include areas supporting native plant communities. Open space areas within the project site include preserved and restored native plant communities valuable for both wildlife habitat and public recreation. The open space areas are primarily comprised of coastal sage scrub and woodland habitats. California walnut and coast live oak woodlands also provide food, cover, and nesting habitat for a variety of birds, amphibians, reptiles, and mammals. Riparian woodlands along Tonner Creek will be preserved. These open space areas will be designed to provide a diversity of plant communities that are important for both public recreation and wildlife value. The existing terrain will be incorporated as part of the natural open space in order to preserve the wilderness value and character of the site. Disturbed open space areas within the project site will be revegetated and reserved as open space.

Policy 10. Childcare Improvement

To encourage and facilitate provision of childcare facilities to address the growing County demand.

Implementation:

The Tonner Hills Area Plan allows for development of childcare facilities as provided for in the Orange County Zoning Code.

Transportation

The Transportation Element of the General Plan contains three components:

- Circulation Plan
- Bikeways Plan
- Scenic Highways Plan (SHP)

The Tonner Hills Area Plan implements Transportation Element policies within the Circulation Plan and the Bikeways Plan as follows:

Circulation Plan

Policies

- 3.1 Maintain acceptable levels of service on arterial highways pursuant to the Growth Management Element of the General Plan.*
- 3.2 Ensure that all intersections within the unincorporated portion of Orange County maintain a peak hour level of service "D", according to the County Growth Management Plan Transportation Implementation Manual.*
- 3.3 Evaluate all proposed land use phasing plans for major development projects to ensure maintenance of acceptable Levels of Service on arterial highway links and intersections.*

Implementation:

The Tonner Hills Area Plan will provide for a circulation system and roadway improvements for the safe and efficient movement of vehicles to and from the project site. A project specific environmental impact report prepared for the Tonner Hills Area Plan has analyzed the traffic impacts associated with the project proposal and recommended mitigation measures to ensure that intersections within the unincorporated County area will maintain a peak hour level of service "D" and that acceptable levels of service will be maintained on arterial highway links and intersections.

Policy 6.2 Encourage new developments to support means of enhanced pedestrian and bikeway use by providing linkages between land uses such as residential areas, parks, schools, businesses and commercial areas which typically generate a large number of peak hour trips.

Implementation:

Bicycle trails and pedestrian walkways are an integral element to promote alternative methods of travel within Tonner Hills. A Class I bikeway system and a network of sidewalks will be provided

within the right of way of collector streets within the planned community. This system will link residential neighborhoods to open space, parks, and the public use area within Tonner Hills as well as to employment centers such as Olen Pointe, the Brea Civic & Cultural Center, and Brea Mall. The Tonner Hills bikeway system will ultimately link to Chino Hills State Park and Carbon Canyon Regional park.

Bikeways Plan

Policy 1.5 Recreation:

Plan bicycle routes to facilitate access to recreational areas such as regional parks, beach areas, and major tourist commercial/recreational facilities.

Implementation:

The Tonner Hills bikeway system will provide connections to Chino Hills State Park and Carbon Canyon Regional park as well as to the Brea Civic & Cultural Center through connections to planned and existing bike trails adjacent to the project site.

Policies

1.11 Design Standards:

Design and construct bikeways in accordance with County and Caltrans standards in order to maximize safety and minimize potential conflicts with pedestrians and motor vehicles.

1.17 Development Commitment:

Encourage developers to provide local bicycle trails, as well as require construction of applicable Bikeways Plan bikeways within their projects as conditions of development approval.

Implementation:

The Tonner Hills Area Plan bikeway system will be a Class I off-street bikeway system designed to maximize safety and minimize potential conflicts between pedestrians. The Tonner Hills Area Plan area is not designated for bikeways in the "Bikeways Plan" in the County General Plan.

Public Services And Facilities

The Public Services and Facilities Element of the General Plan contains County policies on the planning and provision of public services and facilities that are necessary for orderly growth and development. The Tonner Hills Area Plan implements the following policies contained within the Public Services and Facilities Element of the General Plan.

Policy 1. Phasing and Funding

To implement public facilities in a manner that supports the implementation of the overall land use development policies and the needs of County residents and is consistent with the funding capabilities of the County. Proponents of planned communities or tentative tract or parcel maps in conventionally zoned communities shall provide ultimate, fair share infrastructure improvement for regional services as required by County and service provider plans in effect at the time of implementation. Proponents shall also participate, on a fair share basis, in provision of community level facilities. The County and service providers shall strive to provide facilities and services necessary to complete the service system.

Implementation:

As appropriate levels of infrastructure, community facilities, and open space dedications are provided development will be phased in. Phasing sequencing is subject to change over time to respond to various market factors, and individual phases may overlap or develop concurrently. Development phasing will be implemented through the approval by the County of tentative tract maps which will require appropriate levels of infrastructure and community facilities and through the site development permit approval process. A plan for the phasing of public improvements will be provided with the first Level B subdivision map.

Policy 2. Phased Development

Require phased development whereby land use proposals shall display the ability to provide adequate fire and paramedic service prior to project development. The service provision shall include station site acquisition, construction, equipment, and station staffing. The level of service shall be established in accordance with the criteria identified in the above policy.

Implementation:

Orange County Fire Authority is the primary service agency for the project site. City of Brea Fire Station No. 3 is located at the northeast corner of Kraemer Boulevard and Lambert Road adjacent to the project site. It is anticipated that the City of Brea Fire Department will provide fire and paramedic services for the project site through the "Mutual Aide-First Response Agreement".

Policy 2. Phased Development (Library Services)

Require phased development whereby land use proposals shall display the availability of or the ability to attain adequate public library service prior to project development. The service provision shall include library site, construction, collection, furniture and equipment.

Implementation:

It is anticipated that adequate library facilities to serve the project development exist within the City of Brea. A branch library is located within the Civic & Cultural Center near the project site. The Tonner Hills Area Plan includes a designated public use site which could be used for development of a new library facility if needed.

Policy 2. Land Use Review

Through the project review process, land use proposals shall be required to incorporate appropriate construction and landscape designs and materials to minimize the costs for public slope, median, and roadside maintenance.

Implementation:

All roadways within Tonner Hills will be public, designed per County requirements, and maintained through either special assessments districts such as a landscape, lighting and maintenance district (LLMD) or by the homeowners association.

Policy 1. (School Facilities)

To coordinate land use proposal reviews with appropriate school districts to assure that facility needs shall be adequately addressed, including the notification and participation of school district planners in initial County studies of all major developments.

Implementation:

The Brea-Olinda Unified School District is the school district serving the K-12 school need of the Tonner Hills Area Plan. The developer will pay school fees, pursuant to Government Code Section 65995, et seq., as amended, to address the school needs of the Tonner Hills development.

Resources

The Resources Element of the General Plan contains six components:

- Natural Resources
- Energy Resources
- Water Resources
- Air Resources
- Open Space
- Cultural-Historical

The Tonner Hills Area Plan implements policies contained in the Natural Resources component, Energy Resources component, and the Open Space component of the Resources Element of the General Plan as discussed below.

Natural Resources Component

Policy 1. Wildlife and Vegetation

To identify and preserve the significant wildlife and vegetation habitats of the County.

Implementation:

The Tonner Hills Area Plan will preserve areas within the project site as natural open space which currently provide habitat areas for sensitive plants and wildlife. The project site contains sensitive plant communities within the project site including the California walnut woodland, coast live oak woodland, southern arroyo willow woodland, and coastal sage scrub. The California walnut woodland is considered a sensitive community because its distribution is limited in southern California. The coast live oak woodland is considered a sensitive community because it provides food and shelter for a wide variety of animal species, and because of the oak's historic and aesthetic values. The southern arroyo willow woodland is considered sensitive because it is associated with riparian habitats and it typically has the potential to support listed wildlife species. Coastal sage scrub is considered a sensitive community because it is declining in California, and it is the habitat of the coastal California gnatcatcher, a federally listed threatened species.

The project site supports wildlife species typical of coastal sage scrub, grassland, oak and walnut woodland, and riparian habitats. The grasslands support numerous species of small rodents and reptiles that typically fall prey to foraging birds of prey and medium- to large-sized mammals. Coastal sage scrub habitat supports the foraging and nesting activities of a large variety of birds as well as the foraging and burrowing activities of small mammals and reptiles. Woodlands typically provide nesting opportunities for a number of birds, particularly owls and hawks. In addition, the heavy leaf litter in the woodlands provides shelter and foraging areas for amphibians, reptiles, and some species of small mammals. The riparian habitats are used by a wide variety of wildlife species because the habitat not only provides shelter and nesting opportunities, but the presence of water typically draws most wildlife species to this habitat every so often. Tonner Creek, located along the northern portion of the project site, supplies a year-round source of water and supports a dense growth of riparian habitat, which is valuable for wildlife occurring on the site and those that move through the area.

The project site has the potential to support some sensitive species of wildlife that typically occur in the coastal sage scrub, riparian, and woodland habitats. Only one species listed under the Federal Endangered Species Act of 1973 (as amended) is known to occur within the project

site. The federally listed threatened coastal California gnatcatcher (*Poliophtila californica californica*) occurs in low numbers in some of the sagebrush scrub and mixed sage scrub areas. No other listed wildlife species are known to occur in the project site.

Policy 4. Mineral Extraction

To ensure opportunities for the extraction of minerals in the County and to protect the environment during and after these minerals are being extracted.

Implementation:

The Tonner Hills Area Plan anticipates the retention and integration of elements of the existing oil field operations within the developed community. The major elements of the operations include: oil production and water injection wells; oil storage and processing facilities; natural gas plant and power generation turbine; and the gathering lines, utility lines and access roads to serve these facilities.

At the time of the adoption of the Tonner Hills Area Plan there were 210 active oil wells (including 14 water injection wells), 82 idle wells, and 87 abandoned wells located on the property. To enhance recovery of the crude oil, a number of new oil wells will be drilled. In the future, certain existing oil wells will be converted to water injection wells. As development phases are constructed, certain wells will be abandoned and others will be accommodated to remain in place. A few wells will be accommodated in residential areas; the majority of wells will remain in open space areas. All current oil wells are operated by above ground electrical pumping units.

Any oil well or water injector well to be abandoned will be permitted through the California Department of Conservation, Division of Oil, Gas and Geothermal Resources (Cal.DOC, DOG&GR). After approving an abandonment plan, Cal.DOC,DOG&GR will inspect the abandonment procedure and certify the completed process. The well casings will be buried a minimum of 10 feet below the finish grade in areas to be developed, or existing grade in areas to remain natural. No residential or commercial structure will be built over an abandoned well. Building setbacks will follow current Orange County Fire Authority (OCFA) standards. Methane venting requirements and both short and long term methane monitoring requirements will be subject to the current Cal. DOC, DOG&GR and OCFA guidelines and requirements.

No new wells will be drilled or existing wells re-drilled within any residential planning area after the County issues the first Certificate of Occupancy within that neighborhood. Any new wells drilled, or existing wells re-drilled outside of the residential planning area, will be permitted and inspected by the DOG&GR. Prior to the first grading permit, the oil operator shall provide the County with a map providing survey coordinates for all current and abandoned wells. This plan shall be revised as conditions demand.

Oil wells to be retained in residential planning areas will be accommodated by replacing the existing pumping unit, pulling pad and well cellar with a subsurface pumping unit enclosed within a concrete vault. The vault will have a lockable steel plate lid to isolate the unit from view or public access. The vault's size may vary, however a typical vault in a residential neighborhood will be 6 feet by 8 feet. The subsurface pumping unit will be electrically operated and will be equipped with an automatic shutoff valve, in the event of flooding, and a methane sensor equipped with an automatic shutoff valve. These wells will not be located within any private residential lot. No habitable structure may be constructed closer than 150 feet of the retained subsurface well's wellhead, or less, as otherwise permitted by OCFA pursuant to Guideline C-02.

Oil wells to be retained in natural open space areas may be above ground electrical pumping units. If these retained wells are distinctly visible to residential planning areas, they will be screened with a 20 foot by 40 foot enclosure. Other wells and facilities within natural open space areas will remain as above surface electrical pumping units and be fenced with security fencing according to the standards and guidelines of California Division of Conservation, Department of Conservation, Division of Oil, Gas and Geothermal Resources.

Water injector wells to be retained in residential areas will be accommodated in a subsurface vault. The electrical horizontal injection pump and piping will be enclosed in the same fashion as the subsurface oil well pumping unit, and will include an automatic fluid shutoff valve and sump pump. The water injector well will pump treated oil field water back into the reservoir under pressure to facilitate the crude oil production. Water injector wells in open space areas will remain above the surface. The horizontal injector pump is not as physically obtrusive as the crank balanced pumping units that currently exist on the site and will be completely screened within a 6 foot high, 6 foot by 10 foot enclosure with access gating. No habitable structure shall be built within 50 feet of either a subsurface or above surface water injector well.

Policy 5 Landforms

To protect the unique variety of significant landforms in Orange County through environmental review procedures and community and corridor planning activities.

Implementation:

An environmental impact report prepared as part of the review of the Tonner Hills Area Plan addressed the potential for significant landforms within the project site. The project site contains a primary ridge top plateau oriented in an east/west trend along the northern most portion of the project site, providing the highest elevations within the project site. This landform drops steeply along the northern boundary to Tonner Canyon below, which passes off-site in a northeasterly direction. This ridge, known as Tonner Ridge, will be preserved as part of the open space plan for Tonner Hills.

Energy Resources Component

Policy 1 Land Use

To plan urban land uses with a balance of residential, industrial, commercial, and public land uses as set forth in the Land Use Element.

Implementation:

The Tonner Hills Area Plan is a balanced community comprised of 789.8 acres with a mix of several land uses. Residential development includes several housing types providing housing opportunities to various segments of the market through the provision of single family attached, conventional single family detached, and single family cluster housing. The Area Plan includes 559.7 acres of open space which includes a 21.5 acre site for public use, and 14.6 acres of public park and recreational opportunities within the community.

Policy 7. Solar Access

To support and encourage voluntary efforts to provide solar access opportunities in new developments.

Implementation:

Residential development within Tonner Hills will be located on south facing slopes wherever feasible to provide opportunities for use of passive solar energy.

Open Space Component

Policy 1.3 To seek out, evaluate, and take advantage of special opportunities to obtain open space as these opportunities become available and when the available open space meets or helps to meet established open space goals and objectives.

Implementation:

The Tonner Hills Area Plan includes 559.7 acres of open space. Within this open space, natural and enhanced open space will be provided to retain the character and natural beauty of the environment comprising Tonner Hills. This open space area containing a wildlife corridor and habitat areas of certain species of sensitive plants and wildlife offers scenic and educational opportunities. A riding and hiking trail is proposed within this open space area providing public recreational opportunities. Other graded areas will be revegetated and maintained as permanent open space within the Area Plan. Approximately 21.5 acres of this open space is designated for public use.

Recreation

The Recreation Element of the General Plan includes five main sections:

- Purpose of the Element
- Constraints and Opportunities
- Local Parks Component
- Regional Riding and Hiking Trails Component
- Regional Recreation Facilities Component

The Tonner Hills Area Plan implements policies contained within in the Local Parks Component of the Recreation Element of the General Plan as follows.

Policies

2.32 To acquire park lands by requiring residential developers to provide a minimum of 2.5 net acres of usable local park land (i.e. park land that is relatively level, served by utilities, for multipurpose play fields, court sports, etc.) for each prospective 1,000 residents. (See Appendix VII-3 Local Park Site Criteria in the General Plan Appendices.) In no case shall the credit given for park land and improvements exceed the total requirement under the Local Park Code. No credit banking shall be permitted when a developer provides the full requirement in acreage and also provides improvements.

2.34 Developers may be required to improve local park sites as a condition of approval for General Plan amendments, zone changes, area plans, feature plans, and/or subdivision maps.

Implementation:

The County of Orange Local Park Code (Title 7, Division 9, Article 5 of the Codified Ordinances) requires all residential subdivisions to either provide for public park land or provide for the payment of in-lieu fees according to the requirements of the Local Park Code. It is the intent of the Tonner Hills Area Plan to meet the County of Orange Local Park Code requirements through either the payment of in-lieu fees as established in the Local Park Code and/or through dedication of land for park purposes.

Housing

The Tonner Hills Area Plan is designed to provide flexibility in designating residential types within each planning area. A target number of units and target lot sizes have been designated

for each residential planning area. A maximum of ten (10) percent of the total residential units developed within Tonner Hills will be provided as affordable units as fully described in the Tonner Hills Development Agreement. When affordable housing requirements are met in any planning area, the allowable density bonus for affordable units can be applied to reallocate total number of units for the planning area. The total number of dwelling units permitted within the Tonner Hills Planned Community shall not exceed 795.

Growth Management

The Growth Management Element of the General Plan contains County policies on the planning and provision of traffic improvements and public facilities that are necessary for orderly growth and development. The following policies are implemented by the Tonner Hills Area Plan.

Policy 2. Balanced Community Development

Balanced community development shall be established which encourages employment of local residents and provides for both employment and employee housing opportunities within the County or Growth Management Area except in "Transition Areas for Rural Communities" which may be established pursuant to this Element or where a Area Plan or Feature Plan dictates otherwise.

Implementation:

The Tonner Hills Area Plan provides for a variety of housing types to provide employee housing opportunities within the community. The project site is adjacent to Olen Point, a major job center and is in close proximity to the Brea Civic & Cultural Center, Brea Olinda High School, and Brea Mall which are also regional job centers. The Area Plan includes conventional single family, single family cluster, and single family attached housing type to address varying market segments including the first time home buyer as well as the move-up and/or executive home buyer.

EXEMPT RECORDING REQUESTED
PER GOVT. CODE 6103

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Recorded in Official Records, County of Orange
Tom Daly, Clerk-Recorder

115 51 A12 63 FEE

2003000171873 02:13pm 02/14/03

COUNTY OF ORANGE
Planning and Development Services Dept.
P.O. Box 4048
Santa Ana, CA 92702-4048
Attn: Harry Persaud

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(Space Above This Line for Recorder's Use)

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NP

TONNER HILLS

DEVELOPMENT AGREEMENT BETWEEN

THE COUNTY OF ORANGE AND

NUEVO ENERGY COMPANY

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DEVELOPMENT AGREEMENT

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DEVELOPMENT AGREEMENT
(Govt. Code Sections 65864-65869.5)

THIS AGREEMENT ("Agreement") is entered into this 19 day of November, 2007, by and between, Nuevo Energy Company ("Nuevo"), a Delaware corporation ("OWNER"), and the COUNTY OF ORANGE, a political subdivision, organized and existing under the laws of the State of California ("COUNTY").

RECITALS

This Agreement is entered into based upon the following facts:

A. When used in these Recitals, each of the terms defined in Section 1 of this Agreement shall have the meaning given to it therein.

B. Government Code Sections 65864-65869.5 authorize COUNTY to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, in order to, among other things: encourage and provide for the development of public facilities in order to support the development of new housing, provide certainty in the approval of development projects in order to avoid the waste of resources and the escalation in the cost of housing and other development to the consumer and encourage investment in and commitment to comprehensive planning which will make maximum efficient utilization of resources at the least economic cost to the public; and (1) provide assurance to developers that they may proceed with their projects in accordance with existing policies, rules and regulations, subject to their conditions of approval and (2) strengthen the public planning process and encourage private participation in comprehensive planning and reduce the economic costs of development.

C. OWNER is the holder of a legal interest in the Property and desires and intends to develop the Property as a large scale development for the uses and purposes set forth in the Development Plan. The Development of the Property requires substantial early and major capital expenditures and investments with respect to the construction and installation of major infrastructure and facilities, both on-site and off-site, (including, for example, the provision of sheriff, library, fire and other public facilities and the performance of this Agreement) of sufficient capacity to serve the residents and others using the Property as anticipated by the General Plan and this Agreement.

D. COUNTY has determined that the Development Plan implements the goals and policies of County's General Plan and of all specific plans (as referenced in Government Code Sections 65450 et seq.) applicable to the Project and provides balanced and diversified land uses and imposes appropriate standards and requirements with respect to land development and usage so as to maintain the overall quality of life and of the environment within the County.

E. Pursuant to Government Code Section 65865, COUNTY has adopted Resolution No. 02-066 establishing procedures and requirements for the consideration of proposed development agreements.

F. OWNER has applied for, and COUNTY has approved, the Development Plan and granted the Existing Development Approvals in order to protect the interests of County's existing and anticipated citizens and the quality of their community and environment through the planned development process. As part of the process of approving the Development Plan and the Existing Development Approvals, COUNTY has undertaken, pursuant to the California Environmental Quality Act (CEQA), the required analyses of the environmental effects which would be caused by the Project. In addition to other matters which COUNTY took into consideration in its analyses of the environmental effects which would be caused by the Project, COUNTY scrutinized with particular care the adverse impacts associated with the need for remediation of contaminated soils on and redevelopment of portions of the Property used, operated and maintained as an oil field, the plugging and abandonment of certain oil wells and oil production facilities, the demolition of certain oil facility and related structures and the restoration of certain Open Space Areas near land used for oil operations; continued Oil Operations and Servicing (see 1.2.29); vehicular traffic; air quality and water supply conditions within the County; and the availability of adequate levels of public services and facilities within the County, including, without limitation, library, sheriff, paramedic and fire protection, flood control improvements, open space and community parks. COUNTY has imposed a series of mitigation measures in connection with the development of the Project to eliminate the anticipated adverse impacts on COUNTY traffic and air quality conditions and on levels of public services and facilities within the County, including, without limitation, sheriff, library, paramedic and fire protection, flood control improvements, open space and community parks.

G. In accordance with State law, COUNTY has adopted the General Plan which considers and provides for the need for residential, commercial, industrial facilities which are necessary to meet the future needs of the population.

H. As consideration for the assurances provided by this Agreement, COUNTY has requested that OWNER provide, and OWNER is willing to provide additional public benefits as described in Exhibit D of this Agreement. Those additional public benefits set forth in Exhibit D include, but are not limited to, certain additional fee contributions and lands as well as the construction and transfer to the County, or its successor or assignee certain additional improvements and public facilities for existing and future residents of the Property. The COUNTY has determined that the public benefits for which OWNER is obligated, together with the mitigation measures imposed by the COUNTY on the Project, adequately provide for the health, safety, and welfare needs of the existing and future residents of the Property subject to the provisions of this Agreement with respect to future monitoring programs. COUNTY Planning Commission and Board of Supervisors have found and determined that this Agreement: (1) is consistent with COUNTY's General Plan and with all specific plans (as referenced in Government Code Section 65450 et seq.) applicable to the Project; (2) is in the best interests of the health, safety and general welfare of COUNTY, its residents and the public; (3) is entered into pursuant to and constitutes a present exercise of the police power by COUNTY; and (4) is entered into pursuant to and in compliance with the requirements of Section 65867 of the Development Agreement Legislation and COUNTY Resolution No. 02-066; and the COUNTY Board of Supervisors has adopted an ordinance authorizing the execution of this Agreement.

I. COUNTY desires to be assured that if the Property is annexed to, or included within the boundaries of, another Local Agency that the work to complete OWNER's Obligations will continue expeditiously and efficiently and that the transfer of authority to such Local Agency will be provided for as contemplated by the Development Agreement Legislation and OWNER desires to be assured that thereupon this Agreement will continue in full force and effect to the extent permitted by law.

J. Based on the foregoing, OWNER and COUNTY desire to enter into this Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals of fact, the mutual covenants contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

1. SECTIONS: DEFINITIONS AND EXHIBITS.

1.1 Sections and Paragraphs. Any reference in this Agreement to a "Section" is a reference to the indicated numbered section or sub-section of this Agreement and a reference to a "Paragraph" is a reference to the indicated paragraph of a Section.

1.2 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.2.1 "Affordable Housing" means residential dwelling units available for sale or rent to qualifying tenants in strict accordance with the Housing and Urban Development (HUD) criteria for low and moderate income rental unit. HUD Low and Moderate Income rental rates and HUD qualifying tenant income will be adhered to.

1.2.2 "Annual Monitoring Review" or "Annual Review" means the annual review required pursuant to Section 5 herein below.

1.2.3 "Build-out Phasing Plan" means an advisory, non-binding plan to be prepared by OWNER showing the intended schedule for the completion of the Development of the Property in accordance with the Development Plan and this Agreement, together with such other information regarding the anticipated Development as shall be reasonably requested by COUNTY.

1.2.4 "Building and Improvement Standards" means Regulations of COUNTY which are of general application which establish regulations and standards for the building, construction and installation of structures and associated improvements such as and including, without limitation, COUNTY's building, plumbing, mechanical, grading, swimming pool, sign and fire codes.

1.2.5 "CFD" means a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 et seq. as amended).

1.2.6 "COUNTY" means the County of Orange, a political subdivision of the State of California.

1.2.7 "County" means the geographical area within the boundaries of COUNTY.

1.2.8 "COUNTY Development Agreement Resolution" means Resolution No. 02-066 adopted by the Board of Supervisors of COUNTY on March 19, 2002 establishing a procedure for the consideration and approval of development agreements pursuant to the Development Agreement Legislation.

1.2.9 "Development" means the improvement of the Property for purposes of effecting the structures, improvements and facilities comprising the Project, including without limitation: remediation of contaminated soils on and redevelopment of, a portion of the Property used, operated and maintained as an oil field; plugging and abandonment of certain oil wells and oil production facilities; improvement of and continued Oil Operations and Servicing within the Property; demolition of certain existing structures; restoration of Open Space Areas; grading construction of infrastructure and Public Facilities related to the Project (whether located within or outside the Property) the construction of structures and buildings and the installation of landscaping; but not including the maintenance, repair, reconstruction or redevelopment of any structures, improvements or facilities after the initial construction completion thereof.

1.2.10 "Development Agreement Legislation" means Sections 65864 through 65869.5 of the California Government Code as it exists on the Effective Date.

1.2.11 "Development Approval(s)" means site specific plans, maps, permits and other entitlements to use of every kind and nature approved or granted by COUNTY in connection with the Development of the Property, including but not limited to: the Tonner Hills Development Plan, feature plans, area plans and site plans, tentative and final subdivision tract maps, vesting tentative maps, conditional and special use permits and grading, building and other similar permits.

1.2.12 "Development Exactions" means the requirements of COUNTY in connection with or pursuant to any Land Use Ordinance or Development Approval for the dedication of land or property, the payment of fees or money or the construction or improvement of public facilities in

order to lessen, offset, mitigate or compensate for the adverse impacts of the Project on environmental or other public concerns or interests or for the improvement, construction or acquisition of any public infrastructure, facilities or property. The term shall not include assessments and taxes unless exacted as a condition of development under a Development Approval.

1.2.13 "Development Plan" or "Plan" means the Tonne Hills Planned Community District Regulations Area Plan No. 01 0039 and regulations with respect thereto adopted by COUNTY Board of Supervisors on November 17, 2002 by Ordinance 02-010 as amended to the Effective Date.

1.2.14 "Economic Expectations" means the reasonable, investment based economic expectations with respect to the completion of the Project in accordance with the Governing Policies taking into consideration technical, financing, market and other factors.

1.2.15 "Effective Date" means the date first set forth hereinabove.

1.2.16 "Existing Development Approvals" means those certain Development Approvals in effect on the Effective Date with respect to the Property, including without limitation, the "Existing Development Approvals" which are listed on Exhibit B.

1.2.17 "Existing Land Use Ordinances" means those certain Land Use Ordinances in effect on the Effective Date.

1.2.18 "Existing Land Use Regulations" means those certain Land Use Regulations in effect on the Effective Date.

1.2.19 "Existing Regulations" means the Regulations in effect on the Effective Date.

1.2.20 "Financing District" or "District" means a community facilities district formed pursuant to the Mello-Roos Community Facilities District Act of 1982 (California Government Code Sections 53311 et seq., as amended), an assessment district formed pursuant to the Improvement Act of 1911 (California Streets & Highways Code Sections 5000 et seq., as amended), an assessment district formed pursuant to; the Municipal Improvement Act of 1913 (California Streets & Highways Code Sections 10000 et seq., as amended), an assessment district formed pursuant to the Landscaping and Lighting Act of 1972 (California Streets and Highways Code Sections 22500 et seq., as amended), or any other similar special district or assessment district authorized pursuant to State law for purposes of financing the cost of public improvements, Public Facilities, services and/or Public Facilities fees within a distinct geographic area of the COUNTY.

1.2.21 "General Plan" means the General Plan of COUNTY.

1.2.22 "General Plan Review" means the review of the General Plan conducted by COUNTY referred to in Section 5.2.

1.2.23 "Governing Policies" means (a) the policies specified in Section 4.1; and (b) Existing Land Use Ordinances but not including Existing Development Approvals.

1.2.24 "Land Use Ordinances" means the ordinances adopted by the Board of Supervisors of COUNTY which govern the permitted uses of land, the density and intensity of use, and the design, improvement, and construction standards and specifications applicable to the Development of Property, including, but not limited to: the General Plan, the Development Plan, specific plans, zoning ordinances, planned community district ordinances, development moratoria and growth management and phased development programs, ordinances establishing Development Exactions, subdivision and park codes and Building and Improvement Standards.

1.2.25 "Land Use Regulations" means Regulations of COUNTY governing the permitted uses of land, density and intensity of use and the design, improvement, and construction standards and specifications applicable to the Development of the Property, including, but not limited to, mitigation measures required in order to lessen or compensate for the adverse impacts of the Project on the environment and other public interests and concerns. Land Use Regulations include, but are not limited to, Land Use Ordinances, Development Approvals and Development Exactions. The term Land Use Regulations does not include, however, Regulations relating to the conduct of business, professions and occupations generally; taxes and assessments other than Development Exactions; Regulations for the control and abatement of nuisances; encroachment and other permits and the conveyances of rights and interests which provide for the use of or entry upon public property; and, any exercise of the power of eminent domain.

1.2.26 "MPAH" means the Orange County Master Plan of Arterial Highways, as prepared and maintained by the Orange County Transportation Authority (the MPAH), which designates routes for collector, secondary, primary, major and principal arterial highways, smart streets and transportation corridors within the County.

1.2.27 "Mortgage" means a mortgage, deed of trust or sale and leaseback arrangement or other transaction in which the Property, or a portion thereof or an interest therein, is pledged as security, contracted for in good faith and for fair value.

1.2.27 "Mortgagee" means the holder of the beneficial interest under a Mortgage, or the owner of the Property, or interest therein, under a Mortgage.

1.2.28 "Ordinance Number 3570" means Section 7-9-703 and 7-9-704 of the Codified Ordinances of the County of Orange, as enacted by Ordinance 3570 as in effect on the Effective Date.

1.2.29 "Oil Operations and Servicing" means implementation, operations, servicing and all other activities associated with Owner's present and future (i) oil, gas and injector wells and (ii) infrastructure, buildings, pipelines, transmission lines and all facilities associated with the foregoing, together with the right of ingress and egress to, from, under and across the Property, in a manner that does not materially interfere with the mitigation requirements of the Development Approvals. Items (i) and (ii) are collectively referred to herein as "oil wells and production facilities."

1.2.30 "Open Space Areas" means those areas shown in the Development Plan as open space, excluding therefrom all oil wells and related facilities shown on Exhibit F-2 ("Open Space Retained Wells and Facilities").

1.2.31 "OWNER" means Nuevo Energy Company, a Delaware Corporation.

1.2.32 "OWNER 's Obligations" means the obligations of OWNER to pay the sums, build and construct the improvements, dedicate the lands and improvements and undertake and perform the other actions described in Section 3 and Exhibit D.

1.2.33 "Project" means the development project contemplated by the Development Plan with respect to the Property, including but not limited to on-site and off-site improvements, as such development project is further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.2.34 "Property" means those certain lands as to which OWNER had a legal interest on the Effective Date, as described in Exhibit A.

1.2.35 "Public Facilities" means those certain public lands and/or facilities to be improved, constructed and dedicated or conveyed to the public pursuant to Section 3.1, as described in Exhibit D.

1.2.36 "Regulations" means laws, statutes, ordinances, and codes (including the Building and Improvement Standards, Land Use Ordinances, and Land use Regulations), resolutions, rules, regulations and orders; approvals, denials and conditional approvals in connection with

tentative, vesting tentative and final subdivision maps, parcel maps, conditional and special use permits and other permits of every kind and character; programs; and official policies and actions of COUNTY; together with amendments to all of the foregoing.

1.2.37 "Reservations of Authority" means the rights and authority excepted from the assurances and rights provided to OWNER in Section 4.2 and reserved to COUNTY therein and in Section 4.3.

1.2.38 "Traffic-Related Development Exactions" means any Development Exactions to provide for rights-of-way, facilities, or improvements for the road and motor vehicular traffic system within the County, including, but not limited to, the Property, or for any facilities, equipment or physical improvements (e.g. the purchase of buses or the installation of a light rail system) which are a substitute therefor or are to serve the same function as an increase in the capacity of, or a reduction in traffic on, the Regional Road Network or said road and motor vehicular traffic system.

1.3 Exhibits. The reference to a specified "Exhibit" in this Agreement is a reference to a certain one of the exhibits listed below, as determined by the accompanying letter designation, which exhibits are attached hereto and by this reference made a part hereof.

Exhibit Designation	Description
A	Description of Property
B	Existing Development Approvals
C	Memorandum of Understanding between COUNTY, OWNER, and the City of Brea
D	Benefits to COUNTY and its Residents
E	Project Phasing Plan
F	Existing Retained Oil Production Facilities and Location of Existing Retained Oil Production Facilities and Planned Development

Particular Conditions Contained in General Plan, Development Plan and Existing Development Approvals Which Are Anticipated to be Satisfied in Whole or Part Upon the Specified Performance.

2. MUTUAL BENEFITS AND ASSURANCES.

2.1 Purposes of Agreement. This Agreement is entered into for the purpose of carrying out the Development Plan for the Project in a manner that will ensure certain anticipated benefits to both COUNTY (including, without limitation, the existing and future residents and populations of COUNTY) and OWNER, as described in the RECITALS, Exhibit D, and as follows:

(i) To provide and assure to COUNTY the participation of OWNER in the accelerated, coordinated and more economic construction, funding and dedication to the public, as provided in Section 3, of certain other public facilities and benefits, and to provide for the anticipated levels of residents and populations of the Property, the County and adjacent areas, all as provided for in the General Plan, as set forth in detail in Exhibit D;

(ii) To provide to OWNER assurances regarding the Development Approvals, Development Exactions, Development Plan, Existing Development Approvals, Existing Land Use Ordinances, Existing Land Use Regulations, Existing Regulations, Governing Policies, Land Use Ordinances, Land Use Regulations and Regulations that will be applicable to the Development of the Property, including but not limited to those relating to timing, density and intensity of Development and Development Exactions, that will justify the undertakings and commitments of OWNER described above and the investment in major on-site and off-site infrastructure for the Project and of a size which is necessary to service the existing and anticipated residents and populations of the Property and adjacent areas. Without limiting the generality of the foregoing, this Agreement provides for the completion of public facilities and improvements: (A) prior to the time that they would be required legally of OWNER under Existing Land Use Regulations or otherwise required in connection with the phasing of the Project; and (B) of a size that would be justified only by the magnitude of the Project provided for by the Development Plan.

2.2 Undertakings and Assurances Contemplated and Promoted by Development Agreement Legislation. The mutual undertakings and assurances described above and provided for in this Agreement are for the benefit of COUNTY and OWNER and promote the comprehensive planning, private and public cooperation and participation in the provision of public facilities, and the effective and efficient development of infra-structure and facilities supporting development which was contemplated and promoted by the Development Agreement Legislation.

2.3 Bargained For: Reliance by Parties. The assurances provided to OWNER in Section 4 are provided pursuant to and as contemplated by the Development Agreement Legislation, bargained for and in consideration for the undertakings of OWNER set forth in Section 3 of this Agreement and are intended by COUNTY to be and have been relied upon by OWNER to its detriment in undertaking the obligations and

covenanting as provided in Section 3 hereinbelow and in this Agreement generally and in expending monies and making improvements pursuant to this Agreement with respect to the public facilities and the Project.

3. OWNER'S OBLIGATIONS: AND PROVISION OF PUBLIC BENEFITS.

3.1 In General.

a. Public Benefits. It is acknowledged that a primary purpose of this Agreement is to provide for the accelerated and coordinated completion of Public Facilities and the other public benefits described in Exhibit D. Accordingly, OWNER shall promptly (to the extent that a time for performance is specified hereunder) and fully perform OWNER's Obligations as set forth in and subject to the terms and conditions of Exhibit D and this Agreement, including but not limited to the undertakings in connection with the construction and dedication or conveyance of the Public Facilities.

b. Existing Conditions and Undertakings. OWNER shall continue to be obligated to, and shall, perform all of the duties and obligations provided for or required by any provisions of the existing General Plan, the Development Plan and the Existing Development Approvals in connection with the Development of the Property.

3.2 Community Facilities District.

a. Formation of District. At the written request ("Request") of OWNER, COUNTY will use its best efforts to form a CFD/Financing Districts in the form and type specified in the Request, which will include the Property, or portion thereof, within its/their boundaries for the purpose of funding the planning, design and construction of all or a portion of and off-site infrastructure and facilities described as agreed upon by OWNER and COUNTY; and will cause the Districts to issue, from time to time, bonds to provide sufficient funds to construct and/or to acquire from OWNER the Public Facilities (including, in addition, all costs of forming and administering the district and issuing and selling such bonds).

b. No Obligation to Form District. Notwithstanding the foregoing, it is acknowledged by the parties that nothing contained in this Agreement shall be construed as requiring COUNTY or the COUNTY Board of Supervisors to form a CFD or cause a CFD to issue bonds.

3.3 Dedication. Construction and Conveyance of Public Facilities.

a. In General. The Public Facilities to be dedicated (in the case of lands) and constructed by OWNER and dedicated or conveyed to COUNTY as described in Exhibit D, shall be completed in accordance with the provisions of Exhibit D and designs, specifications and standards promulgated by COUNTY in accordance with Existing Regulations, and dedicated and conveyed to COUNTY in fee, free of all liens and encumbrances of every kind and nature except as expressly set forth in Exhibit D or agreed in writing by COUNTY. All such dedications shall be accomplished in a manner meeting the approval of the COUNTY.

OWNER and COUNTY shall expeditiously enter into agreements ("Implementation Agreements"), and in no event, later than one (1) year after the Effective Date, each in a form customarily utilized by COUNTY, with the specific terms agreed upon by the parties, providing for the construction and completion of the Public Facilities and their conveyance to COUNTY in accordance with this Agreement. COUNTY shall withhold issuance of building permits pending execution of the Implementation Agreements.

b. Public Facilities; Subdivision Requirements. With respect to any such Public Facilities as to which only a preliminary phase is required to be completed under this Agreement as provided in Exhibit D, such Public Facilities shall be completed in connection with the Development of Property as required by the Existing Land Use Regulations.

3.4 Relationship of Parties. In performing OWNER's obligations, OWNER is acting under this Agreement as an independent contractor and is not acting as the agent or employee of COUNTY nor shall anything in this Agreement be construed as creating between OWNER and COUNTY a partnership or joint venture for any purpose.

3.5 Conformity with Funding Mechanisms. Notwithstanding anything in this Agreement to the contrary:

a. No reimbursement or credit provisions shall be implemented in any manner which conflicts with the provisions governing the formation, funding and operation of existing or future applicable CFDs, fee programs or other mechanisms implemented by COUNTY to obtain funds for improvement and/or acquisition of the Public Facilities

b. Under no circumstances shall OWNER be entitled to any reimbursement with respect to Public Facilities as to which OWNER has previously been reimbursed by COUNTY, other landowners or another CFD or Financing District; and

c. Whenever in this Agreement reimbursement for the cost or value of any Public Facility is provided for, the amount thereof shall be reduced by and to the extent the OWNER has theretofore received any reimbursement for such Public Facility.

3.6 Public Works. If OWNER is required by this Agreement to construct any Public Facilities which will be dedicated to COUNTY or any other public agency upon completion, and if required by applicable laws to do so, OWNER shall perform such work in the same manner and subject to the same requirements as would be applicable to COUNTY or such other public agency should it have undertaken such construction.

3.7 Provision of Rights and Interests by COUNTY. In any instance where OWNER is required to construct any Public Facilities on lands not owned by OWNER, as a condition precedent to the performance of such obligation, COUNTY shall provide or cause to be provided the real property rights and interests necessary for the construction of such Public Facilities. OWNER shall have no obligation to pay for such rights or interests except that OWNER shall pay all reasonable administrative costs of COUNTY (including, but not limited to the administrative costs of condemnation) related to the acquisition and transfer of said rights and interests.

a. Public Financing of Other Public Facilities. Upon the request of OWNER, the parties shall cooperate in exploring the use of CFDs, special assessment districts and other similar Project-related public procedures and institutions for the financing of the construction, improvement or acquisition of public infrastructure, facilities, lands and improvements to serve the Project and its residents, whether located within or outside the Property. It is acknowledged that nothing contained in this Agreement shall be construed as requiring COUNTY or the COUNTY Board of Supervisors to form such a district or to issue or sell bonds.

b. Additional Fees. As set forth in Exhibit D hereto, OWNER has agreed to construct or pay fees to COUNTY to partially fund the construction of library and sheriff facilities. In certain instances the obligations of OWNER in providing such facilities are in excess of OWNER's pro rata share (and may include, in effect, amounts reflecting benefits to existing development or development anticipated in the distant future) of the costs of such facilities as determined pursuant to COUNTY Ordinance Number 3570.

(A.) It is acknowledged by the parties that the Development of the Property in accordance with the Governing Policies and the Existing Land Use Regulations will provide for orderly growth in accordance with the policies and goals set forth in the COUNTY General Plan, as implemented through its Growth Management Program.

Subject to the provisions of Paragraphs (B.) and (C.) below, OWNER shall participate, on a pro rata basis in the manner as provided for in COUNTY Ordinance Number 3570, in any future fee programs which are not Traffic-Related Development Exactions and which are adopted by the COUNTY Board of Supervisors in accordance with the Growth Management Program which include the Project as a portion of the respective area of benefit.

(B.) Notwithstanding the provisions of Paragraph (A) above, COUNTY acknowledges that OWNER has dedicated, or agreed to dedicate pursuant to this Agreement, to COUNTY, lands to be used for open space and park purposes in an amount in excess of that required to satisfy COUNTY's current and anticipated standards for open space; provided, however, that OWNER shall be subject to any Development Exactions imposed as a condition to or pursuant to, the granting of future Development Approvals in accordance with the Governing Policies for local park and local open space purposes

(C.) In accordance with Paragraph 3.7.b(A.), COUNTY may require additional Development Exactions to provide for further library and sheriff facilities to service the future residents and populations of the Property; provided, however, that such further Development Exactions with respect to library and sheriff facilities and services with respect to the Property shall not exceed in the aggregate more than ten percent (10%) of OWNER's pro rata share, as determined in a manner consistent with COUNTY Ordinance Number 3570 and as set forth in Exhibit D, of the amounts specified in Exhibit D for each such facility.

(D.) Notwithstanding the limitation as set forth in Paragraph (C.), if as a result of an initiative COUNTY is compelled by a court of competent jurisdiction to construct additional fire, library, sheriff and park facilities within the Project for the purpose of benefiting the Project, then OWNER shall be subject to any fee program adopted pursuant to Paragraph (A.) for the purpose of funding such additional facility without regard to the limitations set forth in Paragraph (C.). Nothing in this Paragraph shall prohibit OWNER from appealing any such determination by a court of competent jurisdiction.

(E.) While the parties acknowledge the appropriateness of the Growth Management Program as a procedure for

monitoring and providing for future residents and populations, OWNER is concerned that COUNTY could attempt to decrease the rights and interests of OWNER provided for in Section 4 under the justification of providing increased facilities for future residents or the public. Accordingly, in adopting any such program which is in conflict with the Governing Policies, COUNTY shall reasonably find and determine that the future needs of the residents or the public require such facilities.

4. REGULATIONS GOVERNING THE DEVELOPMENT OF THE PROPERTY.

4.1 Governing Policies. Except as otherwise specified in this Agreement and the Development Approvals, the rules, regulations and official policies governing the permitted uses of the Property, the density and intensity of use of the Property, the provisions for reservation or dedication of land for public purposes and the design, improvement and construction standards and specifications applicable to Development of the Property are the Existing Land Use Ordinances, including the General Plan and Development Plan. Notwithstanding the generality of the foregoing and in addition to other deviations from the Existing Regulations specified in this Agreement and the Development Approvals, in recognition of various mitigation measures specified in the Development Approvals, the following additional Regulations shall apply: i) Habitable structures may be constructed within a minimum distance of one hundred fifty (150) feet from operational oil, gas, and injector wells (collectively, "oil wells"), or at a distance less than 100 feet when approved by Orange County Fire Authority in accordance with the Orange County Fire Authority Guideline C-02, "Requirements for Residences less than 100 feet from an Oil Well, and (ii) the Oil Operations and Servicing may continue as permitted uses under the Development Plan. The existing oil wells and production facilities located above the surface of the Property are shown on Exhibit F. Open Space retained oil wells and production facilities ("Open Space Retained Wells and Facilities") are also shown on Exhibit F.

a. Permitted Uses. The uses permitted hereunder in accordance with the Existing Land Use Ordinances, are as set forth in the Development Plan.

b. Number of Units, Density and Intensity. The total number, density and intensity of units permitted hereunder in accordance with the Existing Land Use Ordinances, are as set forth in the Development Plan.

c. Maximum Height and Size of Buildings. The maximum height and size of the buildings within the Property permitted hereunder in accordance with the Existing Land Use Ordinances are as set forth in the Development Plan.

d. Reservations and Dedication of Lands for Public Purposes and Undertaking to Participate in Completion of Regional Road Network and Major Public Facilities. As provided in Section 3, OWNER has undertaken to dedicate certain lands and construct and convey to the public the Public Facilities and to provide certain public benefits. In addition, the Existing Land Use Ordinances and Existing Development Approvals require OWNER to provide and undertake certain other public benefits and facilities as described in Section 3.3

e. No Density Increases. COUNTY has expressed interest in ensuring the provision of regional and community level infrastructure, and is pursuing the use of development agreements as a method whereby a level of assurance can be achieved concerning the service demands within planned communities so that adequate long-range plans for needed infrastructure can be developed and implemented. COUNTY and OWNER acknowledge that the establishment of land use density and dwelling unit maximums as set forth in Section 4.1b. are necessary for facility planning efforts. OWNER intends not to apply for residential increases for the Project, and COUNTY intends not to revise the maximum density and dwelling unit totals as set forth in Section 4.1b during the term of this Agreement, thus ensuring that appropriate facilities and services are planned and implemented. Further, OWNER intends not to apply for any intensification of non-residential uses within the Property which would be inconsistent with or would unduly burden existing and planned public facilities and services. Notwithstanding the foregoing, density may be allocated by OWNER in accordance with Section 6.1b.

f. Timing of Development. The parties acknowledge that the most efficient and economic Development of the Property depends upon numerous factors such as market orientation and demand, interest rates, competition and similar factors and that generally it will be most economically beneficial to the ultimate purchasers to have the rate of Development determined by OWNER. Accordingly, the timing, sequencing and phasing of Development shall be as determined by OWNER in its sole subjective business judgment and discretion except that the rate of Development shall not exceed that as set forth in Exhibit E and shall be in accord with the Existing Land Use Regulations subject to the Reservations of Authority set forth in Section 4.3 and the other terms and conditions of this Agreement.

g. Moratoria: Phasing of Development. The parties acknowledge and agree that the Governing Policies contemplate and provide for the phasing of the Development of the Property, and that except as expressly provided in this Section 4, no initiative, referendum, moratorium, ordinance, resolution, or other Land Use Regulation or limitation on the conditioning, rate, timing or sequencing of the Development of the Property or any portion thereof shall apply to or govern the Development of the Property

during the term hereof whether affecting parcel or subdivision maps (whether tentative, vesting tentative, or final), building or site development plans or permits, occupancy permits, occupancy certificates or other entitlements to use to be approved, issued or granted by COUNTY. In the event of any such subsequent action, OWNER shall continue to be entitled to apply for and receive Development Approvals in accordance with the Existing Land Use Regulations, subject only to the exercise of the Reservations of Authority set forth in Section 4.3 and the terms of this Agreement

h. Development Exactions. In addition to and not in limitation of the foregoing, or the provisions of Section 4.2 except and subject to the Reservations of Authority, COUNTY shall not levy or require any further Development Exactions except those provided for in Section 3 or which are provided for or required by or pursuant to the Existing Land Use Regulations (including, but not limited to the existing General Plan, the Development Plan, and Existing Development Approvals) which include, but are not limited to, Development Exactions which may be required by COUNTY in accordance with its current subdivision standards and policies (including, without limitation, as to the amount, time and method of payment);

i. Dedications. At the appropriate points in the Development of the Project and in accordance with Exhibit E, OWNER shall irrevocably offer for dedication or reserve for acquisition by COUNTY or its successor, assignee, or designee the Public Facilities, including streets, rights-of-way, parkland and other areas as more fully set forth in Exhibit D.

j. Permits and Approvals - Cooperation. COUNTY shall accept and timely process, in the normal and legal manner for processing such matters, all applications for future Development Approvals contemplated by, required under or necessary to effect the intent of this Agreement. Provided tentative tract map, parcel map and precise development plan and other applications are consistent with the Development Plan, COUNTY shall take final action on such applications within the time frames set forth in the Permit Streamlining Act, California Government Code Sections 65920 et seq., unless an extension is agreed to by OWNER.

k. Further Mitigation. In connection with the issuance of any future Development Approvals which are subject to review under CEQA, the COUNTY shall not impose any environmental alternatives or mitigation measures in addition to those referenced in the Development Approvals unless determined to be necessary or appropriate in the course of CEQA review. The Mitigation Measures and Mitigation Monitoring Plan set forth in EIR 581 constitute additional benefits anticipated under this Agreement. Those Mitigation Measures will be enforced and monitored in the manner set forth in EIR 581..

1. Water Supply. Water supply for the project has been the subject of the analysis required by Government Code section 66473.7, Public Resources Code section 21151.9 and Water Code section 10631, et seq.

4.2 Regulation of Development.

a. In General. Notwithstanding any future action of COUNTY, whether by ordinance, resolution, initiative or otherwise, during the term of this Agreement, the rules, regulations and official policies applicable to and governing the Development of the Property shall be the Existing Land Use Regulations as modified by the Governing Policies together with amendments and additions adopted pursuant to Section 4.3a. and b.

b. Vested Rights. In developing the Property, OWNER is provided and assured the vested right to require that the Land Use Regulations of COUNTY applicable to and governing the Development of the Property during the term hereof shall be as provided in this Section 4.2.

4.3 Limitations, Reservations and Exceptions. Notwithstanding anything to the contrary set forth in Section 4.2 hereinabove, in addition to the Existing Land Use Regulations, only the following Land Use Regulations adopted by COUNTY hereafter shall apply to and govern the Development of the Property ("Reservations of Authority"):

a. Future Regulations. Future COUNTY Land Use Regulations which are not in conflict with the Governing Policies or which are in conflict with the Governing Policies and the application of which to the Development of the Property has been consented to in writing by OWNER;

b. State and Federal Laws and Regulations. Existing and future State and federal laws and regulations, together with any COUNTY Land Use Regulations, programs and actions, or inaction, which are reasonably (taking into consideration, among other things, the assurances provided to OWNER hereunder) adopted or undertaken by COUNTY in order to comply with State and federal laws and regulations; provided, that in the event that State or federal laws and regulations prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such State and federal laws and regulations, in which event this Agreement shall remain in full force and effect to the extent that it is not inconsistent with such laws and regulations and that performance of the remaining provisions would not be inconsistent with the intent and purposes of this Agreement;

c. Public Health and Safety. Land Use Regulations which are adopted by COUNTY, which may be in conflict with the Governing Policies which are reasonably necessary in order to protect the public health and safety;

d. Building and Improvement Standards. Present and future Building and Improvement Standards, except that (taking into consideration the assurances to OWNER in this Section 4) any future amendment thereto which significantly reduces the amount of land within the Property which can be utilized for structures and improvements or significantly increases the amount of open space within the Project under the Development Plan shall not be considered a provision of any of the Building and Improvement Standards included within the exception provided by this Paragraph 4.3d. and shall not apply to and govern the Development of the Project unless it complies with another exception under this Section 4.3;

e. Processing Fees and Charges. Processing fees and charges of every kind and nature imposed or required by COUNTY under current or future Regulations covering the actual costs of COUNTY in (i) processing applications and requests for permits, approvals and other actions and (ii) monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of OWNER hereunder; and,

f. Full Extent of Law. The parties acknowledge and agree that COUNTY is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to COUNTY all of its police power which cannot be so limited. Notwithstanding the foregoing, this Agreement shall be construed, contrary to its stated terms if necessary, to reserve to COUNTY all such power and authority which cannot be restricted by contract.

4.4 Further Assurances to OWNER Regarding Exercise of Reservations of Authority.

a. Adoption of General Plan and Development Plan. In preparing and adopting the General Plan and the Development Plan and in granting the Existing Development Approvals, COUNTY considered the health, safety and welfare of the existing and future residents and populations of the County and prepared in this regard extensive environmental impact reports ("EIRs") (including EIR 581 dated April, 2002) as well as extensive traffic impact reports (dated April, 2002) and other studies. Without limiting the generality of the foregoing, in preparing and adopting the General Plan and Development Plan,, the COUNTY Board of Supervisors carefully considered and determined the projected needs (taking into consideration the planned development of the Project, adjacent areas and the County) for sheriff, fire, library, paramedic and

similar facilities and services within the Project, the adjacent areas and the County, and the projected needs within the Project and such areas for flood control measures, the general capacity of the Property, the needs of the residents for open space and parks, the appropriateness of the number of units to be developed and the density and intensity of the development comprising the Project. The parties acknowledge that the allocation of Development within the Property as part of future Development Approvals is subject to various considerations pursuant to the Existing Land Use Regulations such as the location of particular wildlife populations, earthquake fault and other natural hazard zones, cultural resources and other site specific considerations. Further, the parties acknowledge that in certain instances, the development of the Property may be restricted and adversely affected and impacted by future Land Use Regulations adopted by COUNTY as provided in Section 4.3.

b. Assurances to OWNER. The parties further acknowledge that the public benefits to be provided by OWNER to COUNTY pursuant to this Agreement, including, without limitation, the participation by OWNER in the coordinated completion of the Public Facilities and the financing and construction thereof are in consideration for and reliance upon assurances that the Property can be developed in accordance with the Existing Land Use Regulations (subject to the terms of this Agreement). Accordingly, while recognizing that the Development of the Property may be affected by the exercise of the Reservations of Authority and the requirement that OWNER participate in future public facilities, OWNER is concerned that normally the Courts extend to local agencies significant deference in the adoption of Land Use Regulations which might permit COUNTY to attempt to apply inconsistent Land Use Regulations in the future under justification of the Reservations of Authority or the COUNTY's authority to require OWNER's participation under Section 3.7b. Accordingly, OWNER desires assurances that COUNTY will not inequitably further restrict or limit the Development of the Property in conflict with the provisions of this Agreement.

c. Judicial Review.

(1) Burden of Proof. Based on the foregoing, in the event OWNER judicially challenges (including the procedure pursuant to Section 11.5) the application of a future Land Use Regulation as being in conflict with this Agreement or exceeding or violating COUNTY'S authority (as described herein), OWNER shall bear the burden of proof in establishing that such Land Use Regulation was applied in conflict with the Governing Policies. In the event that OWNER bears its burden of proof and establishes that such Land Use Regulation is in conflict with the Governing Policies, COUNTY shall thereafter bear the burden of proof in establishing

that such Land Use Regulation was adopted pursuant to and in accordance with this Agreement.

(2) Considerations. Considerations, among others, in determining whether any such future COUNTY Land Use Regulation was properly applied shall include:

(i) With respect to any future Land Use Regulations adopted by COUNTY pursuant to paragraphs 4.3c. (with respect to the protection of public health and safety) or 4.3b. (with respect to federal and state regulation), the extent to which such regulation substantially impairs the rights of OWNER hereunder and is (A) to be unreasonably borne only by OWNER and the Project (taking into consideration the obligations of OWNER under this Agreement) rather than being also borne by other lands and interests, or (B) unreasonable taking into consideration other reasonable and practicable alternatives; and

(ii) with respect to any future Land Use Regulations adopted pursuant to Paragraph 4.3c. (with respect to the protection of public health and safety):

(A) Whether, and the extent to which, the concerns which are the subject of the proposed Land Use Regulation were considered and/or provided for in the adoption of the Existing Land Use Regulations or this Agreement; and

(B) The greater the severity of the adverse impact of the Land Use Regulation on the reasonable investment based Economic Expectations of OWNER (taking into consideration the extent of any mitigation of such impacts provided by COUNTY in connection with such Land Use Regulation, for example, by the transfer of development density), the greater the showing required of COUNTY that the concerns addressed are legitimate and that such Land Use Regulation is reasonable taking into consideration such concerns.

The parties believe that the foregoing considerations are appropriate under the law and are not intended to, and shall not, limit the authority of COUNTY with respect to the police power which cannot be limited by contract. Further, said considerations shall be interpreted, supplemented and revised to reflect subsequent judicial determinations and State legislative enactments further defining the extent and nature of the authority of local agencies which must be reserved and cannot be limited by contracts such as this Agreement.

(3) Administrative Findings and Burden of Proof.

(a) COUNTY Findings and Determinations. As a condition precedent to adopting any Land Use Regulation or taking any action requiring the action or approval of the COUNTY Board of Supervisors which is in conflict with the Governing Policies, after providing OWNER with reasonable notice and an opportunity to be heard, COUNTY shall make specific findings and determinations as to the basis for applying such Land Use Regulation to the Development in accordance with Section 4.3 or Section 3.7b.

(b) OWNER's Burden of Proof. As a condition precedent to any claim by OWNER that a proposed Land Use Regulation does not comply with the Reservations of Authority or Section 3.7b. and, therefore, cannot be applied to and govern the Development of the Property (whether in a judicial proceeding or otherwise), OWNER shall raise the claim at the COUNTY Board of supervisors hearing (and may raise it earlier) at which the proposed Land Use Regulation is considered and shall present all information which, in its judgment, is relevant and upon which it intends to rely, or present in any judicial proceeding, including, but not limited to, information regarding OWNER's reasonable investment based Economic Expectations, and, in addition, shall provide at such time any further information regarding OWNER's reasonable investment based Economic Expectations reasonably requested by COUNTY. In the event that the proposed Land Use Regulation is of a kind that is not heard by or appealable to the COUNTY Board of Supervisors and provided that OWNER is given reasonable prior notice, as a condition precedent to any such claim, OWNER shall raise the claim and provide the above information as a protest to the agent or representative of COUNTY promulgating or applying the proposed Land Use Regulation.

4.5 Regulation by other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of COUNTY possess authority to regulate aspects of the Development of the Property separately from or jointly with COUNTY and this Agreement does not limit the authority of such other public agencies. For example, pursuant to Government Code Section 66477, in the event that an agency (for example, a community services district), provides park and recreational services or facilities, it shall be permitted by the parties, to participate jointly with COUNTY to determine the location of land to be dedicated or

in lieu fees to be paid for local park purposes, provided that COUNTY shall exercise its authority subject to this Agreement.

5. PERIODIC REVIEWS

5.1 Annual Review. COUNTY and OWNER shall review the performance of this Agreement, and the Development of the Project, at least once every 12-month period from the Effective Date in accordance with Government Code Section 65865.1. As part of such Annual Monitoring Review, within 30 days after each anniversary of this Agreement, OWNER shall deliver to COUNTY:

- a. A then current Build-out Phasing Plan for the Project; and
- b. All information reasonably requested by COUNTY (i) regarding OWNER's performance under this Agreement demonstrating that OWNER has complied in good faith with terms of this Agreement and (ii) as required by the Existing Land Use Ordinances.

If as a result of such periodic review, COUNTY finds and determines, on the basis of substantial evidence, that OWNER has not complied in good faith with any of the terms or conditions of this Agreement, COUNTY may terminate this Agreement as provided in Section 11.2.

5.2 Five-Year General Plan Review. Every five years following the Effective Date, COUNTY intends to conduct a review of its General Plan including how the General Plan applies to the Project. OWNER shall cooperate with COUNTY in the conducting of this review and in developing-mutually acceptable revisions to the General Plan and any revisions to the Development Plan pursuant thereto; provided, however, that neither COUNTY nor OWNER shall have any obligation to agree to such changes.

6. TRANSFERS AND ASSIGNMENTS.

6.1 Transfer and Assignments of Rights and Interests.

a. Rights and Interests Appurtenant. Except as provided in Section 6.3, the rights and interests conveyed and provided herein to OWNER benefit and are appurtenant to the Property. OWNER has the right to sell, assign and transfer any and all of its rights and interests and to delegate any and all of its duties and obligations hereunder; provided, however, that such rights and interests may not be transferred or assigned except in strict compliance with the following conditions precedent:

- (i) Said rights and interests may be transferred or assigned only together with and as an incident of the transfer and assignment of the portions of the Property to which they relate, including any transfer or assignment pursuant to any foreclosure of a Mortgage or a deed in lieu of such foreclosure; and

(ii) Concurrent with any such assignment or transfer or within five (5) business days thereafter, OWNER shall notify COUNTY in writing of such assignment or transfer, the portions of the Property to which the assignment or transfer is appurtenant, and the name and address (for purposes of notices hereunder) of the transferee or assignee, together with the corresponding number of dwelling units which are included within such transfer and OWNER and the assignee or transferee shall notify COUNTY whether the assignee or transferee has assumed any of OWNER's Obligations under this Agreement and which of OWNER's obligations have been assumed; and

(iii) Prior to or concurrent with such assignment or transfer, OWNER shall either make an offer of dedication to COUNTY of all rights-of-way necessary to complete the Regional Road Network Improvements through the portions of the Property being assigned or transferred in accordance with the provisions of Section 3.1 or provide COUNTY with the binding commitment and agreement of the proposed assignee or transferee, in a form reasonably acceptable to COUNTY, irrevocably committing said proposed assignee or transferee to offer to dedicate said rights-of-way to COUNTY in accordance with the provisions of Section 3.1 as soon as the appropriate legal descriptions are provided.

(iv) Any attempt to assign or transfer any right or interest in this Agreement except in strict compliance with this Section 6, shall be null and void and of no force and effect. Notwithstanding anything to the contrary in this Section or elsewhere in this Agreement, no such transfer, nor any portion of the Property transferred, shall include any oil, gas or other hydrocarbons, water or minerals, of any type, nor any rights, benefits or accoutrements relating thereto, nor any rights, benefits, accoutrements or obligations in respect of or in connection with, the Oil Operations and Servicing, unless specifically stated to the contrary and itemized individually, in the document or instrument of conveyance.

(v) COUNTY shall have no duty or obligation of any kind or nature to maintain a record of such transfers or assignments of portions of the Property or numbers and allocations of units involved or to notify or advise prospective or actual assignees or transferees or others of such assignments or the resulting allocation of units with respect to the Property or under this Agreement.

b. Allocation of Density. It is acknowledged that the density of development provided by the Governing Policies may be distributed by OWNER disproportionately throughout the Property in accordance with and subject to the Existing Land Use Regulations. COUNTY shall not be

obligated to the successors of OWNER to advise or notify any such successor or any other person as to the density of development allowed under this Agreement or any of the Land Use Regulations with respect to any particular portion of the Property; provided, however, that COUNTY shall upon the request of OWNER enter into further agreements in a recordable form allocating to the various portions of the Property the then allowable density of units pursuant to the Governing Policies. Such an agreement may include provisions relating to the assumption of certain of OWNER's obligations hereunder and the allocation of the benefits and burdens of this Agreement, all as specifically provided in this Article 6. The reasonable costs and expenses of COUNTY in considering and responding to any such request shall be reimbursed to COUNTY by OWNER forthwith upon the request of COUNTY.

c. Subject to Terms of Agreement. Following any such assignment or transfer of any of the rights and interests of OWNER under this Agreement, the exercise, use and enjoyment thereof shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were OWNER. Without limiting the generality of the foregoing,

(i) In order to claim or benefit from any right or interest hereunder or provision hereof (including but not limited to the rights of OWNER under Section 11), any subsequent assignee or transferee shall have no right, and shall be obligated not, to claim damages from or against COUNTY under Section 11;

(ii) The further assignment or transfer of any of the rights or interests under this Agreement shall be made only in accordance with and subject to the terms of this Section 6.1; and

(iii) The rights and interests assigned or transferred are subject to termination in accordance with this Agreement.

Notwithstanding the foregoing, the assignee or transferee of any of the rights and interests of OWNER shall take said rights and interests subject to this Agreement and shall perform the duties and obligations of OWNER.

d. Release of OWNER. Notwithstanding the assignment or transfer of portions or all of the Property or rights or interests under this Agreement, OWNER shall continue to be obligated under this Agreement unless released or partially released by COUNTY with respect to OWNER's Obligations and the other duties and obligations of OWNER under this Agreement which release or partial release shall be provided by COUNTY upon the full satisfaction by OWNER of the following conditions:

- (i) OWNER is not then in default under this Agreement;
- (ii) OWNER has provided COUNTY with the written notice required under Paragraph 6.1.a.; and
- (iii) such assignee or transferee has assumed such duties and obligations as to which OWNER is requesting to be released and has provided COUNTY with security and other assurances equivalent to those which were provided by OWNER assuring COUNTY that OWNER's Obligations and the other duties and obligations of OWNER under this Agreement for which OWNER is being released will be fully and strictly performed as provided in this Agreement.

e. Effect of Noncompliance. From and after the assumption of obligations under this Agreement by a transferee pursuant to this Section, noncompliance by any such transferee with the terms and conditions of this Agreement assumed by such transferee shall entitle COUNTY to pursue any and all of its rights under this Agreement so assumed against such transferee; but, such noncompliance shall not be deemed a default or grounds for termination hereof with respect to, or constitute cause for COUNTY to initiate enforcement action against, other persons then owning or holding interests in the Property or any portion thereof and not themselves in default hereunder. Similarly, noncompliance by OWNER with respect to any terms and conditions of this Agreement not assumed by such transferee shall entitle COUNTY to pursue any and all of its rights under this Agreement retained by OWNER against OWNER, but such noncompliance by OWNER shall not be deemed a default or grounds for termination hereof with respect to, or constitute cause for COUNTY to initiate enforcement action against, such transferee or other persons then owning or holding interest in the Property or any portion thereof and not themselves in default hereunder.

f. Rights of Successors and Assigns. Any and all successors, including without limitation, those successors acquiring their interests in the Property and this Agreement by merger, consolidation, stock sale, pledge, corporate reorganization or other conveyance by business arrangement, and assigns of OWNER shall have all of the same rights, benefits and obligations of OWNER under this Agreement, to the extent acquired as part of the Property and/or permitted in this Section.

6.2 Termination of Agreement With Respect to Individual Parcels Upon Sale to Public. Notwithstanding any provisions of this Agreement to the contrary, the burdens of this Agreement shall terminate as to any lot which has been finally subdivided and individually (and not in "bulk") leased (for a period of one year or more) or sold to the purchaser or user thereof and thereupon and without the execution or recordation of any further document or instrument such lot shall be released from and no longer be subject to or burdened by the provisions of this

Agreement; provided, however, that the benefits of this Agreement shall continue to run as to any such lot until a building is constructed on such lot, or until the termination of this Agreement, if earlier, at which time this Agreement shall terminate as to such lot.

7. ANNEXATION AND INCORPORATION. Upon the incorporation or annexation of the Property in or to any city or other county (the "Local Agency"), such Local Agency, as contemplated by and provided in Section 65865.3 (a) of the Development Agreement Legislation (with respect to incorporation) shall succeed to the benefits and rights and be bound by the obligations and duties of COUNTY hereunder to the same extent as if the Local Agency were a signatory hereof, including but not limited to the obligation to issue necessary permits and approvals in accordance herewith; provided, however, and except that COUNTY shall continue to be a beneficiary with respect to the OWNER's Obligations under this Agreement and may enforce the provisions hereof with respect thereto. Notwithstanding the foregoing: (i) upon any such annexation or incorporation, this Agreement shall not be terminated, amended, modified or cancelled with respect to OWNER's Obligations without the prior written approval and consent of COUNTY and any attempt to do so shall be null and void and of no force and effect; and (ii) if OWNER's rights pursuant to this Agreement are terminated or suspended as a result of such incorporation or annexation, OWNER's obligations shall be terminated or suspended, as applicable. The timing and process for annexation is set forth in the Memorandum of Understanding (MOU) between the parties hereto and the City of Brea which is attached to this Agreement as Exhibit C.

8. TERM OF AGREEMENT.

8.1 Stated Term. The term of this Agreement is intended to provide sufficient time for the full repayment of any bonds to be issued by any CFD or Financing District referred to in Section 3.2, or other debt obligations incurred in lieu of said bonds, for the purpose of financing the construction and acquisition of Public Facilities. Based on the foregoing, this Agreement shall become effective on the Effective Date and unless earlier terminated pursuant to the provisions of this Agreement shall continue in effect for twenty (20) consecutive years therefrom. In the event that the parties determine that a longer period is necessary to achieve the foregoing purpose, the term of this Agreement may be extended by the further written agreement of the parties in accordance with Section 9.

8.2 Rights and Duties Following Termination.

a. In General. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligations required to have been performed prior to said termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to said termination.

b. Survival of Terms. In the event that this Agreement is terminated for any reason other than the default of OWNER, the rights and duties of the parties shall be as set forth in Paragraph 8.2a., except as provided in this Paragraph 8.2b. as follows:

(i) Reimbursement. COUNTY acknowledges that in connection with certain fee programs, OWNER may have participated financially in excess of OWNER's Pro-rata Share in the cost of the Public Facilities, in which case COUNTY shall endeavor to cause other benefited undeveloped lands and owners thereof to be identified, and COUNTY shall, to the extent feasible, attempt to require such other landowners to reimburse to OWNER, through COUNTY, that portion of such costs incurred by OWNER in excess of its Pro-Rata Share, as reasonably determined by COUNTY which has not been previously reimbursed by COUNTY or a District. OWNER acknowledges that COUNTY may be limited in the manner in which it may collect or require such reimbursement and that COUNTY may be unable to cause OWNER to be reimbursed for such costs.

(ii) Assurances for Completed Milestones. To the extent that certain OWNER's Obligations (set forth in Exhibit D), have been fully performed to the extent required at such time, this Agreement shall continue in full force and effect during the remainder of the stated term of this Agreement set forth in Section 8.1 to assure OWNER that the Land Use Regulations applicable and governing the Development of the Property during such time shall be as provided in Section 4 except that the assurances regarding the number of units permitted to be developed within the Property which are provided by the Governing Policies shall be reduced by the number of units authorized in each phase and shall not exceed the total number of units contemplated by this Agreement.

9. AMENDMENT. Subject to the provisions of Section 7 and Section 11, this Agreement may be amended or cancelled only by the mutual agreement of the parties in accordance with Government Code Section 65868, in a writing executed by the parties and recorded in the official records of COUNTY.

10. PROCESSING OF REQUESTS AND APPLICATIONS. COUNTY shall process any applications for action pursuant to this Agreement, or for permits or approvals for Development of the Property, under the procedures for the processing of applications for such applications which are then in effect; provided, however, as provided in Section 4, no subsequently adopted Regulation (including, without limitation, any moratorium or other phasing of development) shall be applicable to and shall delay the acceptance or processing of any such application except in strict accordance with the Existing Land Use Regulations or Land Use Regulations adopted by COUNTY pursuant to the Reservations of Authority. As provided above, the standards applied in approving or disapproving such applications shall be as set forth in the Existing Land Use Regulations, subject to the Reservations of Authority.

11. DEFAULT, REMEDIES AND ESTOPPEL CERTIFICATES. Unless canceled as provided herein, or modified or suspended pursuant to Government Code Section 65869.5 or

terminated pursuant to this Section 11, this Agreement is enforceable according to its terms by either party hereto.

11.1 Remedies in General. It is acknowledged by the parties that COUNTY would not have entered into this Agreement if it were to be liable in damages under or with respect to this Agreement or the application thereof.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement; except that COUNTY shall not be liable in damages to OWNER, or to any assignee, transferee of OWNER or any other person, and OWNER covenants not to sue for or claim any damages, for:

- (A.) any breach of, or which arises out of, this Agreement;
- (B.) the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant hereto; or
- (C.) arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement,

provided, however, that the foregoing does not limit the liability of COUNTY, if any, for damages which:

- (A.) are not for a breach of this Agreement or which do not arise under this Agreement;
- (B.) are not with respect to any right or interest conveyed or provided hereunder or pursuant hereto, and
- (C.) do not arise out of or which are not connected with any dispute, controversy or issue regarding the application, interpretation or effect of the provisions of this Agreement to, on or the application of, any Regulation of COUNTY.

Without limiting the generality of the foregoing, and as an example, in the event that COUNTY refuses to issue building permits under and in accordance with a Vesting Tentative Map issued by COUNTY, OWNER would be entitled to whatever remedies at law or in equity which are available, including, if available under law, the right to monetary damages.

11.2 Termination of Agreement for Default by OWNER.

COUNTY in its discretion may terminate this Agreement for any failure of OWNER to perform any material duty or obligation of OWNER under, or to comply in good faith with the terms and conditions of this Agreement (hereinafter referred to as "default"); provided however, COUNTY may terminate this Agreement pursuant to this Section only after providing written notice to OWNER of the default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where the default can be cured,

OWNER has failed to take such actions and cure such default within sixty (60) days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time has failed to commence the actions necessary to bring itself into compliance as required and to diligently pursue such steps to completion.

11.3 Termination of Agreement for Default of COUNTY. OWNER in its discretion may terminate this Agreement by written notice to COUNTY after the default by COUNTY in the performance of a material term of this Agreement and only after notice by OWNER thereof to COUNTY and, where the default can be cured, the failure of COUNTY to cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period, the failure of COUNTY to commence to cure such default within such 60 day period and to diligently proceed to complete such actions and to cure such default.

11.4 Specific Performance. The parties acknowledge that monetary-damages and remedies at law generally are inadequate due, in part, to the size, nature and scope of the Project, it will not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun and specific performance is a particularly appropriate remedy for the enforcement of this Agreement and should be available to both parties based on the following reasons and facts:

- (i) the unavailability of monetary damages against COUNTY provided in Section 11.1 hereinabove;
- (ii) OWNER's Obligations provided for in the Agreement were bargained for by COUNTY and given in return for assurances by COUNTY to OWNER regarding the, Existing Regulations (except as specified to the contrary herein) applicable to the Development of the Property, which assurances were in turn relied upon by OWNER in undertaking OWNER's Obligations;
- (iii) Due to the size, nature and scope of the Project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun; after such implementation, OWNER may be foreclosed from other choices it may have had to utilize the Property, or portions thereof, and to provide other benefits to the COUNTY. OWNER has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sums of money which would adequately compensate OWNER for such efforts;
- (iv) The inability of OWNER to recover and receive back its capital investment in the Public Facilities to be provided to COUNTY as part of OWNER's Obligations and to re-plan and provide for different uses of the Property once such facilities and infrastructure have been completed;

(v) The use of the Property for the purposes and uses described in the Development Plan is unique; and.

(vi) The critical public need and concern regarding a better balance between jobs and housing in the region and residential housing in the COUNTY and the Public Facilities and other major facilities and infrastructure to be provided by OWNER as part of OWNER's Obligations as well as for the benefits that can be obtained from the long-term and comprehensive planning and stability contemplated by the Development Agreement Legislation.

Further, the parties acknowledge that for the reasons set forth above (particularly because of the lack of monetary damages available to OWNER), in connection with any judicial proceeding regarding the performance of this Agreement, rights, or the interests and duties of the parties hereunder, including a proceeding pursuant to Section 11.5, it is appropriate for, and the parties shall cooperate in requesting (whether by stipulations or otherwise) the court with jurisdiction to proceed expeditiously and to retain jurisdiction until the underlying conflict or dispute has been fully resolved.

11.5 Appointment of Referee. As an alternative procedure hereunder, a party initiating-legal action hereunder may request that such action be heard by a reference from the Orange County Superior Court pursuant to the reference procedures of California Code of Civil Procedure Sections 638, et seq. OWNER and COUNTY, in such case, shall use their best efforts to agree upon a single referee who shall then try all issues, whether of fact or law, and report a finding and judgment thereon and issue all legal and equitable relief appropriate under the circumstances of the controversy before him. If OWNER and COUNTY are unable to agree upon a referee within ten (10) days of a written request to do so by either party, either party may seek to have a referee appointed pursuant to Section 640 of the California Code of Civil Procedure. The cost of such proceeding (exclusive of the attorneys fees and cost of the parties) shall be borne equally by the parties. Any referee selected pursuant to this Section 11.5 shall be considered a temporary judge appointed pursuant to Article 6, Section 21 of the California Constitution. In the event that an alternative method of resolving disputes concerning the application, enforcement or interpretation of development agreements is provided by legislative or judicial action after the Effective Date, the parties may, by mutual agreement, select such alternative method.

11.6 Estoppel Certificates. Either party may at any time deliver written notice to the other party requesting an estoppel certificate (the "Estoppel Certificate") stating:

11.6.1 The Agreement is in full force and effect and is a binding obligation of the parties;

11.6.2 The Agreement has not been amended or modified either orally or in writing or, if so amended, identifying the amendments;

11.6.3 That there has been no default in the performance of the requesting party's obligations under the Agreement or, if a default does exist, the

nature and amount of any default. A party receiving a request for an Estoppel Certificate shall provide a signed certificate to the requesting party within thirty (30) days after receipt of the request. The Director of the COUNTY's Planning and Development Services Department or its designee may sign Estoppel Certificates on behalf of the COUNTY. Any officer of OWNER may sign on behalf of OWNER. An Estoppel Certificate may be relied on by assignees, transferees and mortgagees of OWNER. In accordance with Section 11, COUNTY shall have no liability for monetary damages to OWNER, any assignee, transferee or mortgagee or any other person in connection with, resulting from or based upon the issuance of any certificate hereunder.

11.5.4 In the event that one party requests an Estoppel Certificate from the other, the requesting party shall reimburse the other party for all reasonable and direct costs and fees incurred by such party with respect thereto, including reasonable attorney's fees.

12. THIRD PARTY LITIGATION.

12.1 General Plan Litigation.

a. Litigation. As set forth above, COUNTY has determined that this Agreement is consistent with the General Plan and that the General Plan meets all of the legal requirements of State law. OWNER has reviewed the General Plan and concurs with COUNTY's determination. The parties acknowledge that:

(i) Presently there is no litigation challenging the legality, validity and adequacy of certain provisions of the General Plan;

(ii) In the future there may be other similar challenges to provisions of the General Plan-as well as others; and

(iii) If successful, such challenges could delay or prevent the performance of this Agreement and the Development of the Property.

(iv) In addition to the other provisions of this Agreement, including, without limitation, the provisions of Section 11, COUNTY shall have no liability under this Agreement for any failure of COUNTY to perform under this Agreement or the inability of OWNER to develop the Property as contemplated by the Development Plan or this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

b. Revision of General Plan. If for any reason the General Plan or any part thereof is hereafter judicially determined as provided above to be

invalid or inadequate or not in compliance with the State or federal Constitutions, laws or regulations, this Agreement shall remain in full force and effect and upon the adoption or amendment of any General Plan provision which is necessary in order to comply with State or federal Constitutions, laws or regulations to cure such invalidity or inadequacy, together with any amendments of the Development Plan and the Land Use Regulations which are necessary in order to comply with the portions of such new or revised General Plan which are necessary to avoid the invalidation of this Agreement, the reference in Section 4 to the General Plan shall thereafter mean and refer to such portions of the new or amended General Plan and such amendments in the Development Plan and Land Use Regulations.

c. Suspension of obligations. In the event that Development of the Property is enjoined or prevented from proceeding by any judicial order or determination in connection with the determinations regarding the General Plan referred to above and the subsequent proceedings with respect thereto referred to in paragraph b. of this Section, the time for performance of the obligations of the parties hereunder shall be extended as provided in Section 15.11.

d. Option to Terminate. In the event that any such amendments of the General Plan or the Development Plan or Land Use Regulations result in a reduction in the number of units or the density or intensity, or timing, sequencing or phasing of Development or otherwise adversely impact the reasonable investment based Economic Expectations of OWNER in connection with the Project, OWNER may terminate this Agreement by notice in writing to COUNTY and recorded in the official records of COUNTY.

13. EFFECT OF AGREEMENT ON TITLE.

and 14:
13.1 Covenants Run With The Land. Subject to the provisions of Sections 6

(i) All of the provisions, agreements, rights, powers, standards, terms, Covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring any rights or interests in the Property, or any portion thereof, whether by operation of laws or in any manner whatsoever and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns;

(ii) All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law;

(iii) Each covenant to do or refrain from doing some act on the Property hereunder (A) is for the benefit of and is a burden upon every portion of the Property, (B) runs with such lands and (C) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any owner of such lands, or any portion thereof, and shall benefit each party and its lands hereunder, and each other person succeeding to an interest in such lands.

Notwithstanding any of the foregoing or in this Agreement to the contrary, any assignee or transferee or Mortgagee which acquires any right or interest in or with respect to the Property or any portion thereof shall take and hold such rights and interests subject to this Agreement and shall not have been deemed to have assumed the OWNER's Obligations of the other affirmative duties and obligations of OWNER hereunder except:

(i) To the extent that any of such assignees, transferees or mortgagees have expressly assumed any of the duties or obligations of OWNER hereunder;

(ii) If any such assignee, transferee or mortgagee accepts, holds, or attempts to exercise or enjoy the rights or interests of OWNER hereunder, it shall have assumed the obligations of OWNER under Sections 3 and 11; and

(iii) To the extent that the performance of any duty or obligation by OWNER is a condition precedent to the performances of a covenant by COUNTY, it shall continue to be a condition to COUNTY's performance hereunder.

13.2 No Dedication or Lien. Nothing herein shall be construed as a dedication or transfer of any right or interest in, or as creating a lien with respect to, the title to the Property.

13.3 Termination Upon Final Sale. As provided in Section 6.2, without the requirement of any further writing or action on the part of any party hereto, this Agreement shall terminate as to specific lots as provided therein.

14. MORTGAGEE PROTECTION: CERTAIN RIGHTS OF CURE.

14.1 Mortgagee Protection. This Agreement shall be, superior and senior to any lien placed upon the Property, or any portion thereof, including the lien of any Mortgage. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value and any acquisition or acceptance of title or any right or interest in or with respect to the Property, or any portion thereof, by a Mortgagee (whether under or pursuant to a Mortgage, foreclosure, trustee's sale, deed in lieu of

foreclosure, or otherwise), shall be subject to all of the terms and conditions contained in this Agreement.

14.2 Mortgagee Not Obligated. Notwithstanding the provisions of Section 14.1 above, no Mortgagee shall have an obligation or duty under this Agreement to perform Owner's Obligations or other affirmative covenants of OWNER hereunder, or to guarantee such performance; except that to the extent that any covenant to be performed by OWNER is a condition to the performance of a covenant by COUNTY, the performance thereof shall continue to be a condition precedent to COUNTY's performance hereunder.

14.3 Notice of Default to Mortgagee: Right of Mortgagee to Cure. If COUNTY receives notice from a Mortgagee requesting a copy of any notice of, default given OWNER hereunder and specifying the address for service thereof, and records a copy of each request in the official records of COUNTY in the manner required under Civil Code Section 2924b with respect to Requests for Notices of Default, then COUNTY shall deliver to such Mortgagee, concurrently with service thereon to OWNER, any notice given to OWNER with respect to any claim by COUNTY that OWNER has not complied in good faith with the terms of this Agreement or has committed an event of default. Each Mortgagee shall have the right (but not the obligation) for a period of ninety (90) days after the receipt of such notice from COUNTY to cure or remedy, or to commence to cure or remedy, the claim of default or noncompliance set forth in the COUNTY's notice. If the default is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee shall seek to obtain possession with diligence and continuity through foreclosure, a receiver or otherwise, and shall thereafter remedy or cure the default or noncompliance within thirty (30) days after obtaining possession. If any such default or noncompliance cannot, with diligence, be remedied or cured within such thirty (30) day period, then such Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such default or noncompliance if such Mortgagee commences cure during such thirty (30) day period, and thereafter diligently pursues and completes such cure.

14.4 Bankruptcy. Notwithstanding the foregoing provisions of Section 14, if any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving OWNER, the times specified in Section 14.3 for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition, provided that such Mortgagee is proceeding expeditiously to terminate such prohibition and in no event for a period longer than one year.

15. MISCELLANEOUS PROVISIONS.

15.1 Recordation of Agreement. This Agreement and any amendment or cancellation hereof shall be recorded in the Official Records of COUNTY by the Clerk of the Board of Supervisors within the period required by Section 65868.5 of the Government Code.

15.2 Entire Agreement. This Agreement, with its exhibits, sets forth and contains the entire understanding and agreement of the parties and there are no oral or written

representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement. The exhibits are incorporated herein by this reference.

15.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.

15.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

15.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

15.6 Singular and Plural. As used herein, the singular of any word includes the plural.

15.7 Joint and Several Obligations. If any obligation of OWNER hereunder to COUNTY is the obligation of more than one person, such obligation and any liability with respect thereto shall be joint and several among the obligees.

15.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

15.9 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

15.10 No Third Party Beneficiaries. The only parties to this Agreement are OWNER and COUNTY. There are no third party beneficiaries this under Agreement

15.11 Force Maieure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond such party's control, government regulations, court actions (such as restraining orders or injunctions) or other causes beyond such party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder shall be extended by the period of time that such events prevented such performance provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years or for a period which would cause this Agreement or provisions hereof to be void as violating the rule against perpetuities.

15.12 Attorneys Fees. In any action or undertaking to enforce the provisions of this Agreement, each of the parties hereto shall bear its own attorneys fees.

15.13 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

15.14 Notices. Any notice required or provided for under this Agreement shall be in writing and delivered in person to an officer of any party, or sent by Federal Express, private commercial delivery or courier service for next business day delivery, or may be deposited in the United States mail, duly certified or registered, return receipt requested, with postage prepaid, and addressed to the party for whom intended, as follows:

If to COUNTY:

Orange County Board, of Supervisors
10 Civic Center Plaza
Santa Ana, California 92701
Attn: Clerk of the Board
FAX: (714) 834-4439
Phone: (714) 834-3453

Director of Planning & Development Services
300 N. Flower St.
P.O. Box 4048
Santa Ana, CA 92702-4048
FAX: (714) 834-2771

If to OWNER:

Nuevo Energy Company
1021 Main Street, Suite 2100
Houston, Texas 77002
Attn: David Leach
FAX: (713) 374-4899
Telephone: (713) 374-4802

with a copy to:

William P. Tanner, Esq.
Nossaman, Guthner, Knox & Elliott, LLP
18101 Von Karman Avenue, Suite 1800
Irvine, California 92612
FAX: (949) 833-7878
Telephone: (949) 833-7800

John Ullom

Ullom & Associates
16149 Redmond Way, Suite 401
Redmond, Washington 98052
FAX: (425) 836-2870
Telephone: (425) 836-2728

Notice may also be given by facsimile transmission ("Fax") to any party at the respective Fax number given above and marked "RUSH - PLEASE DELIVER IMMEDIATELY," provided receipt of such transmission shall be confirmed by follow-up notice within seventy-two (72) hours by another method authorized above. Any party hereto may from time to time, by written notice to the other party as required herein, designate a different address which shall be substituted for the one above specified. Notice by any method shall be deemed served or delivered only upon actual receipt at the address or Fax number listed above. Any notice given as required herein shall be deemed given seventy-two (72) hours after deposit in the United States mail or upon receipt.

15.15 Annexation and Other Permits. COUNTY also agrees to assist and cooperate with Nuevo in completing any annexation implemented and approved by a majority of individual homeowners on the Property, but will not support or assist any such annexation movement attempted by a Transferee, developer(s) and/or homeowner's association, unless specifically requested to do so by Nuevo in writing; and in securing any COUNTY, State and Federal permits or authorizations which may be required in connection with development of the Project.

15.16 Successors and Assigns. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

15.17 Counterparts. This Agreement may be executed by the parties in counterparts which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

15.18 Conveyances. Conveyances of the Property or portions thereof, including without limitation Open Space Areas, required or permitted pursuant to the terms of this Agreement shall not include any portion (or all) of the oil, gas and other hydrocarbon substances or water or other minerals, of every type and nature, in, under or on the Property.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

OWNER: NUEVO ENERGY COMPANY

By: George B. Nilsen *DNK*
George B. Nilsen

Its: Senior Vice President, Strategic
Planning and Asset Management

COUNTY:

THE COUNTY OF ORANGE, CALIFORNIA, a
political subdivision of the State of California

By: Cynthia P. Cook
Chair, Board of Supervisors

Attest:

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED TO
THE CHAIRMAN OF THE BOARD.

By: Darlene J. Bloom 
DARLENE J. BLOOM

Clerk of the Board of Supervisors, County of
Orange, California

APPROVED AS TO FORM:

BENJAMIN P. DE MAYO, County Counsel
ORANGE COUNTY, CALIFORNIA

By: Roger P. Freeman
Roger P. Freeman, Deputy

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

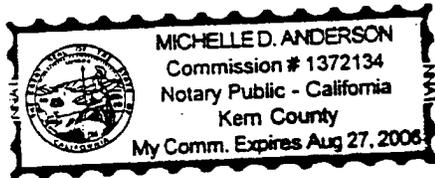
State of California }
County of Kern } ss.

On December 4, 2002 before me, Michelle D Anderson Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared George B Wilson
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Michelle D. Anderson
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

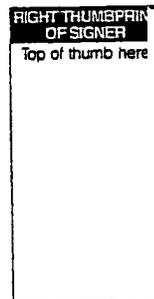


EXHIBIT A

Description of Property

BOUNDARY DESCRIPTION

THOSE PORTIONS OF THE RANCHO SAN JUAN CAJON DE SANTA ANA, IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, AND THE CITY OF BREA, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA AS SHOWN ON A RECORD OF SURVEY OF THE NORTHEASTERLY PORTION OF THE RANCHO SAN JUAN CAJON DE SANTA ANA, FILED IN BOOK 12 PAGE 40 OF RECORDS OF SURVEY IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH A PORTION OF LAND DESCRIBED IN A DEED, BILL OF SALE AND ASSIGNMENT, RECORDED APRIL 10, 1996 AS INSTRUMENT NO. 19960175928 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER, BOTH BEING SHOWN ON RECORD OF SURVEY NO. 91-1007 FILED IN BOOK 133, PAGES 41 THROUGH 46 INCLUSIVE, OF RECORDS OF SURVEYS AND RECORD OF SURVEY NO. 2001-1007, FILED IN BOOK 187, PAGES 02 THROUGH 07 INCLUSIVE, OF RECORDS OF SURVEYS BOTH IN THE OFFICE OF SAID COUNTY RECORDER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THOSE PORTIONS OF SECTIONS 1 AND 12, TOWNSHIP 3 SOUTH, RANGE 10 WEST AND SECTIONS 5, 6, 7 AND 8, TOWNSHIP 3 SOUTH, RANGE 9 WEST, IN THE RANCHO SAN JUAN CAJON DE SANTA ANA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 7 OF MISCELLANEOUS MAPS, IN THE OFFICE OF SAID COUNTY RECORDER, DESCRIBED AS FOLLOWS:

BEGINNING AT A WHITE POST 4 INCHES SQUARE IN MOUND WITH PITS AT THE NORTHEAST CORNER OF THE RANCHO SAN JUAN CAJON DE SANTA ANA, BEING ALSO THE SOUTHEAST CORNER OF THE RANCHO RINCON DE LA BREA; THENCE ALONG THE PATENT BOUNDARY OF SAID RANCHO RINCON DE LA BREA, NORTH 84° WEST 107.51 CHAINS TO A SAND STONE MARKED R. B. IN MOUND WITH PITS; THENCE ALONG SAID PATENT BOUNDARY NORTH $57^{\circ} 42'$ WEST 43.67 CHAINS TO A WHITE POST 4 INCHES SQUARE IN MOUND OF STONE MARKED S. J. C. S. A. AT INTERSECTION OF THE PATENT LINES OF SAID RANCHOS SAN JUAN CAJON DE SANTA ANA AND RINCON DE LA BREA; THENCE ALONG THE PATENT LINE OF SAID RANCHO SAN JUAN CAJON DE SANTA ANA, NORTH $76^{\circ} 25'$ WEST 62.67 CHAINS TO A 2" X 4" POST MARKED 62.67 IN MOUND WITH PITS; THENCE SOUTH $1^{\circ} 45'$ WEST 58.96 CHAINS TO A 2" X 4" POST MARKED 20.60 IN MOUND WITH PITS; THENCE NORTH 89° EAST 20.00 CHAINS TO A 4" X 4" POST IN MOUND WITH PITS; THENCE SOUTH $1^{\circ} 45'$ WEST 20.00 CHAINS TO A 2" X 4" POST MARKED 20.60 IN MOUND WITH PITS; THENCE NORTH $88^{\circ} 39'$ EAST 55.48 CHAINS TO A 2" X 4" POST MARKED 20 IN MOUND WITH PITS; THENCE SOUTH $0^{\circ} 30'$ EAST 20.00 CHAINS TO A 2" X 4" POST IN MOUND WITH PITS; THENCE NORTH $89^{\circ} 45'$ EAST 134.63 CHAINS TO A 2" X 4" POST MARKED 40.10 IN MOUND WITH PITS UPON THE EASTERN BOUNDARY OF SAID RANCHO SAN JUAN CAJON DE SANTA ANA; THENCE ALONG SAME NORTH 4° WEST 47.51 CHAINS TO THE PLACE OF BEGINNING.

TOGETHER WITH PARCEL 1 OF A COUNTY OF ORANGE LOT LINE ADJUSTMENT NO. LL 2000-054, RECORDED AUGUST 13, 2001 AS INSTRUMENT NO. 20010557229 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM THE WESTERLY 200 ACRES OF THE ABOVE DESCRIBED TRACT.

ALSO EXCEPTING THEREFROM ANY PORTION LYING NORTHERLY OF THE AGREED BOUNDARY LINE AND BOUNDED WESTERLY BY LINE, RUNNING NORTH $28^{\circ} 30'$ EAST FROM THE WESTERN TERMINUS OF SAID LINE AS ESTABLISHED BY AGREEMENT BETWEEN THE UNION OIL COMPANY OF CALIFORNIA AND THE GRAHAM-LOFTUS OIL COMPANY, RECORDED JUNE 10, 1905 IN BOOK 120, PAGE 223 OF DEEDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM PARCELS A6471-4, A6471-5, A6471-6 AND A6471-7 OF THAT CERTAIN FINAL ORDER OF CONDEMNATION, SUPERIOR COURT CASE NO. 156220, A CERTIFIED COPY OF WHICH WAS RECORDED SEPTEMBER 29, 1970 IN BOOK 9417, PAGE 364 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA RECORDED FEBRUARY 10, 1967 IN BOOK 8173, PAGE 641 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA RECORDED FEBRUARY 10, 1967 IN BOOK 8173, PAGE 647 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM ANY PORTION LYING SOUTHERLY OF THE CITY OF BREA ANNEXATION NO. 86-1, RECORDED DECEMBER 26, 1986, AS INSTRUMENT NO. 86-642752 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM ANY PORTION LYING EASTERLY OF THE CITY OF BREA ANNEXATION NO. RO96-02, RECORDED OCTOBER 02, 1996 AS INSTRUMENT NO. 1996053838 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

ALSO EXCEPTING THEREFROM THE ANY PORTION LYING WITHIN THE FOLLOWING PARCEL OF LAND

BEGINNING AT A POINT ON THE NORTHERLY LINE OF PARCEL 1 OF PARCEL MAP NO. 86-243, FILED IN BOOK 214, PAGES 28 THROUGH 31 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER, SAID POINT BEING THE SOUTHERLY TERMINUS OF A COURSE SHOWN AS " N 23°26'07"W 490.71' " ON SAID PARCEL MAP;

THENCE ALONG SAID NORTHERLY LINE NORTH 23°26'08" WEST 308.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID NORTHERLY LINE THE FOLLOWING COURSES:
NORTH 23°26'08" WEST 182.71 FEET,
NORTH 60°42'49" WEST 177.75 FEET,
NORTH 10°33'18" EAST 381.48 FEET AND
NORTH N70°17'56" WEST 621.18 FEET;

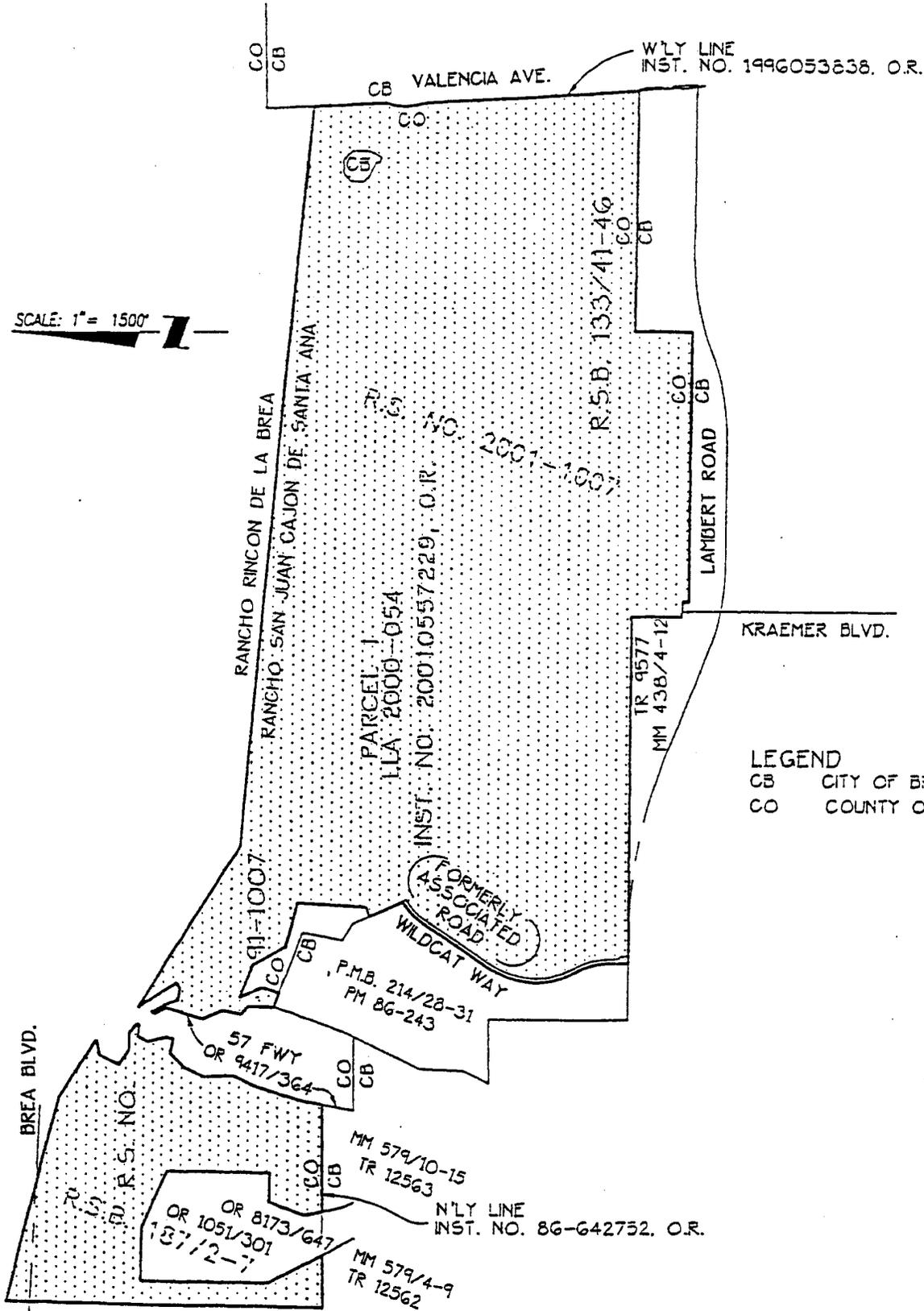
THENCE LEAVING SAID NORTHERLY LINE NORTH 18°00'00" EAST 175.00 FEET;
THENCE NORTH 25°00'00" WEST 237.00 FEET;
THENCE SOUTH 68°00'00" EAST 338.00 FEET;
THENCE SOUTH 30°00'00" EAST 356.00 FEET;
THENCE SOUTH 76°00'00" EAST 435.00 FEET;
THENCE SOUTH 03°00'00" WEST 650.00 FEET;
THENCE SOUTH 71°08'27" WEST 95.87 FEET TO THE TRUE POINT OF BEGINNING.

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

THE ABOVE DESCRIPTION IS FOR PLANNING PURPOSES ONLY

BOUNDARY DEPICTION

SCALE: 1" = 1500'



LEGEND
 CB CITY OF BREA CITY LIMITS
 CO COUNTY OF ORANGE COUNTY LIMITS

PREPARED BY:
 THE KEITH COMPANIES, INC.
 2955 REDHILL AVENUE
 COSTA MESA, CA. 92626
 TEL: (714) 540-0800



EXHIBIT B

Existing Development Approvals

SP 91038A (Site Plan)	9-13-91
PA 940109 (Use Permit)	1-31-95
PA 970025 (Use Permit)	2-03-98
PA 990115 (Site Plan)	9-28-99
CP 010028 (Change Plan)	6-09-01

EXHIBIT C

Memorandum of Understanding

TONNER HILLS
MEMORANDUM OF UNDERSTANDING

December 10, 2002

This Memorandum of Understanding (MOU) is entered into by and among the County of Orange (County), the City of Brea (City), and Nuevo Energy Company (Nuevo), regarding the development of the proposed Tonner Hills Planned Community (THPC). THPC consists of 789-acres of unincorporated territory that is within the City's sphere of influence as determined by the Local Agency Formation Commission (LAFCO).

WHEREAS, County, City, and Nuevo have been negotiating regarding the orderly planning, development, and annexation of the proposed THPC property, as depicted in the THPC Plan (Exhibit 1), and have reached a point where the parties hereto feel it is necessary to embody their agreement and understanding into a written MOU; and

WHEREAS, the parties intend that the THPC will be annexed into the City when the THPC is developed.

NOW, THEREFORE, in consideration of the above statements, and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

- 1.1 The Tonner Hills Planned Community (THPC) Plan, consisting of the THPC Development Map and Statistical Summary Table, Development Regulations and Tonner Hills Area Plan, as identified in Exhibit 1 and incorporated herein by reference, shall be the basis of the County's recommended Planned Community development plan for the THPC property.

- 1.2 The parties agree that discretionary development approvals by the County shall conform to the standards and procedures established by the THPC Plan approved by the County. The County and Nuevo agree to incorporate into discretionary approvals the City's codified standards in effect on August 20, 2002, as identified in Exhibit 2, provided that wherever there is a conflict between Exhibit 1 and Exhibit 2, County actions shall comply with Exhibit 1. The THPC Regulations shall require that all discretionary permits be submitted to the City for review and comment 30 days prior to action as provided for in the County Zoning Code, Section 7-9-150.3(b). However, the County shall retain its independent land use authority, and while County agrees to consider City's comments, County shall not be required to comply with City's comments. Where the County does not comply with City's comments, the THPC Development Regulations shall provide for an appeal by the City to the Board of Supervisors.

- 1.3 The Parties shall enter into a THPC Pre-Annexation Agreement (Agreement) that requires Nuevo, on or before January 30, 2003, to file all necessary applications with LAFCO for annexation of THPC to the City and provides for County to retain all planning, zoning, subdivision, grading, building permit, inspection, and CEQA authority until issuance of the last Certificate of Use and Occupancy for THPC. Said Agreement shall be executed by the Parties hereto on or before January 15, 2003, or the issuance of encroachment or other permits by the City to connect THPC water and/or sewer facilities to City facilities, whichever occurs first. This MOU and the Agreement are predicated on the establishment of public streets for the project and City of Brea as the preferred provider of water and sewer service. If the City is not legally capable of providing public services under acceptable terms established in the Agreement, Nuevo Energy shall be free to connect THPC water and sewer facilities to alternative water and/or sewer providers and City hereby agrees to grant encroachment permits for connections of THPC streets to City highways and streets.
- 1.4 The Pre-Annexation Agreement shall be consistent with this MOU, provided however the Agreement may include additional elements meeting the approval of the Parties.
- 1.5 County and Nuevo shall enter into a Development Agreement pursuant to Governmental Code Section 65866 under which Nuevo's rights to develop the THPC are vested in accordance with California statute and case law. The Development Agreement shall require that, in the event that the City fails to execute a Pre-Annexation Agreement, Nuevo shall submit to LAFCO an application for a phased annexation, if possible, of each THPC Planning Area as it is completed, provided, however, that the annexation of any Planning Area shall not be deemed complete and final unless and until development is completed in that Planning Area. For annexation purposes, development shall be considered complete when all of the Certificates of Use and Occupancy have been issued for that Planning Area.
- 1.6 Prior to recordation of each phase of the annexation, County shall be entitled to collect and keep any processing or development fees required by County for all THPC planning and development permits or approvals. The City of Brea shall receive a flat payment of \$10,000 per Planning Area for processing of Planning

Areas 1-6 and \$3,500 for Planning Area 7. Payment of processing fee for each area is due to the City of Brea upon first submittal of plans for review.

- 1.7 The City shall be entitled to collect and keep Development Nexus Fees and fire equipment exactions as provided for in the Pre-Annexation or Development Agreement.
- 1.8 City agrees that County and/or Brea Olinda Unified School District and Nuevo may enter into Development Agreements, Community Facility Districts and/or Assessment Districts relating to implementation of the THPC.
- 1.9 The Parties agree not to file lawsuits or to directly or indirectly support litigation filed by others, either as a party, through financial contributions, providing staff support, or by failing to defend such litigation, that challenges the adequacy of the THPC Final EIR, the City's General Plan Update and Final EIR, this MOU or the Pre-Annexation Agreement identified in Section 1.3 above.
- 1.10 The parties agree that the THPC will comply with the City's affordable housing program in effect on August 20, 2002, provided, however, that the County shall be entitled to credit toward County's RHNA allocation and Housing Element compliance for all affordable units or other measures generated by compliance with the City's program. The City of Brea shall manage the affordable housing program for the THPC.
- 1.11 Nuevo, or its successor in ownership, shall provide the City of Brea at least 270 days notice prior to commencement of grading activities of Phase Two of the Tonner Hills development. The City has expressed interest in acquiring all or part of the Phase Two area, and; during this period an offer to purchase all or any portion of the Phase Two development area would be entertained by Nuevo Energy Company or its successor in ownership.

COUNTY:

BY:

Cynthia P. Coad

Cynthia P. Coad, Board Chair

Date:

12/10/02

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE BOARD CHAIR:

By:

Jan Nook

Darlene J. Bloom, Clerk of the Board of Supervisors

APPROVED AS TO FORM:



Benjamin P. de Mayo, County Counsel

By:

Benjamin P. de Mayo

, Deputy

CITY:

BY:

Bev Perry

Bev Perry, Mayor

Date:

2/4/03

ATTEST:

By:

Elaine M. Capps

Elaine M. Capps, City Clerk

APPROVED AS TO FORM:

By:

James L. Markman

James L. Markman, City Attorney

Nuevo Energy:

By:

George B. Wilson

Its: Senior Vice President

DAZ

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EXHIBIT 1

THE TONNER HILLS PLANNED COMMUNITY
DEVELOPMENT MAP AND STATISTICAL SUMMARY TABLE,
DEVELOPMENT REGULATIONS, AND AREA PLAN

EXHIBIT 2

CITY OF BREA STANDARDS, GUIDELINES AND POLICIES
APPLICABLE TO THE TONNER HILLS PLANNED COMMUNITY

1. Sections of the Brea Municipal Code effective August 20, 2002 that applicable to the THPC, including Title 2 (Administration and Personnel (specific to applicability of PRHS Commission and Park issues), Title 10 (Vehicles and Traffic), Title 12 (Streets, Sidewalks and Public Property), Title 13 (Utilities), Title 15 (Building and Construction Safety), Title 16 (Fire Safety), Title 18 (Subdivisions and Floodplain Management), and Title 20 (Zoning Code).
2. Sections of the City of Brea General Plan effect August 20, 2002, including Parks, Recreation, and Human Services Element and its applicability to park needs and design.
3. The 2001 California Building Standards Code with local amendments (Brea Ord. 1060 (Building) and 1061 (Fire) approved by the City as of November 2002.

EXHIBIT D

BENEFITS TO COUNTY AND ITS RESIDENTS

The public benefits to be received by COUNTY and its residents as a result of this Agreement include, without limitation, the following:

A. Parkland

OWNER shall irrevocably offer to dedicate, in a manner meeting the approval of County Counsel and Manager, PFRD/Harbors, Beaches and Parks Division, to COUNTY, or its successor, assignee, or designee, 14.6 acres of parkland (as reflected on the Tonner Hills Planned Community Development Plan). OWNER shall fully improve the park to include both passive and active public park uses. Park improvements may include, but are not limited to, rough and finished grading; installation of landscaping; baseball field or fields, soccer field or fields, field layout, turf, irrigation systems, backstops, fences, goal posts and nets, benches, sidewalks, restrooms, parking facilities and related equipment. In addition, OWNER shall ensure that all significant structures, healthy trees and landscaping within the existing fifty year old private park are preserved. OWNER shall provide financial security in a form acceptable to County Counsel for the park improvements, in an amount commensurate with the conceptual park plans, prior to the issuance of the first residential building permit.

The OWNER's irrevocable offer to dedicate the park land and park improvements phasing shall be in accordance with Exhibit E (Project Phasing Plan) to this agreement. OWNER shall pay for all fees for development processing and permit issuance, and inspection services provided through the COUNTY, or its successor.

B. Rehabilitation of the Property

OWNER shall comply with all mitigation measures set forth in EIR 581, including but not limited to, those addressing the remediation of soil and rehabilitation of the Property. OWNER shall pay all costs associated with remediation and rehabilitation activities, including but not limited to the remediation of crude oil waste products associated with the oil production, the decommissioning and/or upgrading of existing facilities, inspections and oversight by government officials of responsible County, State and Federal agencies. OWNER shall complete all remediation and rehabilitation activities per phase prior to the issuance of the first residential building permit for each respective phase of development. OWNER acknowledges that until rehabilitation activities are underway the full extent of the environmental damage and needed remediation and rehabilitation activities cannot be determined. Consequently, OWNER agrees to be fully responsible for all rehabilitation costs known and unknown at the time of execution of this Agreement. Furthermore, OWNER

agrees to indemnify and hold COUNTY harmless for exposure by Nuevo employees, contractors, personnel, agents as well as visitors, park users, and future and existing residents, to any and all toxic substances and environmental hazards on the Property prior to, during, and after completion of all remediation, rehabilitation and construction activity.

C. Preservation of Cable Canyon

OWNER shall be responsible for preservation of Cable Canyon including all costs associated with the preservation of the canyon, pursuant to the Resource Management Plan (RMP), as required by the Tonner Hills Area Plan. Preservation work shall include, but is not limited to, preservation of the ephemeral stream; removal of non-native botanical species and re-vegetation with native species; and removal of certain historical non-operational oil operations facilities. OWNER shall complete all preservation work prior to the issuance of the first residential building permit or provide financial security in a form acceptable to the COUNTY and execute an improvement agreement with the County in a manner meeting approval of County Counsel. In any event all preservation work shall be completed prior to the issuance of the 250th residential building permit.

D. Preservation of Tonner Creek

OWNER shall be responsible for preservation of Tonner Creek and adjacent lands in the north of the Property including all costs associated with the preservation of the creek and adjacent lands. Preservation work shall include, but is not limited to, the re-vegetation of approximately two and one-half acres adjacent to the creek, pursuant to the RMP, as required by the Area Plan. OWNER shall complete all preservation work prior to the issuance of the first residential building permit or provide financial security in a form acceptable to the COUNTY and execute an improvement agreement with the County in a manner meeting approval of County Counsel. In any event all preservation work shall be completed prior to the issuance of the 250th residential building permit.

E. Open Space

OWNER shall irrevocably offer to dedicate to County or its designee 560 acres (over 71% of the Property) for open space, recreation and habitat preservation uses pursuant to the RMP in a manner meeting the approval of County Counsel. OWNER shall also irrevocably offer to dedicate to COUNTY a conservation and recreation easement for said acreage. The offers of dedication shall be provided prior to the issuance of the first residential building permit for the Property.

OWNER shall complete all habitat restoration work required by the RMP to ensure the open space lands remain a viable habitat for the California Gnatcatcher.

F. Trails

OWNER shall irrevocably offer to dedicate to the COUNTY or its successor, the Tonner Ridge Trail connecting Wildcat Way with Valencia Avenue in a manner meeting the approval of County Counsel and Manager, PFRD/Harbors, Beaches and Parks Division. The dedication shall include a minimum of twenty-six feet of right-of-way. The trail shall be fully improved by OWNER as a multi-use trail. The Tonner Ridge Trail will provide access from Brea-Olinda High School to the future site of the Olinda-Olinda Alpha Landfill Park. OWNER shall complete trail improvements and dedicate the Toner Ridge Trail prior to issuance of building permits for Phase II of residential development (per Exhibit E). Prior to issuance of the first residential building permit, OWNER shall provide financial security in a form acceptable to the COUNTY and execute an improvement agreement to ensure completion of the requisite trail improvements.

G. Wildlife Corridor

OWNER shall rehabilitate a wildlife corridor through the critical Tonner Creek corridor linkage on the north side of the Property consistent with the RMP and the Area Plan. OWNER shall irrevocably offer to dedicate the wildlife corridor in fee to the COUNTY or its designee, in a manner meeting the approval of County Counsel. The wildlife corridor will preserve and expand the existing east-west corridor crossing under State Route 57. OWNER shall irrevocably offer to dedicate the wildlife corridor prior to the issuance of the first residential building permit on the Property.

H. Integrated Greenbelt System

OWNER shall provide, in conjunction with development of the Property, a fully integrated greenbelt system through the Property consisting of landscaped parkways and greenbelts linking the internal collector streets with external collector streets, the Brea-Olinda High School, Olen Pointe and the Tonner Ridge Trail. OWNER shall provide walkways and bicycle paths on the Property to facilitate bicycle and pedestrian movement within the Property. OWNER shall implement the integrated greenbelt system consistent with the Tonner Hills Area Plan.

I. Bikeways

OWNER shall construct a Class One bikeway adjacent to the internal collector roads on the Property concurrent with each phase of development. These off-road trails are in addition the mountain bike trail provided in the multi-use Tonner Ridge Trail. This trail system will provide access between each neighborhood within the Property and access to the Brea-Olinda High School, Olen Pointe, Valencia Avenue and Kraemer Boulevard. Prior to the issuance of the first

residential building permit for each phase of development, OWNER shall provide to County financial security in a form acceptable to County Counsel to ensure completion of the requisite bikeway.

J. Schools

OWNER shall irrevocably offer to dedicate approximately one-half acre of land to the Brea Olinda Unified School District (School District), free of all liens and incumbrances, for the expansion of the high school parking lot, prior to the issuance of the first building permit. The offer of dedication will exclude OWNER's mineral interests below 500 feet from the surface. The land shall be provided to the School District at no cost to the School District for the expansion of the existing high school parking lot.

K. Affordable Housing

OWNER shall execute an Affordable Housing Implementation Agreement (AHIA) with the COUNTY, or its successor, in consultation with the City of Brea, within two years of the Effective Date of this Agreement or prior to the issuance of the first residential building permit for the Property, whichever occurs first. The AHIA shall provide that residential development within the Tonner Hills Planned Community will comply with the City of Brea's affordable housing program in effect on August 20, 2002. The AHIA shall also reflect that the COUNTY shall receive credit toward COUNTY's RHNA allocation and Housing Element compliance for all affordable units or other measures generated by compliance with the City of Brea's program. Furthermore, OWNER and COUNTY agree that in the event the City does not execute a pre-annexation agreement within twelve months of the approval of this Development Agreement, a minimum of ten percent of all units within the Tonner Hills Planned Community will be retained as affordable housing consistent with the Department of Housing and Urban Development criteria for a Low income unit, for a period of fifty-five years from the date of first occupancy of the affordable housing unit.

L. Annexation of Property

The COUNTY and OWNER shall use their respective best efforts to enter into a Tonner Hills Planned Community (THPC) Pre-Annexation Agreement with the City of Brea prior to December 17, 2002. This agreement shall require the OWNER, on or before January 15, 2003, to file all necessary applications with LAFCO for annexation of THPC to the City. The agreement shall further provide for the COUNTY to retain all planning, zoning, subdivision, grading, building permit and inspection, and CEQA authority until the issuance of the last Certificate of Use and Occupancy for each Planning Area.

M. Public Use Area

OWNER shall irrevocably offer to dedicate in fee, to the COUNTY or its designee, in a manner meeting the approval of County Counsel, a Public Use area consisting of approximately 21.5 acres as reflected in the Area Plan for use by the County, Brea-Olinda Unified School District or other public agencies designated by the County for public uses determined by the Board of Supervisors.

N. Art in Public Places

OWNER shall provide \$1,500,000 for the Art in Public Places Program as described in the Area Plan. Up to 50% of this amount (\$750,000) may be used to establish an Art Education Endowment Program in cooperation with the Brea Olinda Unified School District. The cost of the art and related expenses, both hard and soft costs, to display the pieces of art are considered allowable expenses under this program. The cost of land is not an allowable expense under this program.

OWNER shall irrevocably offer to dedicate to a Master Community Association for THPC, land within the areas designated in the Development Plan for development, in a manner meeting the approval of the County, for the purpose of displaying or exhibiting art within the Property. The land dedicated to a Master Community Association for the Property should be sufficient in size for displaying art and visible from the residential streets and greenbelt system. The land dedication shall not reduce OWNER's entitlement to build 795 residential units.

O. County's General Plan

OWNER shall pay COUNTY \$50,000 to be used solely for the purpose of ongoing maintenance of COUNTY'S general plan by COUNTY'S Planning and Development Services Department. Twenty-five thousand dollars (\$25,000) of this obligation shall be due within 30 days of the date of recordation of this Agreement by the County Clerk-Recorder. The remaining \$25,000 shall be due within ten days of issuance of the 250th residential permit for the Property.

P. Child Care

OWNER shall enter into an implementation agreement within twelve months of the Effective Date of this agreement, to pay the COUNTY \$20 per dwelling unit on the Property for funding child-care facilities, operations, and/or services. The child care funds may be used by the COUNTY or a designated non-profit organization for a child-care facility, operation or service provider as approved by COUNTY, Director of Planning and Development Services Department, at his sole discretion.

Q. Law Enforcement Services and Equipment

OWNER shall enter into an implementation agreement within twelve months of the Effective Date of this agreement, to pay the COUNTY \$400 per dwelling unit on the Property for law enforcement services and equipment.

R. Library

OWNER shall enter into an implementation agreement within twelve months of the Effective Date of this agreement, to pay the COUNTY \$200 per dwelling unit on the Property for library facilities, equipment and circulation material.

EXHIBIT E

PROJECT PHASING PLAN

1.0 General Phasing Requirements:

- 1.1 Within 30 days of the date of recordation of this Agreement, OWNER's \$25,000 General Plan Maintenance obligation is due.
- 1.2 Within one year of the Effective Date of this Agreement, OWNER shall enter into an agreement with COUNTY to provide financial security for the requisite Exhibit D obligations.
- 1.3 Prior to the issuance of the two hundred and fiftieth residential building permit, OWNER's remaining \$25,000 General Plan Maintenance obligation is due.
- 1.4 All other Exhibit D obligations and their respective milestone due dates are incorporated into this Exhibit E by reference

2.0 Phase One:

- 2.1 Planning Areas 1, 2, 3, and 4. Planning Area 5 (first 60 dwelling units).
 - 2.1.1 Conceptual park plans for Wildcatters Park shall be submitted to the COUNTY prior to the issuance of the first residential building permit for Phase 1 development of the Property.
 - 2.1.2 Construction level drawings for Wildcatters Park shall be submitted to the COUNTY for approval prior to the issuance of the one hundredth Certificate of Use and Occupancy.
 - 2.1.3 Park Improvements shall be completed prior to the issuance of the two hundred and fiftieth Certificate of Use and Occupancy.
- 2.2 Prior to the issuance of the first Certificate of Use and Occupancy in each Planning Area, collector roads and bikeways contiguous to the Planning Areas shall be completed; with connections and intersection improvements to Kraemer Boulevard and Valencia Avenue, along with all necessary infrastructure to support Phase One construction.
- 2.3 Prior to the issuance of the first Certificate of Use and Occupancy in Planning Area 4, emergency vehicle connection from Planning Area 4 to Kraemer Boulevard shall be operational.

3.0 Phase Two:

3.1 Remainder of dwelling units in Planning Area 5 and all of Planning Area 6.

3.1.1 OWNER shall complete improvements to and dedicate Tonner Ridge Trail prior to the issuance of any residential building permits for Phase 2 development of the Property.

3.2 Prior to the issuance of the first Certificate of Use and Occupancy in each Planning Area, collector roads and bikeways contiguous to the Planning Areas shall be completed, along with all necessary infrastructure and utility services.

3.3 Prior to the issuance of the first Certificate of Use and Occupancy for Phase 2, emergency vehicle connections to Wildcat Way shall be operational.

3.4 Prior to issuance of the 500th residential building permit, the Art in Public Places endowment and installation, as provided in the Area Plan, shall be complete.

4.0 Phase Three - Planning Area 7:

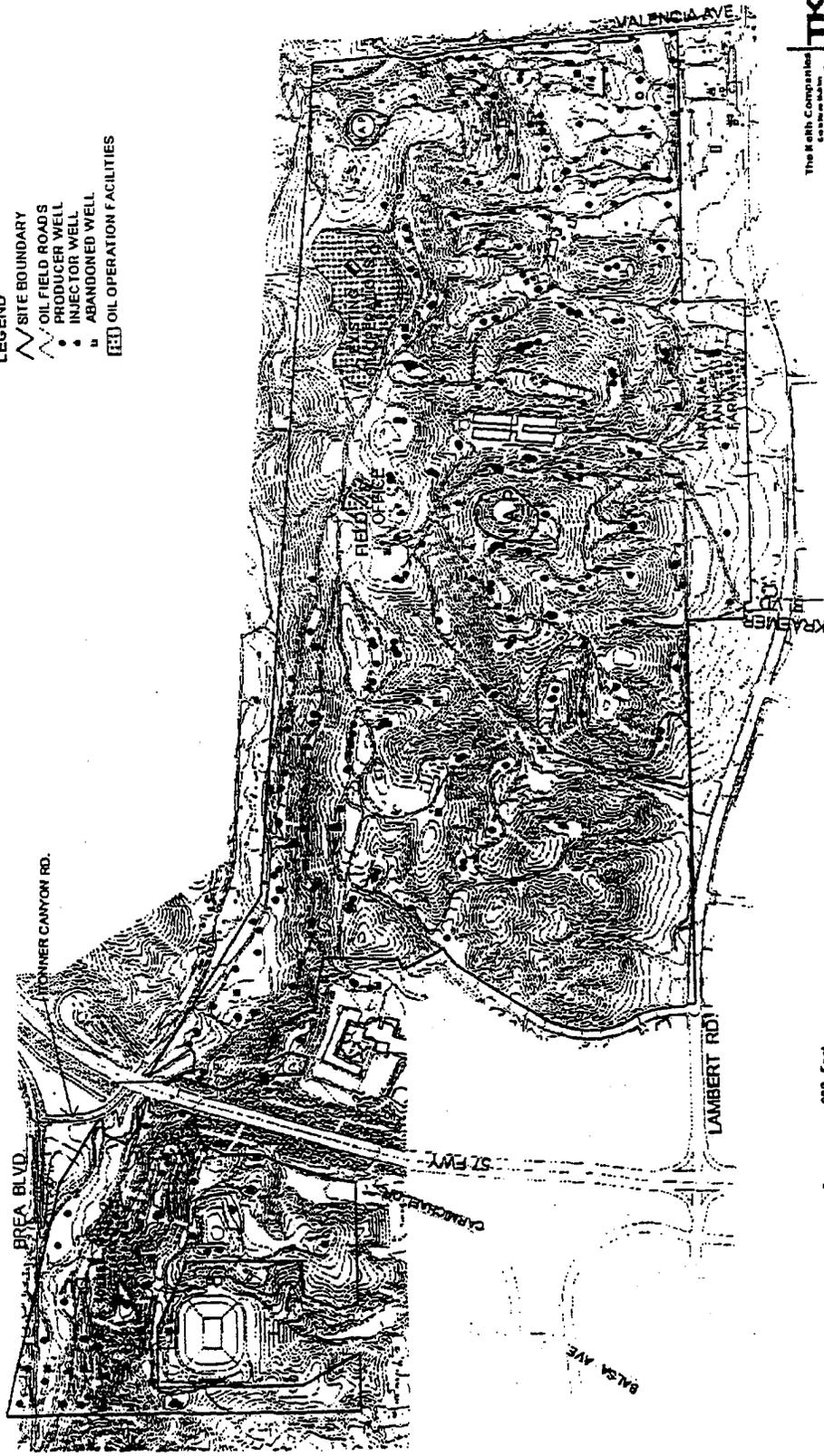
4.1 Prior to the issuance of the first Certificate of Use and Occupancy for Phase 3, the extension of Carmichael Drive along with all necessary infrastructure and utility services shall be completed.

4.2 Prior to the issuance of the first Certificate of Use and Occupancy for Phase 3, emergency vehicle connection through the MWD site shall be operational.

TONNER HILLS DEVELOPMENT AGREEMENT EXHIBIT F1



- LEGEND**
- SITE BOUNDARY
 - OIL FIELD ROADS
 - PRODUCER WELL
 - INJECTOR WELL
 - ABANDONED WELL
 - OIL OPERATION FACILITIES

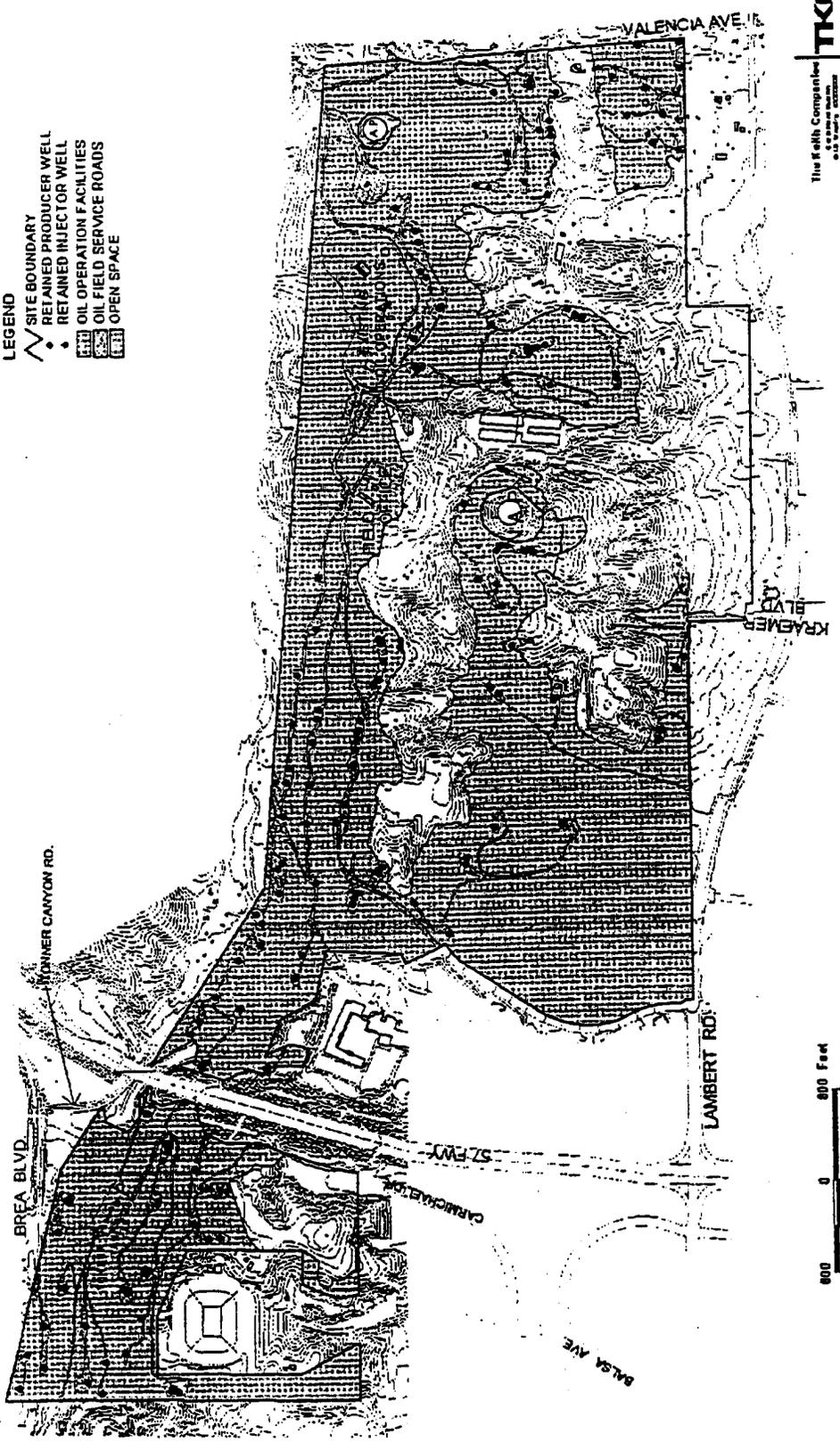


The B & B Companies
A Division of
TKC

TONNER HILLS DEVELOPMENT AGREEMENT EXHIBIT F2



- LEGEND**
- SITE BOUNDARY
 - RETAINED PRODUCER WELL
 - RETAINED INJECTOR WELL
 - OIL OPERATION FACILITIES
 - OIL FIELD SERVICE ROADS
 - OPEN SPACE



TKC
The Keith Companies
a subsidiary of
TKC HOLDINGS



County Of Orange
 Planning and Development Services Department

Development Processing Center
 300 N. Flower Street
 P.O. Box 4048
 Santa Ana, CA 92702-4048

Receipt #: R0303003
 Misc Item #: MI030353
 Posted: 3/17/2003 1:01 PM

Operator: Pedro Castillo

Payer

Payer: Nuevo Energy Co.
 Address: 500 N. Kraemer Blvd.
 Suite B
 Brea, CA 92821
 Phone #: 714-257-1600
 Notation:

Miscellaneous Charges

Description	Cost	Qty	Subtotal	Tax	Charge	Fee Item	Coding
EV AGREEMENT - DEPOSIT				No		1034 300306	92000016
Total Misc Charges			\$25,000.00				

Payment

Type	Amount	Account	Notation
Check	\$25,000.00	-----	No. 60297
Total Paid		\$25,000.00	

Notation

Development Agreement 2001-1, Exhibit D *** The deposit(s) referenced above is a security deposit refundable after any unpaid costs have been deducted at the close of the project. The deposit is not an advance on the processing costs.

Printed: 3/17/2003 1:01 PM

The fees, dedications, reservations or other exactions imposed by this development approval must be protested, if at all, within the 90 day-approval period imposed by Government Code section 66020.



County of Orange

NOTICE OF DETERMINATION

NOV 19 2002

By PS DEPUTY

Project Charge Number: PP54045

FILED

NOV 19 2002

TO: Office of Planning and Research
County Clerk, County of Orange

FROM: Planning and Development Services Department

SUBJECT: Filing of Notice of Determination in Compliance with Section 21108 of
21152 of the Public Resources Code

By PS DEPUTY

Project Title: Tonner Hills Planned Community DEIR 581	Type of Document: Environmental Impact Report
State Clearinghouse Number: 2001031137	Previously certified or adopted? If yes, provide document number and certification date: EIR No.
Contact Persons: Project Manager – Bryan Speegle CEQA Project Manager – Chuck Shoemaker	Telephone: (714) 834-3144 (714)834-2166
Applicant: Nuevo Energy	Address: 1021 Main Street, Ste. 2100, Houston TX 77002
Project Location: NW of intersection of Lambert Rd./Valencia Ave., unincorporated Orange County	
Project Description: Development of a 795 unit master planned community that combines residential, open space, recreational and public use, along with the continued operation of oil and gas production facilities with associated Zone Change, Area Plan.	

Notice is hereby given that the County of Orange as lead agency, Environmental Planning Services Division, has made the following determination on the above-described project:

- The project was approved by the Board of Supervisors on November 19, 2002.
- The project will not have a significant effect on the environment.
 - An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
 - A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
- Mitigation Measures were incorporated into the project through conditions of approval and project design.
- For this project a Statement of Overriding consideration was Adopted.
- Findings were made pursuant to CEQA Guidelines 15091 (Statement of Facts and Findings).
- A copy of the EIR and the record of the project approval is on file and may be examined at:

Planning & Development Services Department,
Environmental Planning Services Division,
300 N. Flower, Room 321
Santa Ana, California 92702-4048.
(714) 834-5550.

Recorded in Official Records, County of Orange
Darlene Bloom, Clerk-Recorder
200285001409 12:40pm 11/19/02
850.00 43.00 0.00 0.00 C.CC C.CC 0.00 U.UU

Signature: Chuck Shoemaker
Title: Senior Planner

Date: Nov. 19, 2002

Fish & Game Fee Finding: EIR - \$850.00

Previously Paid Receipt No. (See Attached): _____

1
2
3 RESOLUTION OF THE BOARD OF SUPERVISORS OF
4 ORANGE COUNTY, CALIFORNIA

5 November 19, 2002

6 WHEREAS, the Tonner Hills Project includes, but is not limited to; Draft EIR 581, Zone
7 Change (ZC) 01-01, the Tonner Hills Area Plan, and the Tonner Hills Development Agreement; and

8 WHEREAS, the County of Orange, as Lead Agency, has carefully reviewed the Initial Study
9 pursuant to the CEQA Guidelines §15064, and on March 27, 2001, the County issued a Notice of
10 Preparation/Initial Study for Draft EIR (DEIR) 581 and caused that Notice of Preparation to be
11 distributed to all responsible agencies, trustee agencies, and interested parties; and

12 WHEREAS, the County prepared DEIR 581 (State Clearinghouse No. 2001031137), dated April
13 25, 2002, pursuant to the requirements of CEQA, the CEQA Guidelines, and the County's environmental
14 analysis procedures; and

15 WHEREAS, the comments on the Notice of Preparation were considered by the County in
16 preparing DEIR 581; and

17 WHEREAS, a Notice of Completion for the DEIR was filed on April 25, 2002 giving public
18 notice of the availability of the DEIR for review and comment; and

19 WHEREAS, copies of the DEIR were circulated for public review and comment in accordance
20 with CEQA §21091 for a period of sixty (60) days between April 25, 2002 and June 25, 2002; and

21 WHEREAS, public comments have been received on the DEIR, and responses to those
22 comments were prepared and provided on September 18, 2002 to the Board of Supervisors in a
23 separately bound document entitled "Responses to Comments" on Draft Environmental Impact Report
24 No. 581 for the Tonner Hills Project; and

25 WHEREAS, the Planning Commission held noticed public hearings on September 18, 2002 and
26 October 16, 2002 to receive and consider public testimony with respect to DEIR 581 and the Tonner
27 Hills Project; and

28 WHEREAS, the Planning Commission reviewed all environmental documentation comprising

1 the Final EIR and recommends that the Board of Supervisors find that the Final EIR considers all
2 environmental effects of the proposed project and is complete and adequate and fully complies with all
3 requirements of CEQA and the CEQA Guidelines; and

4 WHEREAS, a mitigation monitoring and reporting program has been drafted to meet the
5 requirements of *Public Resources Code* §21081.6 as a Mitigation Measure Monitoring Program. This
6 program is designed to ensure compliance with project changes imposed and mitigation measures
7 imposed to avoid or substantially lessen the significant effects identified in the Final EIR. The
8 mitigation monitoring and report checklist, which is included in the Final EIR and incorporated herein
9 by reference, defines the following for each mitigation measure:

- 10 1. Method and Timing for Verification – In each case, a method and time for verification
11 of the mitigation, or review of evidence that mitigation has taken place, is provided. The
12 method and verification points selected are designed to ensure that impact-related
13 components of project implementation are adequately addressed and do not proceed
14 without establishing that the mitigation is assured.
- 15 2. Responsible Person – To guarantee that the mitigation measure will not be inadvertently
16 overlooked in connection with the issuance of a later permit, in each case, a supervising
17 a public official is named in the mitigation measure as responsible for ensuring that the
18 mitigation is carried out.
- 19 3. Definition of Mitigation – In each case (except where a mitigation, such as a
20 geotechnical report, is a well-known procedure or term of art), the mitigation measure
21 contains the criteria for mitigation, either in the form of adherence to certain adopted
22 regulations or identification of the steps to be taken in mitigation; and

23 WHEREAS, attached to this Resolution and incorporated herein by reference are Exhibit A,
24 “Findings of Fact”, Exhibit B “Statement of Overriding Considerations for the Final Environmental
25 Impact Report No. 581 (SCH #2001031137),” and Exhibit C “Mitigation Monitoring Program.”

26 WHEREAS, Pursuant to *Public Resources Code* §21089, this project requires the filing of
27 California Department of Fish and Game fees in accordance with Section 711.4 of the *Fish and Game*
28 *Code*.

1 NOW, THEREFORE, BE IT RESOLVED THAT:

- 2 1. This Board of Supervisors has reviewed all environmental documentation comprising the
3 EIR and has found that the EIR considers all environmental effects of the proposed
4 project, and is adequate and complete and fully complies with all requirements of CEQA
5 and the Guidelines.
- 6 2. This Board of Supervisors hereby finds that the EIR prepared for the Tonner Hills
7 Planned Community is complete in that it addresses all environmental effects of the
8 proposed project and fully complies with the requirements of the California
9 Environmental Quality Act and CEQA Guidelines for all actions and approvals
10 associated with the development of the proposed project contemplated in the EIR,
11 including the zone change (establishment of the Planned Community, Development Plan,
12 and Program Text), the Area Plan, Site Development Permits, Level A and Level B
13 Maps, Grading Permits, Improvement Plans, Development Permits, Development
14 Agreement, and future annexation, including related actions such as pre-annexation and
15 agreements leading to pre-annexation.
- 16 3. This Board of Supervisors finds that the EIR and the findings have identified all
17 significant environmental effects of the project and that there are no known potential
18 environmental impacts not addressed in the EIR.
- 19 4. This Board of Supervisors finds that all significant effects of the project are set forth in
20 the Statement of Findings and Facts and the EIR.
- 21 5. This Board of Supervisors finds that the EIR has described all reasonable alternatives to
22 the project that could feasibly obtain the basic objectives of the project (including the
23 "No Project" Alternative), even when these alternatives might impede the attainment of
24 project objectives and might be more costly. Further, this Board of Supervisors finds that
25 a good faith effort was made to incorporate alternatives in the preparation of the
26 Responses to Comments as an integral part of the EIR process, and all reasonable
27 alternatives were considered in the review process of the EIR and ultimate decisions on
28

1 the project. The Board of Supervisors finds that, in fact, an alternative project is being
2 recommended for adoption based on the EIR and comments thereon.

3 6. The Board of Supervisors finds, in the case of the Alternative 4 Preferred Plan, that
4 although the EIR identifies certain significant environmental effects that will result if the
5 project is approved, all significant effects that can feasibly be mitigated or avoided have
6 been reduced to an acceptable level by the imposition of mitigation measures on the
7 approved project, with the exception of Air Quality, Agricultural Resources, and
8 Transportation impacts. Although mitigation measures in these areas will substantially
9 lessen these significant impacts, adoption of the measures will not fully avoid them.
10 Therefore, a Statement of Overriding Considerations is required and is attached hereto as
11 Exhibit A.

12 7. This Board of Supervisors finds that potential mitigation measures or project alternatives
13 not incorporated into the project (including the "No Project/No Development"
14 Alternative) were rejected as infeasible, based upon specific economic, social and other
15 considerations as set forth in the Statement of Overriding Considerations, the EIR, and
16 the administrative record.

17 8. This Board of Supervisors finds that no substantial evidence has been presented that
18 would call into question the facts and conclusions in the EIR.

19 9. This Board of Supervisors finds that no significant new information has been added to
20 this EIR pursuant to CEQA Guidelines §15088.5, such that recirculation for additional
21 public review is necessary.
22
23
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28

The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on November 19, 2002, to wit:

AYES: Supervisors: TODD SPITZER, JAMES W. SILVA, CHARLES V. SMITH
THOMAS W. WILSON, CYNTHIA P. COAD
NOES: Supervisor(s):
EXCUSED: Supervisor(s):
ABSTAINED: Supervisor(s):

Cynthia P. Coad

CHAIR

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

I, DARLENE J. BLOOM, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chair of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors .

IN WITNESS WHEREOF, I have hereto set my hand and seal.

Darlene J. Bloom

DARLENE J. BLOOM
Clerk of the Board
County of Orange, State of California



Resolution No: 02-366
Agenda Date: 11/19/2002
Item No: 93



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors, Orange County, State of California

DARLENE J. BLOOM, Clerk of the Board of Supervisors

By: _____
Deputy

**Recommended
CEQA Statement of Findings and Facts
Tonner Hills Planned Community
Environmental Impact Report No. 581**

1. Introduction

The California Environmental Quality Act (CEQA) and the CEQA Guidelines (Guidelines) provide that:

“No public agency shall approve or carry out a project for which an Environmental Impact Report has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.” (CEQA Guidelines §15091)

Because the EIR identified significant effects that may occur as a result of the project, and in accordance with the provisions of the Guidelines, the Board of Supervisors hereby adopts these findings as part of the approval of the Project.

The County has prepared an EIR for the proposed Project in accordance with CEQA and CEQA Guidelines requirements. As mandated by County procedures, the EIR is subject to review and approval by the Planning Commission and the Board of Supervisors.

It is not considered reasonable, required, or feasible for this Board of Supervisors to recite every detail forming the basis for its findings herein, since the voluminous record, incorporated herein by reference and made publicly available, contains the substantial evidence explaining the facts in support. The Board of Supervisors considers this incorporation approach justified, especially in light of the fact that the County has responded in writing to each written comment raising environmental issues and has made this information widely available through staff reports and mailings. Where appropriate and helpful to understanding the basis of the Board of Supervisors' recommended findings herein, the County has mentioned certain aspects of the record arising from public input, in particular, the revisions to the project following public review which form the basis for the findings and project recommendations herein.

2. Revisions to the Project Following Public Review

Following the close of the public review period, refinements to the proposed project were made in response to the comments received. In accordance with CEQA §15088, the County, as Lead Agency, evaluated comments received and caused four key modifications in the project site plan to further mitigate anticipated impacts or objections raised.

The County staff, the City of Brea, and Nuevo Energy representatives have agreed to recommend adoption of Alternative 4 with modified design features and mitigation measures (Exhibit 1-1) hereinafter referred to as "Alternative 4 Preferred Plan" or "refined plan." To document this approach, the County staff, the City staff, and Nuevo Energy representatives have prepared a Memorandum of Understanding (MOU) leading to a Pre-Annexation Agreement. For the County, the MOU would also lead to Board of Supervisors' approval of a Development Agreement with Nuevo Energy, an action identified in the Draft EIR (DEIR Section 3.4). Alternative 4 and its impacts are analyzed in Section 6.4 of the Draft EIR. Since public circulation of the Draft EIR, the County, the City, and Nuevo Energy have identified additional mitigation design features and mitigation measures for Alternative 4, which are incorporated into the Alternative 4 Preferred Plan.

The design features and the mitigation measures that form the Alternative 4 Preferred Plan respond to a large number of comments on the Draft EIR, which is the specific intent of the County, the City, and Nuevo Energy. In summary, Alternative 4 was described and analyzed in detail in the circulated Draft EIR, and the design features and mitigation measures for the Alternative 4 Preferred Plan do not add new significant impacts or additional information on significant impacts. Therefore, the Alternative 4 Preferred Plan does not require revision and recirculation of the Draft EIR.

All of these revisions were contemplated and evaluated in the DEIR Chapter 6, Alternatives to the Proposed Project, and include the following:

1. Deletion of Tonner Hills Road as a project access point and providing access along Valencia Avenue (Design Alternative 1).
2. Deletion of commercial/mixed-use development on the corner of Wild Cat Way and Lambert Road (Project Alternative 4).
3. Elimination of development on the west side of Cable Canyon in Neighborhood 7 (Project Alternative 4 and Design Alternative 3).
4. Reduction in dwelling units from Neighborhoods 5 and 6 (Project Alternative 4 and Design Alternative 4).

The proposed modifications to the project site plan incorporate project alternatives and design alternatives that have been described and analyzed in the Draft EIR and do not create new significant impacts or substantially increase the severity of previously analyzed project impacts. In fact, the project refinements further reduce impacts previously evaluated in the DEIR for noise, air quality, aesthetics, biological resources, transportation, hydrology, utilities, and public services.

Overall, the reduction in the number of dwelling units and the deletion of the commercial/mixed-use center decreases the average daily traffic by 42%. Correspondingly, there are reductions in the vehicular emissions associated with the project. ROG emissions are reduced to below the SCAQMD thresholds; however, CO and NO_x emissions remain above the thresholds, and the long-term regional air quality impacts remain unavoidable as analyzed in the DEIR. Impacts to

Agricultural Resources also remain significant and unavoidable under the Alternative 4 Preferred Plan and a Statement of Overriding Considerations shall be adopted.

The Alternative 4 Preferred Plan presents a project that minimizes the physical environmental impacts and thus further reduces the impacts to noise, air quality, aesthetics, biological resources, transportation, hydrology, utilities, and public services from what was analyzed in the DEIR. The Alternative 4 Preferred Plan meets all of the project objectives. Therefore, in consideration of these changes in project design and incorporation of additional mitigation measures, the Board of Supervisors accepts this project alternative: Alternative 4 Preferred Plan.

3. Description of EIR Project Alternatives and Design Alternatives

The EIR evaluated project alternatives for the Tonner Hills property. The Board of Supervisors has reviewed and considered such alternatives in light of the adverse environmental effects that may result from the project and the reduction or elimination of such effects that might be accomplished by selection of one of the alternatives.

Each alternative is summarized below and the specific environmental, economic, social or other factors that are considered to render such alternatives infeasible are set forth. The discussions below are intended to summarize and not fully restate the evidence contained in the Draft EIR, Responses to Comments, and the administrative records as a whole.

The following is a brief description of each project alternative and design variation considered in the Draft EIR:

Project Alternative 1: No Project

This alternative would retain the status quo of entitlement efforts. The property would remain in oil production, which would be expanded, and the zone change and other approvals sought for the proposed project would be abandoned. This alternative was discussed pursuant to the requirements of CEQA §15126.6(e). It assumes that there will eventually be development on this site but at an unspecified time in the future. While the No Project Alternative achieves the objective of minimizing the overall adverse environmental impacts, none of the other project objectives are achieved. Therefore, this alternative is rejected.

Project Alternative 2: No Development

This alternative would retain the current operation on the property and abandon all development now and in the future resulting in no improvement to any site conditions or characteristics. It assumes not only the abandonment of the proposed project, but any development during the projected 10-year buildout for the proposed project. This alternative is considered as it relates to long-term effects on housing, population and employment figures in meeting County growth projections. The No Development Alternative meets one project objective – minimizing overall adverse environmental impacts. None of the other project objectives are achieved. Therefore, this alternative is rejected.

Project Alternative 3: Previous 1,445-Unit Brea Highlands Project

The previous project presented to the City of Brea consisted of a plan for 1,445 dwelling units on 241.5 acres, as contrasted with the proposed project of 914 dwelling units on 193.9 acres. Approximately 3.5 acres in the 1,445-unit project were to be developed with commercial uses, whereas 7.7 acres of the proposed project are to be developed with mixed uses. Park uses are commensurate between the two proposals when controlled for size, except for the 32.7 acres of Public Use being made available for acquisition. This alternative achieves all of the project objectives except for minimization of environmental impacts. Relative to the proposed project, this alternative has greater environmental impacts due primarily to the increased size (acreage and dwelling units). Therefore, this alternative is rejected.

Project Alternative 4: City of Brea Alternative

The City Alternative envisions a maximum of 755 dwelling units in 8 neighborhoods on 823.8 acres, inclusive of the acreage not included in the proposed project. This alternative redesigns the interior circulation system for the project by eliminating access from the northwestern boundary (the proposed Tonner Hills Road) and using Valencia Avenue and Lambert Road for ingress and egress. The design provides for several areas of "estate housing" (large houses on large lots), mainly in the areas of higher elevations. Higher density housing would be available in the southernmost neighborhoods near Lambert Road. A total of 126.2 acres of residential development is proposed. No mixed use is included in this alternative, and the 7.7-acre mixed-use parcel remains undeveloped. Unlike the proposed project, the City Alternative addressed the 789.9 acres of the project plus the acres within the City that are not part of the proposed project. For consistency purposes, the City Alternative was presented as submitted, but clarification of the geographic area is made as appropriate.

The City Alternative also designates preservation of the existing configuration of Wildcatters Park, which abuts the public use portion of the site. The City designated a 38.9-acre public use area to allow for additional park uses such as ball fields, bicycle/pedestrian paths, etc. Many of the project objectives are not achieved under the City Alternative. The City land plan conflicts with existing oil and gas production facilities exposes houses to known hazards by locating development in close proximity to tar seeps and fault lines, and ignores the existing roadway alignment for internal circulation. Perhaps more importantly, the alternative calls for an import of fill of striking proportions that would be extremely disruptive to the community and the environment. The mere cost (approximately \$8 per cubic yard) would be prohibitive. The overall financial burden of grading would make the project unfeasible. Because of the lower number of dwelling units proposed with the City Alternative (680 to 755, including property beyond the purview of this project), the potential for the project to support a diversity of housing styles and provide additional dwelling units to influence the jobs/housing imbalance is significantly impacted. Therefore, this alternative is rejected.

Project Alternative 5: Golf Course and Large-Lot Residential (Reduced Density) Project

This project alternative provides for an 18-hole golf course and approximately 246 acres of residential uses in mini-ranchettes or estates with a minimum lot size of 10,000 square feet. The residential acreage is assumed to be completely graded, which would support a golf course and a 738-unit ranchette alternative. Due to the substantial landform modifications required to build the golf course, this project alternative does not minimize the overall adverse environmental impacts, nor does it meet many of the project habitat protection objectives. The impacts to oil operations access are also greater with this alternative than with the proposed project. For these reasons, this alternative is rejected.

Project Alternative 6: City of Brea General Plan

This alternative analyzes the City of Brea General Plan in place at the time the Tonner Hills project development application was submitted to the County (January 2001). This alternative evaluates 1,093 dwelling units distributed over the 746.5 acres of residential land uses. Regarding non-residential categories, the General Plan designates 9.2 acres for General Commercial uses and 30.5 acres for Public Facilities and Grounds, both located at the northern section of the site on either side of the Orange (SR 57) Freeway at Tonner Canyon Road. An additional 3.6 acres designated as Office Facilities is located at Wild Cat Way just north of Lambert Road. For purposes of this analysis, the 30.5-acre Public Facilities portion assumes the construction of a 60,000-sq.ft. regional postal facility. This alternative fails to meet the objective of minimizing overall adverse environmental impacts throughout the project site unless additional mitigation measures are identified. This alternative also does not preserve open space linkages for wildlife movement. Therefore, this alternative is rejected.

Project Alternative 7: City of Brea Revised General Plan (30% Reduction)

On July 17, 2001, the Brea City Council approved a 30% reduction in intensity of certain land areas within the General Plan as well as reclassifications of several roadways. At the Council meeting, City staff stated that the project area (defined as 823.7 acres) would support 1,252 dwelling units under a General Plan buildout, or 881 dwelling units with a 30% reduction. This alternative analyzes the City of Brea General Plan as revised in July 2001. The lower density, fewer dwelling unit alternative reduces the opportunity to provide needed housing. Fewer dwelling units also fails to provide for a wider variety of housing styles and prices, reducing the opportunity to meet the County's affordable housing requirements. Additionally, the expenses associated with developing the site and the reduced number of dwelling units makes this alternative economically infeasible. For these reasons, this alternative is rejected.

Project Alternative 8: 624-699 Dwelling Units Using Project Configuration

This alternative incorporates the number of dwelling units in the City of Brea Alternative onto the development footprint defined in the proposed project. This alternative eliminates the 56 dwelling units on the City of Brea's Recommended Project that were located on the parcel that is

no longer owned by the applicant. A variant to this alternative is also considered which eliminated all development from ridgelines as identified by the City of Brea in its Ridgeline Ordinance, resulting in a modified project footprint. This alternative reduced total development area by an estimated 16 acres, and reduced units by 100. These alternatives fail to meet the following project objectives as identified in the EIR: provide additional housing in the north Orange County area to the maximum extent possible in an effort to reduce the jobs/housing imbalance; create a variety of lot sizes and configurations that support a diversity of housing styles throughout the planned community; and balance grading quantities on-site (No Ridgeline Development Variant). The lower density, fewer dwelling unit alternative reduces the opportunity to provide needed housing. Fewer dwelling units also fails to provide for wider variety of housing styles and prices, reducing the opportunity to meet the County's affordable housing requirements. Therefore, this alternative is rejected.

Project Alternative 9: Very Low Density/Estate Alternative

This alternative evaluated a 1 unit per five acre development project in response to recent discussions the City of Brea General Plan Advisory Committee (GPAC) had engaged in a regarding Tonner Hills project and other properties. The alternative would result in approximately 158 dwelling units on the property. While the density is arithmetically lower, the impacts are much higher in terms of resource destruction. Clearly, regardless of the restrictions put on land within a private ownership, natural resources are commonly lost due to a property owner's use of the lot and extensive fuel modification requirements. In this context, impacts to natural resources would be increased over the proposed project, even though impacts to other areas (e.g, traffic) would be reduced. This alternative would not meet many of the stated project objectives. Furthermore, because of the expenses associated with extensive grading and utility connections, this project alternative is not economically feasible. Therefore, this alternative is rejected.

Design Alternative 1 - Delete Tonner Hills Road

This alternative proposes the deletion of Tonner Hills Road from the planned community and analyzes the impact of eliminating the access point to the larger portion of the project (east of the Orange Freeway), while retaining access from Lambert Road. A second project access point is proposed to connect at Valencia Avenue aligned with the existing Olinda Ranch entry intersection. This design alternative has been accepted.

Design Alternative 2 - 150 Affordable Housing Units on Mixed Use Site

This alternative would replace the commercial site of 7.7 acres (located at the southwest corner of the site) with 150 affordable housing units with the total dwelling units for the project at 1,064. Because all development on the 7.7 acre site has been removed, this design alternative is rejected.

Design Alternative 3 - Wildlife Passage

This alternative proposes a pullback of Neighborhood 7 in order to increase the size of the passageway for wildlife moving from Cable Canyon to Tonner Canyon and adjacent parts of the project site. As part of this alternative, four dwelling units within Neighborhood 7 will be removed. This will increase the distance between the neighborhood and the mixed-use site on Lambert Road from 300 feet to nearly 450 feet. A variation of this design alternative which removes all development from Neighborhood 7 has been accepted.

Design Alternative 4 - Relocate Dwelling Units from Neighborhoods 5 and 6 to Public Use Site

This alternative considers the potential to further reduce ridgeline impacts by relocating several dwelling units in Neighborhoods 5 and 6 to the proposed Public Use Site. This design alternative is rejected as it does not provide any benefits over the preferred project, and the project as preferred does not affect true ridgelines in any event.

4. Findings of Fact

The Board of Supervisors has reviewed the final EIR prepared to evaluate the proposed project and has considered the public record on the project as earlier described in these findings.

These findings summarize the data and conclusions contained in the Draft EIR, the various responses to comments and the administrative record. The Draft EIR, the various responses to comments and the administrative record are incorporated into these findings as set forth in full.

Consistent with the requirements of the CEQA Guidelines, the EIR for the Tonner Hills Planned Community (hereinafter EIR) discusses environmental effects in proportion to their severity and probability of occurrence. To that end, the EIR recognizes that certain areas of impact from the project are unlikely to occur, or if potentially occurring can be mitigated to a level of insignificance by imposition of conditions to the project. It is not reasonably anticipated that potential additional impacts will be discovered as a result of future studies (as identified per the mitigation measures) because of the substantial evidence in the administrative record (including the EIR presently). Therefore, these studies are incorporated into the mitigation measures to further assure protection and recognize responsible agency involvement occurring in the normal course of affairs after the lead acts.

The Board of Supervisors therefore finds, based on all the data currently available, that while no significant adverse impacts are expected to be discovered as a result of any of these subsequent studies, the requirements of such studies in connection with the project and the reservation of the power to incorporate any mitigation measures required to mitigate any previously unknown impacts to insignificant levels, is itself adequate mitigation for any impacts disclosed by such subsequent surveys and studies, however, unlikely.

The EIR identifies a number of potentially significant adverse environmental effects of the project. The EIR also identifies mitigation measures that would reduce or eliminate potential adverse effects. These effects and the mitigation measures are summarized below.

All mitigation measures have been written as monitoring programs pursuant to *Public Resources Code* §21081.6. The drafting of these measures has been designed to ensure compliance during project implementation as explained further in the EIR. The MMP, which is incorporated herein and into the Final EIR by reference, defines the following for each mitigation measure:

1. A Time for Performance - In each case, a time for performance of the mitigation, or review of evidence that mitigation has taken place, is provided. The performance points selected are designed to ensure that impact related components of project implementation do not proceed without establishing that the mitigation is assured.
2. A Responsible Party Supervising Performance - In each case, a public official is named in the mitigation measure as responsible for ensuring that the mitigation is carried out. To guarantee that the mitigation measure will not be inadvertently overlooked in connection with the issuance of a later permit, the supervising public official who grants the permit called for in the performance.
3. Definition of Mitigation - In each case (except where a mitigation, such as a geotechnical report, is a well-known procedure or a term of art), the mitigation measure contains the criteria for mitigation, either in the form of adherence to certain adopted regulations or identification of the steps to be taken in mitigation.

These findings merely summarize data in the EIR administrative record for purposes of identifying the significant impacts and mitigation measures for the project. The EIR is incorporated by reference into these findings as substantial evidence therefore as if set forth fully in the findings. The Final EIR is composed of the following elements:

- a. Draft EIR (Volume 1, State Clearinghouse No.2001-03-1137);
- b. Technical Appendices to Draft EIR (Volumes A-M);
- c. Comments received on the Draft EIR and responses to those comments (Responses to Comments);
- d. County of Orange staff reports dated September 18, 2002, and October 16, 2002;
- e. All attachments, incorporations, and references specified in a. through d. above.

All of the above information has been and will be on file with the County of Orange Planning and Development Services Department, 300 N. Flower Street, Santa Ana CA 92703.

Pursuant to §21081 of CEQA and §15091 of the Guidelines, the Lead Agency is required to make one or more of the following findings prior to approval of a project for which an EIR has

been completed, identifying one or more significant effects of the project along with statements of facts supporting each finding:

Finding 1 - Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR, or

Finding 2 - Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency, or

Finding 3 - Specific economic, social or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Land Use and Planning

Significant Effects

With incorporation of the County's zoning standards and conditions of approval for the project, impacts relative to land use will be reduced to less than significant.

Findings

There are no impacts requiring findings.

Mitigation Measures

No mitigation measures are required as the project has incorporated compliance with all governing land use and planning regulations.

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Agriculture

Significant Effects

The following is a summary of significant effects to agriculture.

Loss of 18 acres of a former plant nursery designated as Unique Farmland will contribute incrementally on a statewide basis to the conversion of agricultural lands to urbanized uses.

Findings

Finding 3 - Specific economic, social or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Mitigation Measures

No mitigation measures are available.

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

The loss of Unique Farmland is considered a significant and unavoidable impact.

Population and Housing

The project does not raise significant impacts to population and housing. Through development, the project offers new housing opportunities within the County in an area that is considered "job-rich".

Findings

There are no impacts requiring findings.

Mitigation Measures

No mitigation measures are required.

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Geophysical

The following is a summary of significant effects to geophysical.

The Project site is subjected to potential geological impacts associated with fault ruptures during an earthquake, seismic ground shaking, and its secondary effects of slope instability, compressible/collapsible soils, expansive and corrosive soils, tar seeps, and methane gas. The Project grading plans will balance cut and fill on-site, resulting in approximately 5,500,000 cubic yards of grading activities. An additional 3,600,000 cubic yards of remedial grading is anticipated for the stabilization of alluvium, colluvium, landslide debris, and older, uncompacted fills. The Project will contribute to cumulative land form alterations and geophysical impacts.

With implementation mitigation measures impacts relative to geophysical will be reduced to less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

G-1 **Fault Investigations** - Prior to issuance of the grading permit, the project applicant shall ensure that development throughout the project area shall include geologic investigations performed by a -California-licensed geologist or engineering geologist to document the location, orientation, recency of activity, and direction of anticipated offset for active or potentially active faults that impact the development area. In particular, the precise location and activity of the Tonner Fault should be determined, because of its proximity to future home sites (approximately 50 feet). Appropriate setbacks from designated active faults

should be included in project planning and design, and a report should be submitted to the Manager, Subdivision and Grading.

G-2 **Geotechnical Investigation and Report** - Prior to the issuance of a grading permit, the project applicant shall submit a geotechnical report to the Manager, Subdivision and Grading, for approval. The report shall be prepared by a California-registered engineering geologist and licensed civil engineer with experience in soil engineering, and shall include technical information and recommendations in the format required by the County of Orange Grading Manual.

G-3 **Liquefaction** - Prior to issuance of a grading permit, the project applicant shall ensure that the geotechnical investigation fully characterizes the presence and extent of liquefiable soils and shall submit a report to the Manager, Subdivision and Grading. The project is not within a state-delineated Seismic Hazard Zone for liquefaction; however, the state maps may not show all potentially liquefiable areas. Therefore, a site-specific analysis of the liquefaction potential in areas of the property underlain by alluvium should be included in future detailed geotechnical investigations. In order to assist in this analysis, the state has published specific guidelines for evaluating and mitigating liquefaction (California Division of Mines and Geology Special Publication 117, 1997). In general, the liquefaction investigation identifies the depth, thickness and lateral extent of any liquefiable layers that would affect the project site. If such layers exist, an analysis is then performed to estimate the type and amount of ground deformation that might occur, given the seismic potential of the area.

Mitigation measures generally fall into two categories: ground improvement or foundation design. Ground improvement measures include removal and recompaction of low density soils, removal of excess ground water, in-situ ground densification, and other types of ground improvement (such as grouting or surcharging). Special foundations that may be recommended range from deep piles to reinforcement of shallow foundations (such as post-tensioned slabs). The type (or combinations of types) of mitigation depends on the site conditions and on the nature of the proposed project (California Division of Mines and Geology, 1997).

G-4 **Slope Stability** - Prior to issuance of the grading permit, the existing slopes that will remain adjacent to development areas should be investigated and analyzed for gross stability in accordance with current soil engineering standards. Graded slopes (including cut, fill, and cut-over-fill slopes) and graded/natural slope combinations will also require investigation and analysis. Grossly unstable slopes can be stabilized by buttressing, flattening the slope gradient, lowering the height of the slope, constructing the slope with geogrid reinforcement, or by combinations of these methods. Where slopes cannot be stabilized, building setbacks will be imposed.

Specific recommendations for remediation of slope instability shall be included in the geotechnical report for the project, which shall be submitted for review and approval to the Manager, Subdivision and Grading.

- G-5 **Compressible/Collapsible Soils** - Prior to issuance of the grading permit, a geotechnical soil analysis shall be performed to characterize the presence of compressible and/or collapsible soil within the project site. The findings and specific recommendations shall be included in the geotechnical report for the project and shall be submitted for review and approval to the Manager, Subdivision and Grading. Compressible soils are routinely removed and recompacted in proposed fill areas. Where perimeter fill slopes descend into natural canyons, the compressible soils are not only removed under the fill slope, but for a specified distance beyond the toe of the fill slope. This provides support for the slope and mitigates the potential for settlement. The removal area generally extends beyond the grading design at a minimum 1:1 projection (if landslides are present, a 1.5:1 or 2:1 projection is used). A 1:1 projection means the bottom of the removal extends beyond the toe to a horizontal distance equal to the depth of the removal bottom below the toe. Consequently, this distance is primarily dependent on the thickness of the compressible soils, but is also dependent on the gradient of the natural slope below the fill (the steeper the slope, the farther the removal is extended).
- G-6 **Expansive and Corrosive Soils** - Prior to issuance of the grading permit, and as part of the geotechnical investigation performed by a California licensed geologist and geotechnical engineer, the presence and extent of potentially expansive and corrosive soils within the project site shall be characterized. The best defense against expansive soils in new developments is to avoid placing expansive soils near the surface. If this is unavoidable, building areas with expansive soils are typically "presaturated" to a moisture content and depth specified by the soil engineer, thereby "pre-swelling" the soil prior to constructing the structural foundation or hardscape. This method is often used in conjunction with designing stronger foundations that can resist small ground movements without cracking. Good surface drainage control is essential for all types of improvements, both new and old.
- G-7 **Tar Seeps** - The potential for naturally occurring crude oil seeps cannot be completely eliminated; however, it can be greatly reduced by the implementation of the following remedial measures.
- Prior to the issuance of a grading permit, a thorough analysis and preliminary remediation plan shall be prepared by the geotechnical consultant in order to reduce impacts of future oil seepage to a level of non-significance. The plan shall be submitted for review and approval to the Manager, Subdivision and Grading. For the residential areas, remedial grading will be required to reduce the potential for future oil seepage at finished grades. This could include deeper overexcavation, thereby placing

a thick fill column between the seep and finish grade; a subsurface drainage and capture system; and/or higher compaction standards.

- During grading, the geotechnical consultant shall observe and map all excavations for oil seepage. The geotechnical consultant shall provide specific remedial recommendations based on the actual conditions encountered. Remedial recommendations shall include a means by which to reduce the potential for future landscape irrigation water to form a perched ground water table on the oil-bearing bedrock or fill.
- During grading the location of any subsurface, utility lines shall be overexcavated a minimum of 2 feet below the base of the line in bedrock or soils with naturally occurring hydrocarbon. The geotechnical consultant shall evaluate any utility line located in oil-bearing areas for its potential to provide a pathway for oil migration (i.e., via the permeable bedding sands). Oil-bearing fill materials shall not be placed as utility line backfill.
- During grading, the geotechnical and/or environmental consultant shall evaluate the need for clarifiers in order to reduce the potential of water carrying crude oil to impact the site.
- Prior to issuance of building permits, the geotechnical consultant shall issue an as-graded report documenting the location of naturally occurring oil and any remedial measures installed and a monitoring and maintenance plan for tar seep drainage and collection systems. The report and plan shall be submitted to the Manager, Subdivision and Grading, and the Manager, Current Planning, for approval.
- The oil seep analysis and mitigation shall be performed by a California registered engineering geologist and soil engineer. All reports, work plans, and mitigation plans shall be submitted to the Manager, Subdivision and Grading, for review and approval.

G-8 **Reservoirs** - Prior to issuance of the grading permit, the flow directions, flow volumes, and inundation levels shall be estimated by the design civil engineer for the project and submitted to the Manager, Subdivision and Grading, for approval. If necessary, engineered devices or structures should be considered to redirect any potential flow away from residential neighborhoods. If feasible, the water tanks should be relocated outside the Alquist-Priolo Earthquake Fault Zone. The presence or absence of faults should be determined by conducting a detailed geologic investigation.

G-9 **Observation and Testing** - Prior to issuance of building permits, a final report summarizing the observation and testing performed during grading by the geotechnical consultant and for the project shall be submitted to the Manager, Subdivision and Grading for approval.

G-10 **Grading** - All grading shall be performed in accordance with the County of Orange Grading and Excavation Code, County of Orange Grading Manual and the appropriate sections of the Uniform Building Code.

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Hydrology and Drainage

The following is a summary of significant effects to hydrology and drainage.

Development of the Project will result in the increase of peak runoff flows due to the increased construction of impervious surfaces, which results in shorter runoff times and greater concentration of hydrological flows. Increased erosion of sediment will result during the construction stages of the Project. Urban wastewater runoff will significantly increase as a direct result of this Project, resulting in greater impacts to hydrology and drainage.

With implementation mitigation measures impacts relative to hydrology and drainage will be reduced to less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

HD-1 Prior to the recordation of a subdivision map for development (except maps for financing and conveyance purposes only) and prior to the issuance of any grading permits, the following drainage studies shall be submitted to and approved by the Manager, Subdivision and Grading and the Manager, PFRD/Program Development Division:

- a. A drainage study of the project including diversions, off-site areas that drain onto and/or through the project, and justification of any diversions; and
 - b. When applicable, a drainage study evidencing that proposed drainage patterns will not overload existing storm drains; and
 - c. Detailed drainage studies indicating how the project grading, in conjunction with the drainage conveyance systems including applicable swales, channels, street flows, catch basins, storm drains, and flood water retarding, will allow building pads to be safe from inundation from rainfall runoff that may be expected from all storms up to and including the theoretical 100-year flood.
- HD-2 a. Prior to the recordation of a subdivision map for development (except maps for financing and conveyance purposes only) and prior to the issuance of any grading permits, the applicant shall, in a manner meeting the approval of the Manager, Subdivision and Grading, the Manager, PFRD/Program Development, and the Manager, Flood Control Program:
- 1) Design provisions for surface drainage; and
 - 2) Design all necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff; and
 - 3) Dedicate the associated easements to the County of Orange to ensure adequate maintenance access, if determined necessary.
- b. Prior to the issuance of any certificates of use and occupancy, said improvements shall be constructed in a manner meeting the approval of the Manager, Subdivision and Grading and Manager, Construction.
- HD-3 Prior to the recordation of a subdivision map for development or prior to the issuance of any grading permit, whichever comes first, and if determined necessary by the Manager, Subdivision and Grading, the applicant shall record a letter of consent from the upstream and/or downstream property owners permitting drainage diversions and/or unnatural concentrations. The form of the letter of consent shall be approved by the Manager, Subdivision and Grading Services, and the Manager, PFRD/Program Development Division prior to recordation of the letter.
- HD-4 Prior to the recordation of a subdivision map for development (except maps for financing and conveyance purposes only), the subdivider shall participate in the applicable Master Plan of Drainage in a manner meeting the approval of the Manager, Subdivision and Grading, and the Manager, PFRD/Program Development, including payment of fees and the construction of the necessary facilities.
- HD-5 a. Prior to the approval of a site development permit per Zoning Code §7-9-113, the applicant shall submit an Elevation Certificate to the Manager, Current Planning Services, identifying the base flood elevation and certifying that the planned elevation of the lowest floor, including

basements, is at least one (1) foot above the Base Flood Elevation (BFE).
(Note: to eliminate FEMA requirements for flood insurance, the lowest elevation of any part of the structure, not only the lowest floor, must be above the BFE.)

- b. Prior to the issuance of certificates of use and occupancy for any building, the applicant shall complete Section "E" of the Elevation Certificate, identifying the Base Flood Elevation (BFE) and certifying the as-built lower floor, including basement, as constructed, is at least one (1) foot above the BFE, in a manner meeting the approval of the Manager, Building Inspection Services. (Note: to eliminate FEMA requirements for flood insurance, the lowest elevation of any part of the structure, not only the lowest floor, must be above the BFE.)

HD-6 Prior to the issuance of any certificates of use and occupancy, the applicant shall not grant any new easements over any property subject to a requirement of dedication or irrevocable offer to the County of Orange or the Orange County Flood Control District, unless such easements are expressly made subordinate to the easements to be offered for dedication to the County. Prior to granting any of said easements, the subdivider shall furnish a copy of the proposed easement to the Manager, Subdivision and Grading, and the Manager, PFRD/Program Development, for review and approval. Further, a copy of the approved easement shall be furnished to the Manager, Building Inspection Services, prior to the issuance of any certificate of use and occupancy.

HD-7 Prior to the recordation of a subdivision map for development (except maps for financing and conveyance purposes only), the subdivider shall not grant any development-related easements (i.e., oil production related easements are excluded) over any property subject to a requirement of dedication or irrevocable offer to the County of Orange or the Orange County Flood Control District, unless such easements are expressly made subordinate to the easements to be offered for dedication to the County. Prior to granting any of said easements, the subdivider shall furnish a copy of the proposed easement to the Manager, Subdivision and Grading, for review and approval.

HD-8 Prior to the issuance of any grading permits, applicant shall delineate on the grading plan the floodplain which affects the property, in a manner meeting the approval of the Manager, Subdivision and Grading.

HD-9 Prior to the recordation of a subdivision map for development, applicant shall delineate on the final map and the project grading plan the floodplain which affects the property, in a manner meeting the approval of the Manager, Subdivision and Grading.

HD-10 Prior to the issuance of any grading permits, applicant shall submit a Runoff Management Plan (RMP) to the Manager, Subdivision and Grading, and the Manager, Flood Control Programs, for review and approval.

HD-11 Prior to the issuance of any grading permits for phased improvements, applicant shall submit drainage calculations indicating that the proposed drainage improvements are adequate to mitigate for project impacts as stated in the Runoff Management Plan to the Manager, Subdivision and Grading, and the Manager, Flood Control Programs, for review and approval.

HD-12 Prior to the recordation of a subdivision map for development (except maps for financing and conveyance purposes only), the applicant shall, in a manner meeting the approval of the Manager, Subdivision and Grading, and the Manager, PFRD/Program Development Division, initiate the formation of a Community Service Area covering the same area as the Master Homeowners Association for the purpose of maintaining the on-site drainage facilities.

HD-13 During grading and construction activities for the water reservoir storage tanks, all grading and site preparation shall comply with the County Grading Ordinance and the Uniform Building Code (for seismic criteria) and be approved by the Manager, Subdivision and Grading. Water storage tank design shall comply with the American Water Works Association (AWWA) Standard D-100 for structural design and seismic requirements. The design plans shall be submitted to the Manager, Building Inspection Services, for approval.

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Water Quality

The following is a summary of significant effects to water quality.

The Project will result in the increase of stormwater runoff due to the construction of impervious surfaces, which results in the increase of water quality impacts. Urban wastewater runoff typically associated with residential and mixed-use developments will increase as a direct result of this Project.

With implementation mitigation measures impacts relative to water quality will be reduced to less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

- WQ-1 **Runoff Management & Water Quality Plan** - Prior to the recordation of the first final map (either for conveyance or development), or prior to the issuance of any rough or precise grading permit, whichever occurs first, the land owner/applicant shall prepare, and receive approval from the Manager, Subdivision and Grading Services Division, in consultation with the Environmental Resources and Flood Program Sections of the PFRD Program Development Division (PDD) of, a Runoff Management Plan (RMP), including Water Quality Management Plan (WQMP) covering the subject property. The RMP shall include the location of all permanent large-scale Best Management Practices (BMPs), including filtration devices, such as water quality basins, detention basins, debris basins, grass/bio-swales, energy dissipaters, and other BMPs.
- WQ-2 **Master Infrastructure Improvements** - Prior to the recordation of the first final map (either for conveyance or development), or prior to the issuance of any rough or precise grading permit, whichever occurs first, the land owner shall design and construct all applicable master infrastructure improvements identified in the approved RMP, including debris basins, bio-swales, energy dissipaters, drainage pipes, and other improvements, and shall provide all necessary dedications, all in a manner meeting the approval of the Manager, Subdivision & Grading, and the Manager, PFRD/Program Development Division.
- WQ-3 **NPDES** - Prior to issuance of any grading permits, the applicant shall submit evidence to the Manager, Subdivision and Grading, that the applicant has obtained coverage under the NPDES statewide General Construction Activity Stormwater Permit from the State Water Resources Control Board, which includes the preparation of a Storm Water Pollution Prevention Program and incorporates BMP to minimize stormwater runoff.
- WQ-4 **Final Map Note for Retention Basins** - Prior to the recordation of each final map (either for conveyance or development), a note shall be placed on the applicable final map where appropriate, indicating that retention basins will be required on the property in accordance with the approved RMP, in a manner meeting the satisfaction of the Manager, Subdivision & Grading Services Division.

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Transportation/Circulation

The following is a summary of significant effects to transportation/circulation.

The project has the potential to impact surrounding intersections. The project will include mitigation measures to improve the intersections to allowable levels of service.

With implementation mitigation measures impacts relative to transportation/circulation will be reduced to less than significant. However, in the event there is a failure of assumptions upon which mitigation is based (i.e. funding, city cooperation or timely implementation), there could be significant impacts. Therefore, for these reasons, and in spite of the fact that the Board believes mitigation reduces impacts to a level of insignificance, a finding of significant impact is hereby made.

Based on a review of the October 16, 2002 letter from the County of Los Angeles received at the Orange County Planning Commission hearing of the same date, the County of Orange finds that the project alone will not significantly impact Los Angeles County intersections. This fact is also acknowledged in the County's letter. Together with a multitude of other projects in the greater County of Orange/County of Los Angeles area, it can be expected that this project will contribute to cumulative impacts in the long-term, especially at the SR-57 Southbound off-ramp to Brea Canyon Road. Therefore, the County finds that the cumulative impact of the project, although incrementally small, may significantly impact this facility. Although this project's impact will not be significant, the County hereby adopts mitigation measure T-5 to reduce cumulative impacts to an acceptable level.

The County disagrees with the County of Los Angeles that adoption of said mitigation measure is inadequate for cumulative traffic impacts. However, in an abundance of caution, a statement of overriding considerations will be made.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

- T-10 Balsa Avenue between State College Boulevard and Carmichael Drive
Prior to issuance of certificates of use and occupancy for residences within Planning Area 8, the developer shall pay to the County on a fair share basis for any agreed upon traffic calming measures along Balsa Avenue.
- T-11 City of Brea Fee Program
Prior to issuance of building permits, the project shall participate in both the City of Brea currently adopted fee program and the City of Brea proposed fee program for transportation improvements. These fees shall be paid on a per unit basis.

Mitigation Measures Added

Scenario 1: Mitigation Measures Required With Tonner Canyon Road

- Brea Boulevard (NS) at Central Avenue (EW)**
Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The southbound approach should be restriped from two exclusive thru lanes and one exclusive right turn lane to provide one exclusive thru lane, one shared thru-right turn lane and an exclusive right turn lane. This location is projected to experience deficient operations under Without Project conditions. Therefore, the project is only responsible for a fair share contribution at this location. The fair share contribution is 3.5%.
- State College Boulevard (NS) at Lambert Road (EW)**
Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The project impact mitigation measure at this location includes constructing an additional (second) left turn lane and converting the current shared left turn-through lane to an exclusive through lane. The feasibility of this improvement has been reviewed based on field reconnaissance and aerial photographs. Based upon this review, it appears that this improvement can be implemented. The proposed improvement will not provide acceptable traffic operations. This location is also projected to experience deficient operations under Without Project conditions. Therefore, the project is only responsible for a fair share contribution towards this improvement under these conditions. The fair share contribution at this location is 10.7% in the AM peak hour and 30.0% in the PM peak hour.
- Kraemer Boulevard (NS) at Lambert Road (EW)**
Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The eastbound approach should be restriped to provide 2 exclusive through lanes, a shared through-right turn lane, and an exclusive right turn lane (this location is planned to include three exclusive through lanes and an exclusive right turn lane). This will provide

acceptable AM peak hour operations (there is no PM peak hour deficiency). The project is responsible for the recommended improvement.

4. **Valencia Avenue (NS) at Birch Street (EW)**

Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. Deficiencies are projected for both AM and PM peak hour traffic operations and for both Without Project and With Project conditions. The southbound approach should be restriped to add a second left turn lane, an exclusive thru lane and a shared thru-right turn lane. This improvement will provide acceptable AM peak hour traffic operations and will mitigate the project PM peak hour impact. As this location is also projected to experience deficient operations under Without Project conditions, the project is only responsible for a fair share contribution towards the recommended improvement. The fair share percentages are 6.5% in the AM peak hour and 48.0% in the PM peak hour.

5. **Rose Drive (NS) at Imperial Highway (EW)**

This location was not identified as impacted by the project in the DEIR under the With Tonner Canyon Road scenario. Based on the updated analysis using the newly constructed intersection geometry, a project impact has been identified. Mitigation consists of contributing on a fair share basis towards construction of an exclusive westbound right turn lane. The project fair share contribution for this mitigation measure is 15.0%.

Scenario 2: Mitigation Measures Required Without Tonner Canyon Road

6. **Brea Boulevard (NS) at Central Avenue (EW)**

Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The improvement includes a restriped/reconstructed the northbound approach to add a third thru lane, a single exclusive left turn lane and an exclusive right turn lane (the approach currently provides two left turn lanes, two through lanes, and one right turn lane). This will provide acceptable AM peak hour operations. To mitigate the project PM peak hour impact, a southbound right turn arrow (overlap) is required at this intersection. This location is also projected to experience deficient operations under Without Project conditions (PM peak hour only). Therefore, the project is only responsible for a fair share contribution (75% A.M. and 4.3% P.M.) towards this improvement (the southbound right turn overlap).

7. **Kraemer Boulevard (NS) at Lambert Road (EW)**

Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The eastbound approach should be restriped to provide two exclusive through lanes, a shared through-right turn lane, and an exclusive right turn lane (this location is planned to include three exclusive through lanes and an exclusive right turn lane). This will provide acceptable AM peak hour operations (there is no PM peak hour deficiency). This location is also projected to experience deficient operations under Without Project

conditions. Therefore, the project is only responsible for a fair share contribution towards the recommended improvement. The fair share contribution is 20.5% at this location.

8. **Rose Drive (NS) at Imperial Highway (EW)**

Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. Mitigation consists of contributing on a fair share basis (10%) towards construction of an exclusive westbound right turn lane.

9. **Valencia Avenue (NS) at Lambert Road (EW)**

Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The currently planned intersection geometry, per the City of Brea adopted fee program, would provide two eastbound left turn lanes and three eastbound through lanes. The recommended mitigation measure is to reconstruct the eastbound approach to the intersection. The mitigation measure for this intersection includes provides a single eastbound left turn lane, two exclusive eastbound through lanes, a shared eastbound through and right turn lane, and an additional exclusive eastbound right turn lane. The project contribution for the Without Tonner Canyon Road Connection conditions is 4.0%.

Both Scenarios 1 and 2:

10. Prior to or concurrent with the approval of the first tentative tract map, the subdivider shall submit an opening year traffic study analysis in conjunction with the submittal of each Level "B" Tentative Map, to the Manager of Current Planning for review and approval. Such studies shall ascertain the existing traffic conditions and determine if any future mitigation is necessary.

Mitigation Measures Not Incorporated

T-1 Brea Boulevard (NS) at SR 57 Southbound On-Ramp (EW)

Near Term Conditions: Prior to issuance of certificates of use and occupancy, the developer shall pay on a fair share basis for provision of a second northbound and a second southbound through lane. The proposed improvement is also part of the City of Brea proposed fee program. Any project contribution should be credited toward the project's impact fees.

T-2 Brea Boulevard (NS) at Tonner Canyon Road (EW)

Near Term Conditions: Prior to issuance of certificates of use and occupancy, the developer shall pay on a fair share basis for provision of a second northbound and a second southbound through lane. The proposed improvement is also part of the City of Brea proposed fee program. Any project contribution/construction should be credited toward the project's impact fees.

2025 Conditions: The developer shall pay on a fair share basis for restriping the westbound approach from an exclusive left turn lane and exclusive right turn lane to provide a shared left-right turn lane and an exclusive right turn lane. If this improvement is constructed by the project, a credit against other fees/obligations should be considered.

T-3 Brea Boulevard (NS) at Central Avenue (EW)

Near Term Conditions: Prior to issuance of certificates of use and occupancy, the developer shall pay on a fair share basis for:

- Construction of a second southbound left turn lane and a southbound right turn overlap (arrow).
- Restriping/reconstructing the eastbound approach to provide one (additional) exclusive right turn lane.
- Restriping/reconstructing the westbound approach to provide two through lanes and one exclusive right turn lane.

All improvements are part of the City of Brea proposed fee program except for the eastbound exclusive right turn lane and southbound right turn overlap (arrow) which shall require fair share fees paid to the County of Orange.

T-4 State College Boulevard (NS) at Lambert Road (EW)

Near Term and 2025 Conditions: Prior to issuance of certificates of use and occupancy for 70% of the project or occupancy of Planning Area 8, the developer shall pay to the County the entire amount for providing an additional (second) southbound left turn lane and converting the current shared southbound left through lane to an exclusive through lane.

T-5 SR 57 Southbound Off-Ramp at Brea Canyon Road

Near Term and Long Term Conditions: Prior to issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for one of the three following alternatives:

- Eliminate the left turn movement allowing channelization of the eastbound through movement on Brea Canyon Road to eliminate the need to stop at this intersection.
- Allow southbound left turns and only channelize one eastbound travel lane for free flow travel.
- Construct a separate slip ramp for traffic to exit the southbound Orange (SR 57) Freeway and proceed east (north) on Brea Canyon Road including an acceleration lane/merging section to achieve acceptable traffic operations.

T-6 SR 57 Southbound Ramps (NS) at Lambert Road (EW)

Near Term Conditions: Prior to issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for restriping/reconstructing the eastbound approach to provide two exclusive through lanes, a shared through-right turn lane, and an exclusive right turn lane. (This location currently includes three exclusive through lanes and an exclusive right turn lane.)

T-7 Kraemer Boulevard (NS) at Lambert Road (EW)

Near Term Conditions: Prior to issuance of certificates of use and occupancy, the developer shall pay to the County the entire amount for restriping the eastbound approach to provide one exclusive through lane, a shared through-right turn lane, and an exclusive right turn lane. (This location currently includes two exclusive through lanes and an exclusive right turn lane.)

2025 Conditions: The developer shall pay on a fair share basis for restriping the eastbound approach to provide two exclusive through lanes, a shared through-right turn lane, and an exclusive right turn lane. (This location is planned to include three exclusive through lanes and an exclusive right turn lane as part of the City of Brea proposed fee program.) If this improvement is constructed by the project, a credit against other fees/obligations should be considered.

T-8 Valencia Avenue (NS) at Birch Street (EW)

2025 Conditions: The developer shall pay to the County on a fair share basis for restriping the southbound approach to eliminate the existing exclusive right turn lane and provide a second southbound left turn lane.

T-9 Imperial Highway (NS) at Bastanchury Road (EW)

Prior to issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for restriping the southbound approach to eliminate the existing exclusive right turn lane and provide a second southbound left turn lane.

Effects Not Mitigated to a Level of Insignificance

Impacts are mitigated to a level of insignificance if assumptions made regarding timing, fee programs, and a schedule for construction are met. If they are not, there could be significant impacts of an unknown scope, since the failure of the assumption-if it occurs-is not known.

Air Quality

The following is a summary of significant effects to air quality.

- Construction-related emissions of NO_x and PM₁₀.
- Generation of CO, ROG and NO_x - operational air emissions associated with the proposed project.

With implementation mitigation measures impacts relative to air quality, some impacts will be reduced, but the project will exceed air quality standards established by the SCAQMD and these impacts will remain significant and unavoidable.

Findings

Finding 3 - Specific economic, social or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Mitigation Measures

AQ-1 During grading and construction phases, the project shall apply measures contained in Table 1 and Table 2 of SCAQMD Rule 403. Prior to the issuance of grading permit, the applicant shall obtain appropriate permits from the SCAQMD and submit them to the Manager, Subdivision and Grading Services.

AQ-2 During grading and construction phases, the project shall reduce construction equipment emissions by implementing the following measures, which shall be included in grading and improvement plans specifications for implementation by contractors:

- Use low emissions mobile construction equipment.
- Maintain construction equipment engines by keeping them tuned.
- Use low sulfur fuel for stationary construction equipment. This is required by SCAQMD Rules 431.1 and 431.2.
- Utilize existing power sources (i.e., power poles) when feasible. This measure would minimize the use of higher polluting gas or diesel generators.
- Configure construction parking to minimize traffic interference.
- Minimize construction of through-traffic lanes. When feasible, construction should be planned so that lane closures on existing streets are kept to a minimum.
- Schedule construction operations affecting traffic for off-peak hours.
- Develop a traffic plan to minimize traffic flow interference from construction activities (the plan may include advance public notice of routing, use of public transportation and satellite parking areas with a shuttle service).

AQ-3 Prior to issuance of building permits, the applicant shall obtain approval of an Air Quality Mitigation Plan by the Manager, Environmental and Project Planning. The Plan shall address each applicable control measure listed below in order to determine which control measures are feasible, recommend implementation conditions, and establish methods of applying conditions to contractors, buyers, lessees, tenants and occupants to comply with Rule 402 and Rule 403. The project applicant shall reimburse the County for costs of an independent third party peer review, if necessary, of this Plan. Specific mitigation measures could include:

- a. Transportation Demand Management Measures
 1. Schedule truck deliveries and pickups during off-peak hours.

2. Provide adequate ingress and egress at all entrances to public facilities to minimize vehicle idling at curbsides.
 3. Provide dedicated turn lanes as appropriate and provide roadway improvements at heavily congested roadways.
- b. Energy Efficient Measures
5. Improve thermal integrity of the buildings and reduce thermal load with automated time clocks or occupant sensors.
 6. Install energy efficient street lighting.
 7. Capture waste heat and re-employ it in nonresidential buildings.
 8. Landscape with native drought-resistant species to reduce water consumption and to provide passive solar benefits.
 9. Provide lighter color roofing and road materials and tree planning programs to comply with the AQMP Miscellaneous Sources MSC-01 measure.
 10. Comply with the AQMP Miscellaneous Sources PRC-03, and Stationary Sources Operations Enhanced Inspection and Maintenance and ADV-MISC to reduce emissions of restaurant operations.
 11. Provide bicycle lanes, storage areas, and amenities, and ensure efficient parking management.
 12. Provide preferential parking to high occupancy vehicles and shuttle services. Also, designate additional car pool or vanpool parking. The air quality benefit cannot be quantified.
 13. Employers should provide variable work hours and telecommuting to employees to comply with the AQMP Advanced Transportation Technology ATT-01 and ATT-02 measures.
 14. Provide dedicated parking spaces with electrical outlets for electrical vehicles.
 15. Develop a trip reduction plan to comply with SCAQMD Rule 2202.
 16. Employers should provide ride-matching, guaranteed ride home, or car pool or vanpool to employees as a part of the TDM program and to comply with the AQMP Transportation Improvements TCM-01 measure.
 17. Synchronize traffic signals.
 18. Encourage the use of alternative fuel or low emission vehicles to comply with the AQMP On-Road Mobile M2 measure, and Off-Road Mobile Sources M9 and M10 measures.
 19. Introduce window glazing, wall insulation, and efficient ventilation methods.

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

ROG emissions are reduced to below the SCAQMD thresholds; however, CO and NO_x emissions remain above the thresholds, and the long term regional air quality impacts remain unavoidable as analyzed in the DEIR.

Noise

The following is a summary of significant effects to noise.

- Construction-related noise from heavy equipment.
- Noise from mixed use site affecting residential dwelling units.
- Noise from project-related traffic due to increased dwelling units/population.

With implementation mitigation measures impacts relative to noise will be reduced to less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

- N-1 During grading and construction activities, the project applicant shall comply with the County of Orange Noise Ordinance, including limitations on allowable construction hours.
- N-2 Prior to the issuance of grading permits, the project proponent shall produce evidence acceptable to the Manager, Building Permits Services, that:
- a. All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with properly operating and maintained mufflers.
 - b. All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).
 - c. Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.

Notations in the above format, appropriately numbered and included with other notations on the front sheet of the project's permitted grading plans will be considered as adequate evidence of compliance with this condition.

- N-4 The applicant shall sound attenuate all residential lots and residential dwellings against present and projected noise (which shall be the sum of all noise impacting the project) so that the composite interior standard of 45 dBA CNEL for habitable rooms and a source specific exterior standard of 65 dBA CNEL for outdoor living areas is not exceeded. The applicant shall provide a report prepared by a County-certified acoustical consultant, which demonstrates that these standards will be satisfied in a manner consistent with Zoning Code §7-9-137.5, as outlined below. At a minimum, the report shall address noise levels of above-ground retained oil production facilities and activities within 500 feet of residential areas, as well as noise generated by traffic on nearby roadways.
- a. Prior to the recordation of a subdivision maps or prior to the issuance of grading permits, as determined by the Manager, Building Permits Services, the applicant shall submit an acoustical analysis report to the Manager, Building Permits Services, for approval. The report shall describe in detail the exterior noise environment and preliminary mitigation measures. Acoustical design features to achieve interior noise standards may be included in the report, in which case it may also satisfy item b. below.
 - b. Prior to the issuance of any building permits for residential construction, the applicant shall submit an acoustical report describing the acoustical design features of the structures required to satisfy the exterior and interior noise standards to the Manager, Building Permits Services, for the approval along with satisfactory evidence which indicates that the sound attenuation measures specified in the approved acoustical report have been incorporated into the design of the project.
 - c. Prior to the issuance of any building permits, the applicant shall show all free-standing acoustical barriers on the project's plot plan illustrating height, location and construction in a manner meeting the approval of the Manager, Building Permits Services.
 - d. Prior to the issuance of certificates of use and occupancy, field testing in accordance with the County's Noise Ordinance may be required by the Manager, Building Permits Services to verify compliance with all applicable standards. The project applicant shall reimburse the County for the costs of an independent third party peer review of this evidence.
- N-5 Prior to the issuance of any building or grading permits, the applicant shall obtain approval of the Manager, Building Permits Services, of an acoustical analysis report and appropriate plans which demonstrate that the noise levels generated by project noise generating equipment during its operation shall be controlled in compliance with Orange County Codified Ordinance, Division 6 (Noise Control). The report shall be prepared under the supervision of a County-certified

acoustical consultant and shall describe the noise generation potential of the project during its operation and the noise mitigation measures, if needed, that shall be included in the plans and specifications of the project to assure compliance with Orange County Codified Ordinance, Division 6 (Noise Control).

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

- N-3 Prior to issuance of building permits for tenant improvements for proposed uses in the Mixed Use area, proposed uses shall be evaluated by the Manager, Planning Services, to determine if a detailed noise assessment is required to ensure that the use will not result in a violation of the noise ordinance. If a study is called for, the study shall be prepared by a County certified acoustical consultant and conform to the requirements presented in the County's Land Use/Noise Compatibility Manual.

Effects Not Mitigated to a Level of Insignificance

None.

Biological Resources

The following is a summary of significant effects to biological resources.

- Development as proposed will impact coastal sage scrub and other habitats with associated loss of wildlife values.
- Walnut trees within drainage channels may be negatively impacted during grading.
- Streambeds and U.S. designated wetlands within U.S. Army Corps of Engineers jurisdiction may be impacted by the proposed development.

With implementation mitigation measures and incorporation of the design changes in the Alternative 4 Preferred Plan, it is determined that at this time of this writing prior to the Planning Commission meeting, impacts relative to biological resources will be reduced to less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

- BR-1 Prior to the issuance of any grading, clearing, or other landform modification permit, the developer shall submit evidence to the Director or designee, Development Services Department, that appropriate federal, state, and county permits have been obtained for the biological resources on-site to be removed by development. Said permits shall specify the timing, nature, and review authority for the mitigation measures, if any, that are required in connection with these removals. No removals shall be authorized until all necessary resource agency permits have been obtained.
- BR-2 Prior to the issuance of a grading permit, walnut trees within drainage channels shall be identified on the grading plan and retained to the greatest extent feasible. Said grading shall be subject to review and approval by the Manager, Current Planning Services.
- BR-3 Prior to the issuance of a grading permit, the property owner/developer shall obtain a §1603 Streambed Alteration Agreement, if required by the *California Fish and Game Code*; and a permit under the guidelines of §404(b)(1) of the Clean Water Act, if required by the U.S. Army Corps of Engineers. Mitigation is intended to adhere to the "no net loss" policies of the CDFG and the U.S. Army Corps of Engineers. If a §404 Permit from the ACOE is required, a §401 Water Quality Certification will also be required from the California Regional Water Quality Control Board, Santa Ana Region. Evidence shall be provided to the Manager, Subdivision and Grading.
- BR-4 Prior to initiation of grading, and upon approval from the Manager, Environmental Planning services, the property owner/developer shall implement the Tonner Hills Habitat Mitigation and Monitoring Program (which is included in the Technical Appendices). The Program incorporates measures to:
- Preserve and protect walnut and oak woodlands outside the project footprint.
 - Preserve and protect coastal sage scrub habitat outside the project footprint.
 - Preserve and protect riparian habitat outside the project footprint.
 - Create additional coastal sage scrub habitat prior to and during project implementation.
 - Create additional walnut-coast live oak woodland habitat.
 - Enhance preserved habitat in Cable Canyon.

The mitigation plan provides for a phased-in creation of riparian, coastal sage scrub, and walnut-oak woodland habitat on-site.

Mitigation Measures Added

BR 5 Crushing of existing habitat would not occur during the breeding season (February 15 to July 31) unless approved by a biological monitor familiar with requirements of breeding birds, especially coastal California gnatcatchers. Removal of crushed vegetation could occur in the breeding season if a biological monitor is present to prevent disruption to protected breeding birds.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

At the time of this writing, prior to Planning Commission action, a final determination by the USFWS has not yet been made. Evidence in the DEIR and design changes in the project to further avoid sensitive habitat areas supports the issuance of a no-jeopardy opinion by the USFWS; however, this opinion has not yet been rendered.

Aesthetics

The following is a summary of significant effects to aesthetics.

- Effects on visual quality of the site and scenic vistas.
- Impacts on visual quality from continued oil operations.
- Creation of light and/or glare.

With implementation mitigation measures impacts relative to aesthetics will be reduced to less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

AE-1 Prior to the issuance of any grading permit or recordation of a subdivision map that creates building sites, whichever occurs first, the applicant shall obtain approval of the Manager, PFRD/HBP Program Management and Coordination, of a landscape and tree preservation plan for the property. This plan shall be consistent with the revegetation plan required as set forth in Section 4.10, Biological Resources, of this EIR.

AE-2 Prior to the approval of a Site Development Plan, a proposed color palette for the residential building materials and color schemes shall be submitted for review and

approval by the Manager, Current Planning. The color palette shall consist of colors which complement with the surrounding hillsides.

- AE-3 Prior to issuance of grading permits for final grading plans, the applicant shall submit for review and approval by the Manager, Current Planning, grading plans that comply with the County of Orange Zoning Code §7-9-139 (Grading and Excavation) and use contour and/or landform grading techniques for slopes viewed from public rights-of-way as described below:
- a. Contour grading results in landforms that exhibit many of the characteristics present with natural landforms as opposed to traditional terraced grading. Contour grading techniques include:
 - The use of horizontal and vertical curve variations for slope banks creating a curvilinear pattern.
 - Post-development landforms that exhibit natural terrain characteristics (without the heavily modeling effects of landform grading).
 - A general rounding of slopes at slope intersections and transition zones with natural grade.
 - b. Landform graded slopes replicate the irregular shapes of natural slopes resulting in aesthetically pleasing elevations and profiles. Landform grading techniques should be used whenever slopes are being created which will be open to view from public rights-of-way.
- AE-4 Prior to approval of a proposed Site Plan application, the Manager, Current Planning Services, shall review detailed development plans to ensure that adequate screening is provided around existing and proposed oil facilities as well as other utility structures. Such screening for all remaining oil well equipment within the residential neighborhoods and public use area shall be consistent with the specifications included in the approved Area Plan. For above-ground oil operations equipment within visual proximity of residential or recreation areas, screening shall be provided through the use of vine covered fences, walls and/or landscape plantings.
- AE-5 Prior to approval of certificates of use and occupancy, existing electrical above ground utilities with a capacity of 12 kV or less shall be placed underground within the individual residential planning areas.
- AE-6 Prior to issuance of any building permit, the applicant shall demonstrate that all exterior lighting has been designed and located so that all direct rays are confined to the property in a manner meeting the approval of the Manager, Building Permit Services. Lighting shall be designed to minimize visibility of light sources by directing lighting toward the on-site structures and not illuminating areas outside property boundaries.

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Cultural/Scientific Resources

Significant Effects

The following is a summary of significant effects to cultural/scientific resources.

- The proposed project will have a significant effect on cultural resources if its development or operation would result in the unmitigated alteration of ORA-1483H.
- Buried cultural resources, such as chipped or ground stone, historic debris, building foundations, or human bone, may be uncovered during grading for the proposed project.
- Where deep excavation is necessary and where there is a possibility of encountering rocks of the Puente, Fernando, or La Habra Formations or older Quaternary alluvium and Quaternary non-marine terrace deposits, the potential for recovering fossils would be considered high.

With implementation mitigation measures impacts relative to cultural/scientific resources will be reduced to less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

- CR-1 A qualified archaeological monitor approved by the County of Orange and paid for by the developer/property owner shall be present to monitor all ground-disturbing activities within 250 feet of ORA-1483H.
- CR-2 If buried cultural resources, such as chipped or ground stone, significant historic debris, building foundations, or human bone, are inadvertently discovered during ground-disturbing activities, work will stop in that area and within 100 feet of the find until a qualified archaeologist monitor approved by the County and paid for by the developer/ property owner can assess the significance of the find and, if

necessary, develop appropriate treatment measures in consultation with the County of Orange and other appropriate agencies.

If human remains of Native American origin are discovered during project construction, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (*Public Resources Code* §5097). If any human remains are discovered or recognized in any location other than a dedicated cemetery, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county has been informed and has determined that no investigation of the cause of death is required. Section 7050.5 of the *California Health and Safety Code* requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the California Native American Heritage Commission.

If the remains are of Native American origin:

- a. The descendants of the deceased Native Americans may recommend to the landowner or the person responsible for the excavation work a means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in *Public Resources Code* §5097.98, or
- b. And the Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission, the landowner shall re-inter the human remains with appropriate dignity on the property in a location not subject to further subsurface disturbance.

According to the *California Health and Safety Code*, six or more human burials at one location constitutes a cemetery (§8100) and disturbance of Native American cemeteries is a felony (§7052).

The construction contractor and the County of Orange will ensure that work is halted until appropriate treatment measures are implemented if potentially significant cultural resources are discovered during construction activities.

CR-3 The areas with dense vegetation but relatively level topography, such as along Tonner Creek and on ridgetops and hilltops, shall be monitored by a qualified archaeological monitor approved by the County and paid for by the developer/property owner when vegetation grubbing and clearing occur and during grading.

CR-4 Prior to the issuance of a grading permit, the developer/property owner shall direct a County Certified Vertebrate Paleontologist (CCVP) to provide written

evidence (letter verification) to the Manager, Subdivision and Grading, indicating that a CCVP has been retained to observe (monitor) grading activities and salvage and catalog fossils as necessary. The hiring of the CCVP will be approved by the County and paid for by the developer/property owner. The CCVP will ensure the following actions are implemented:

- *Develop monitoring plan.* A paleontological resource monitoring plan shall be developed by a CCVP. This plan should include a schedule for grading monitoring to be maintained while conducted within fossiliferous geologic units, in order to further evaluate on-site fossil resources.
- *Conduct salvage operations.* Salvage operations shall be initiated and coordinated with the developer and the County if significant concentrations of fossils are encountered during grading.
- *Protect unearthed fossils.* Paleontological field monitors (staff paleontologists) shall be equipped to salvage fossils as they are unearthed to avoid construction delays and remove samples of sediments which are likely to contain the remains of small fossil vertebrates. Monitors must be empowered to temporarily halt or divert grading equipment to allow the removal of large specimens. If significant concentrations of fossils are encountered or separate equipment is operating at distances greater than 1/8 mile apart, additional staff paleontologists may be required during grading in order to maintain compliance with mitigation measures.
- *Establish resource surveillance procedures.* The CCVP shall be present at the pre-grading conference, shall establish procedures for paleontological resource surveillance, and shall establish, in cooperation with the project developer, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of the fossils. If major paleontological resources are discovered, which require long-term halting or redirecting of grading, the paleontologist shall report such findings to the project developer and to the County of Orange.
- *Protect fossil finds.* During grading, the CCVP shall determine appropriate actions, in cooperation with the project developer, which ensure proper exploration and/or salvage of encountered paleontologic resources (fossils). Excavated significant fossil finds shall be offered to the County of Orange, or its designee, on a first-refusal basis. The project developer may retain said fossil finds if written assurance is provided that they will be properly preserved, unless said finds are of special significance, or the County of Orange indicates a desire to study and/or display them, in which case the fossils shall be immediately accessioned to the County of Orange, or designee. These actions, as well as final mitigation and disposition of the resources, shall be subject to the County of Orange guidelines and regulations. Prior to the issuance of a precise (fine) grading permit, the paleontologist shall submit a final report for approval by the County of Orange.
- *Observe grading.* Paleontologic grading observation, supplemented by weekly periodic in-grading supervisory inspections by the CCVP, shall be maintained when grading in all on-site geologic units. This will enable

further evaluation, protection and salvaging of any significant paleontological resources encountered on-site. Monitoring on a full-time basis is required as significant concentrations of fossils are anticipated within geologic units to be exposed during grading of the site. Monitoring schedules can only be altered during the project by the CCVP.

- *Complete salvage operations quickly.* If significant concentrations of fossils are encountered, which cannot be collected during monitoring time, salvage operations must be initiated and completed as quickly as feasible at the direction of the CCVP and coordinated with the on-site grading foreman. The County of Orange, or its designee, and the property developer will be notified regarding any paleontologic salvage operation as soon as possible.
- *Prepare final report.* Prior to the issuance of certificates of occupancy, or as required by the County of Orange, a final paleontological report – paid for by the developer – shall be prepared for submission, review, and approval by the appropriate lead regulatory agency. The report shall include grading dates, methodologies, an itemized inventory of specimens and analysis of the significance of encountered fossils, and information regarding curation of collected fossils to the point of identification and accession of the fossils to the County of Orange or a museum repository with a retrievable storage system. The final report and inventory, when submitted to the appropriate lead agency, signifies completion of the program to mitigate impacts on paleontologic resources.

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Recreation

Significant Effects

The following is a summary of significant effects to recreation.

The project will generate additional residents, which will increase the demand upon existing local, county and state recreational facilities.

With implementation mitigation measures impacts relative to recreation will be reduced to less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

R-1 Prior to approval of any subdivision map that creates building sites, the applicant shall:

1. Designate public parkland for dedication or provide for payment of in lieu fees according to the requirements of the Local Park Code. The Wildcatters Park has already been identified as part of the total dedication that will be required.
2. Irrevocably offer to dedicate a 16-foot-wide recreation easement for riding and hiking trails (Tonner Ridge Trail) in a location and in a manner meeting the approval of the Manager, PFRD/Harbors, Beaches and Parks/Program Management and Coordination prior to recordation of an applicable subdivision map in compliance with county Standard Conditions of Approval Manual conditions for recreation easements.
3. Provide for Class I paved bike trails through the project on collector streets and on those pedestrian/emergency access roads.
4. Dedicate a Scenic Preservation Easement to the County of Orange over the natural and enhanced open space (of the type to permit fuel modification and continued oil operation infrastructure until oil operations are phased out) to ensure its status in perpetuity. Easement dedication(s) shall be subject to the approval of the Manager, PFRD/HBP Program Management and Coordination, prior to recordation of applicable subdivisions, in compliance with County Standard Conditions of Approval Manual conditions for scenic preservation easements.
5. Areas to be irrevocably offered to the County for scenic preservation easement purposes shall be landscaped and equipped for irrigation, as applicable, and approved in accordance with the County Standard Conditions of Approved Manual conditions for Public Area Landscaping, subject to the approval of the Manager, PFRD/HBP Program prior to recordation of applicable subdivision map(s).

R-2 Prior to approval of an applicable subdivision map, a trail and bikeway improvement plan shall be submitted subject to approval of the Manager, PFRD/HBP Program Management and Coordination. Improvement plans shall include, but not be limited to (as applicable), trail and bikeway alignments, wood rail fences, cross-sections for trail and bikeways, drainage, irrigation, and landscaping palette.

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Mineral Resources

Significant Effects

The project will not have any significant effects on mineral resources and has been designed to accommodate on-going oil extraction and production.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

No mitigation measures are required.

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Hazards

Significant Effects

The following is a summary of significant effects to hazards.

Impacts include oil seeps, crude oil impacted soil, PCBs, VOCs, regulated metal contaminated soil, methane gas, gas, oil and utility line, well blowouts, natural gas plant, and power generation turbine.

With implementation mitigation measures impacts relative to hazards will be reduced to less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

- H-1 **Document Remediation** – An experienced petroleum environmental consultant shall document the remediation efforts during all three remediation phases, overall site grading, and implementation of the project mitigation measures in accordance with the approved RAP. Site closure reports containing environmental documentation will be submitted to the OCHCA and the SAFWQCB for approval. A closure letter from the OCHCA will be obtained to document the completion of remediation activities prior to the issuance of building permits.
- H-2 **Adhere to Proper Health and Safety Measures** - Proper health and safety measures must be followed according to a site-specific Health and Safety Plan prepared by the environmental consultant prior to and during the remediation of all areas, including areas identified to contain elevated VOC concentrations. This includes, but is not limited to, personal protection equipment for workers and monitoring for VOCs during remediation activities. Before starting remediation activities in these areas, the contractor shall obtain a permit from SCAQMD pursuant to Rule 1166. OSHA guidelines will be followed by on-site workers.
- H-3 **Verification Sampling and Analysis** – Verification sampling will be conducted under the direction of a representative of the OCHCA during all three remediation phases. Additional analysis of samples may be necessary to ensure that a site is fully characterized so as not to spread potentially impacted soil throughout the property.
- H-4 **Disposal of Gun Club Soil** - The impacted soil at the former gun club location will be transported off-site and disposed of at a licensed disposal facility.

Documentation of the disposal activity will be included in a site closure report submitted to OCHCA.

- H-5 **Disposal of Road Material** - Asphaltic road material will be removed during grading activities and used as deep fill, and its placement, location, and elevation will be documented during mass grading activities. Documentation of this activity will be included in the site closure report.
- H-6 **Disposal of Tarry Material** - If the tarry material is found to be suitable, based on analytical results for reuse on-site as deep fill, the exact depth and location will be surveyed and documented in the site closure report. If it is not suitable for burial on-site, it will be removed and transported to a licensed waste facility.
- H-7 **Disposal of Soil Containing PCB-Impacted Material** - Soils containing PCB concentrations greater than 0.22 mg/kg but less than 0.5 mg/kg will be stockpiled and reused in open space or as deep fill at depths greater than 10 feet in non-residential areas of the Tonner Hills project. Excavated soils containing PCB concentrations ranging from 0.5 mg/kg and to 10 mg/kg will be stockpiled and reused as deep fill at depths greater than 10 feet in street locations that will provide a "cap" within the Tonner Hills project. Excavated soils containing PCB concentrations greater than 10 mg/kg or greater will be transported off-site to a licensed disposal facility.
- H-8 **Supervision of Mass Grading Activities** - An experienced petroleum environmental consultant will be on-site during all mass grading activities to ensure that all "suspect" material is properly characterized and managed.
- H-9 Prior to commencing grading operations, the developer/property owner shall consult with the CDOGGR for information on the wells located in the residential area. All wells to be abandoned, or wells not abandoned to current standards, shall meet the current standards of CDOGGR. Any previously abandoned well shall be plugged and abandoned in accordance with current CDOGGR specifications prior to grading permit approval. Evidence of this consultation shall be provided to the County Manager, Subdivision and Grading, prior to commencement of grading. Any idle wells within the Planned Community shall be abandoned prior to development unless adequate provisions are taken to ensure that operators have access to these wells prior to grading, to the satisfaction of the County.
- H-10 Any previously abandoned well that does not meet current standards and is located within a residential neighborhood or within an adjacent street right-of-way shall be reabandoned in accordance with current CDOGGR specifications prior to building permit approval. Evidence of conformance to CDOGGR standards for any remedial plugging shall be provided to the Manager, Current Planning, and the Manager, Subdivision and Grading, immediately upon completion of reabandonment activity.

- H-11 The developer/property owner shall demonstrate on residential site plans that no buildings shall be allowed over wells that have either been plugged and abandoned or reabandoned to the CDOGGR and OCFA current specifications, or that are within 50 feet of a water injection well. Said plans shall be subject to review and approval by the Manager, Current Planning.
- H-12 A seismic sensor shall be placed at strategic locations to shut down production in the event of a significant seismic event (5.0 magnitude or higher on the Richter scale). The oil operator shall conduct a study to determine the seismic thresholds for shutting down production and the location, type, and number of sensors required. The study shall be subject to review and approval by the County. The seismic sensor and shut-down system shall be in place and operational prior to the County's issuing the first Certificate of Occupancy for a residential unit.
- H-13 Oil wells in residential areas will be placed with subsurface pumping units enclosed in a concrete vault. The vault will have a grated steel grill plate to restrict the unit from public access. No new wells shall be drilled in a residential area once the County issues the first Certificate of Occupancy. Within the residential, park, and commercial/mixed-use planning areas, no new wells shall be drilled, nor shall existing wells be redrilled after the County issues the first Certificate of Occupancy for a residential unit.
- H-14 Any residential structure constructed within 10 feet of an abandoned well shall receive special venting treatment pursuant to CDOGGR and OCFA standards and to the satisfaction of the County and CDOGGR. The developer/property owner shall indicate compliance with this measure on proposed building plans that are subject to review and approval by the Manager, Current Planning. Compliance is also subject to periodic site inspections by the County during construction.
- H-15 All habitable structures shall be located at least 50 feet from any operating well head, including water injection wells, pursuant to the requirements of the Uniform Fire Code and the OCFA and subject to monitoring and inspection by the OCFA. All habitable structures within 100 feet from an oil well shall comply with OCFA Planning and Development standard guideline C-02 (Guideline for Residences less than 100' from an Oil Well), as adopted at the time of construction.
- H-16 All drilling, operations, maintenance, and abandonment of wells during the life of the project shall be in accordance with §3106 of the Public Resources Code and overseen and approved by the CDOGGR. Compliance with this measure is subject to periodic site inspections by the Manager, Building Inspection Services and the CDOGGR.
- H-17 If any abandoned or unrecorded wells are uncovered or damaged during excavation or grading, remedial plugging operations shall be required. If such discovery occurs, approval from CDOGGR to perform remedial activities is required. In the event the abandoned or unplugged wells are encountered during grading, Nuevo or the Construction Manager shall inform the Manager,

Subdivision and Grading, within 24 hours of such an occurrence. Evidence of conformance to CDOGGR standards for any remedial plugging shall be provided to the County and the OCFA immediately upon completion of said remediation activity.

- H-18 Oil wells within open space planning areas where Scenic Preservation Easements have been dedicated to the County shall contain security fencing that meets the standards and requirements of CDOGGR. This fencing shall be indicated on project plans and subject to the review and approval of the Manager, County PFRD/HBP Program Management and Coordination.
- H-19 Prior to issuance of building permits, soils adjacent to oil wells abandoned in residential areas will be mitigated to meet residential cleanup requirements of the RAP. Once the project is occupied, subsequent well abandonments shall be subject to and processed in accordance with CDOGGR regulations.
- H-20 Prior to the County's issuing the first Certificate of Occupancy, a program to carefully monitor the hydrogen sulfide (H₂S) content of the produced gas shall be developed and implemented to prevent higher levels of H₂S from becoming present in the produced gas. This program shall be reviewed by the CDOGGR and reviewed and approved by the OCHCA. Downhole treatment shall begin when the level of H₂S exceeds 10 ppm.
- H-21 All oil and gas flowlines shall be installed in underground trenches, separate from other utilities. Location of all pipelines shall be recorded on site plans. Seismic joints and flexible couplings shall be installed in all cases where flowlines cross known or suspected fault lines. Seismic sensing devices shall be installed to allow for the shutdown of the field in the event of a significant seismic event (5.0 magnitude or higher on the Richter scale). The developer/property owner shall indicate compliance with these measures on project utility and building plans and be subject to review and approval by the Manager, Current Planning, prior to implementation of the proposed project.
- H-22 The oil operator shall compile a list of all hazardous materials used on the project site and demonstrate that the storage and use of these materials do not present a public safety hazard. This list, and documentation demonstrating that no public safety hazard exists, shall be reviewed and approved by the OCHCA and the OCFA prior to the County's issuing the first Certificate of Occupancy for a residential unit. In addition, the oil operator and the owner shall provide the same type of documentation it proposes to use a hazardous material not currently on the approved list.
- H-23 Prior to issuance of occupancy permits, the geotechnical consultant shall prepare a maintenance/monitoring manual describing the responsible parties, upkeep, monitoring program, record keeping and reporting required with respect to any oil seep mitigation measures installed within the project. The report shall include a map showing the locations of all pertinent structures (such as subdrain outlets,

vaults, clarifiers, etc.) and shall be approved by the Manager, Subdivision and Grading.

- H-24 Prior to grading, a baseline study shall be performed to gain a better understanding of the current distribution and concentrations of methane in the area proposed for development. This study shall include soil gas sampling and analysis performed by a methane consultant. Since the distribution of methane can change with depth, the consultant's report shall include a work plan for further investigation during grading, including sampling intervals, procedures, and potential mitigation measures that might be implemented during grading. This report shall be submitted to the OCFA for approval.
- H-25 During grading, soil gas sampling and analysis shall be performed on the bottom of all excavations in the development area. This would include cuts to design grade, overexcavation of building pads, the bottoms of areas where unsuitable foundation soils have been removed, buttress cuts, etc. "Bottoms" sampling shall also be conducted at each well location. The sampling and analysis shall include a determination of gas pressure, hydrocarbon concentration, and chemical composition. If anomalous and potentially hazardous gas seeps are identified, the methane consultant shall recommend specific remedial measures and submit findings to the OCFA for approval.
- H-26 During grading, any subsurface structures that may act as a conduit for methane gas (such as sewer lines, storm drains, subdrains, etc.) shall be evaluated by the methane consultant with respect to the local conditions. The methane consultant shall provide specific remedial recommendations, such as venting, as needed for approval by OCFA.
- H-27 Full time monitoring of the grading activities shall be provided by the petroleum environmental consultant in order to document the depth, lateral extent, and concentrations of any crude oil-impacted fills. This information shall be provided to the methane consultant for evaluation and consideration in the final methane remedial recommendations.
- H-28 At the completion of grading, and prior to the issuance of building permits, sampling and analysis shall be performed by the methane consultant at future building locations. Based on the data collected prior to, during, and at the completion of grading, the methane consultant shall make final recommendations for methane mitigation during construction and future ongoing monitoring at buildout. The analysis and recommendations shall consider the guidelines recommended by OCFA (Guideline C-03 dated January 31, 2000) as minimum requirements. Any deviations from the guidelines shall be supported by scientific evidence, and approved by the OCFA.
- H-29 Prior to the issuance of occupancy permits, the methane consultant shall prepare a manual describing the responsible parties, upkeep, monitoring program, record-keeping required, and reporting required with respect to the methane mitigation

installed within the project. The report shall include a map showing the locations of all monitoring wells, vents, or other pertinent structures. The Tonner Hills Homeowners Association shall be responsible for ongoing monitoring and reporting to the OCHCA and the OCFA as described in the methane consultant report.

- H-30 All methane investigation and analyses shall be performed by a California registered engineer and/or geologist with demonstrated proficiency in the subject of soil gas investigation and mitigation. All methane reports, work plans, mitigation plans, and monitoring plans are subject to the review and approval of the OCFA.

Mitigation Measures Added

H-15 *[edited as noted above]*

H-31 The project will be subject to the latest edition of the Orange County Fire Authority "Combustible Soil Gas Hazard Mitigation Guidelines" and the City of Brea Combustible Soil Gas Mitigation System Installation and Inspection Requirements.

H-32 The oil operator shall update and revise as necessary the RMP (Risk Management Plan) on file with the OCFA for the Oil Field operations adjacent to the proposed development. Such RMP revisions shall be submitted and accepted by OCFA prior to the issuance of any certificates of occupancy for the project.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Public Services

Significant Effects

The following is a summary of significant effects to public services.

The project is situated in the County of Orange Special Fire Protection Area (SFPA), which is designated as a high potential fire hazard zone. Development of the planned community will result in greater demand and impact on school services provided by Brea-Olinda Unified School District, and public safety services.

With implementation mitigation measures impacts relative to public services will be reduced to less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

- PS-1 **Secured Fire Protection Agreement** - Prior to recordation of the first final map within the project boundaries, including maps for financial and conveyance purposes only, or prior to grading, whichever comes first, the applicant shall enter into a Secured Fire Protection Agreement with the Orange County Fire Authority (OCFA).
- PS-2 **Fire Hydrants**
- a. Prior to the recordation of a subdivision map for development, the applicant shall submit a fire hydrant location plan for the review and approval of OCFA.
 - b. Prior to the issuance of a building permit, the applicant shall submit to OCFA evidence of the on-site fire hydrant system and indicate whether it is public or private. If the system is private, it shall be reviewed and approved by OCFA prior to issuance of a building permit. Provisions shall be made by the applicant for the repair and maintenance of the system, in a manner meeting the approval of OCFA.
 - c. Prior to the issuance of any certificate of use and occupancy, all fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street or drive per the Orange County Fire Authority Standards as approved by OCFA. These markers are to be maintained in good condition by the property owner.
- PS-3 **Water Availability** - Prior to the issuance of a building permit, the applicant shall provide evidence of adequate fire flow. The Orange County Fire Authority Water Availability for Fire Protection form shall be signed by the applicable water district and submitted for approval to the Orange County Fire Authority. If sufficient water to meet fire flow requirements is not available, an automatic fire extinguishing system may be required in each structure affected by insufficient fire flow. It is recommended, but not required, that fire flows are based upon field testing and not solely on engineering calculations to avoid issues at time of certificates and use and occupancy when verification is again required.
- PS-4 **Automatic Fire Sprinkler Systems**
- a. Prior to the recordation of a subdivision map for development, a note shall be placed on the map stating that all commercial structures over 6,000 square feet, all residential structures over 5,500 square feet, and all

structures exceeding fire department access requirements shall be protected by an automatic fire sprinkler system, in a manner meeting the approval of OCFA. To the extent feasible, such situations should be identified during the tentative map review process, or equivalent review, and such approval should be specifically conditioned regarding appropriate fire sprinkler requirements.

- b. Prior to the issuance of a building permit, the applicant shall submit plans for any required automatic fire sprinkler system in any structure to the OCFA for review and approval.
- c. Prior to the issuance of a certificate of use and occupancy, this system shall be operational in a manner meeting the approval of OCFA.

PS-5 Fire Access Roads

- a. Prior to the issuance of a mass or rough grading permit, the applicant shall provide plans and/or information for review and approval by OCFA demonstrating that adequate fire and emergency response access ways through the disturbed areas of the project site will be maintained during all phases of mass or rough grading operations.
- b. Prior to the recordation of a subdivision map for development or the issuance of any precise grading permit, whichever occurs first, the applicant shall obtain approval of OCFA for all fire protection access roads within 150 feet of all portions of the exterior of every structure on-site, or an alternative means and method request shall be approved by OCFA.
- c. Prior to the issuance of any precise grading permits, the applicant shall submit and obtain approval of plans for all roads, streets and courts, public or private, from OCFA in consultation with the Manager, Subdivision and Grading Services. The plans shall include the plan view and section view, and indicate the grade and width of the street or court measured from line to flow line. All proposed fire apparatus turnarounds shall be approved by OCFA and, if needed, clearly marked when a dead-end street exceeds 150 feet or when otherwise required. Applicable CC&Rs or other approved documents shall contain provisions that prohibit obstructions, such as speed bumps/humps, control gates, or other modifications within said easement or access road unless prior approval of OCFA is granted.
- d. A note shall be placed on the fire protection access easement plan indicating that all street/road signs shall be designed and maintained to be either internally or externally illuminated in a manner meeting approval of OCFA.

PS-6 Street Markings

- a. Prior to the issuance of a building permit, the applicant shall submit plans and obtain approval from OCFA for fire lanes on required fire access roads less than 36 feet wide. The plan shall indicate the locations of red curbing and signage. A drawing of the proposed signage with the height, stroke and color of lettering and the contrasting background color shall be submitted to and approved by OCFA.

- b. Prior to the issuance of any certificate of use and occupancy, the fire lanes shall be installed in accordance with the approved fire lane plan. The CC&Rs or other approved documents shall contain a fire lane map and provisions which prohibit parking in the fire lanes. The method of enforcement shall be documented.

PS-7 Fire Hazard Notification

- a. *State Responsibility Areas.* Prior to the recordation of a subdivision map for development, the subdivider shall place a note on the map meeting the approval of OCFA that the property is in a "(High/Very High) Fire Hazard Area" due to wildland exposure based on State SRA Maps.
- b. *Special Fire Protection Area Notification.* Prior to recordation of any final tract map, the subdivider shall place a note on the map meeting the approval of OCFA that the property is in a "Special Fire Protection Area" and must meet all requirements for development within the area or file for a conditional exclusion with OCFA.
- c. *Special Fire Protection Area Development.* Prior to the issuance of a building permit, the applicant shall meet all requirements for development and construction within a Special Fire Protection Area, including increase street widths, Class A roof assemblies, fire sprinklers, etc., or shall receive a conditional exclusion approved from OCFA.
- d. *Special Fire Protection Area Conditional Exclusion.* If applicable, prior to recordation of any final tract map, the subdivider shall place a note on the map meeting the approval of OCFA that the property is "Conditionally Excluded" from a "Special Fire Protection Area," and shall identify lots/buildings which are subject to construction requirements.

PS-8 Fuel Modification - Prior to the issuance of any preliminary grading permit, the applicant shall obtain the approval of OCFA, in consultation with the Manager, Subdivision and Grading Services, of a conceptual fuel modification plan and program.

Prior to the issuance of any precise grading permit, the applicant shall obtain the approval of OCFA, in consultation with the Manager, Subdivision and Grading Services, of a precise fuel modification plan and program. The plan shall indicate the proposed means of achieving an acceptable level of risk to structures by vegetation.

Prior to the issuance of a building permit, the developer shall have completed, under the supervision of OCFA, that portion of the approved fuel modification plan determined to be necessary by OCFA before the introduction of any combustible materials into the project area. Approval shall be subject to on-site inspection.

Prior to the issuance of any certificate of use and occupancy, the fuel modification shall be installed and completed under the supervision of OCFA. Further, the installed fuel modification plant pallet shall be established to a degree meeting the

approval of OCFA. The CC&Rs, or other approved documents, shall contain provisions for maintaining the fuel modification zones including the removal of all dead and dying vegetation subject to triennial inspections.

All fuel modification plans shall be in accordance with the OCFA guidelines for development within Special Fire Protection Areas as outlined in Guidelines C-04, C-05 and C-06.

- PS-9 **Access Gates** - If applicable, prior to the issuance of any grading permits, the applicant shall submit and obtain OCFA's approval for the construction of any gate across required fire authority access road/drives. Contact the Orange County Fire Authority at (714) 744-0499 for a copy of the "Guidelines for Design and Installation of Emergency Access Gate and Barriers."
- PS-10 **Fire Impact Fees** - The project applicant shall pay all applicable dispatch impact fees prior to the issuance of any building permits.
- PS-11 **Oil Field Mitigation** - Copies of oil field mitigation measures specified in the Mitigation Measures subsection of the Hazards section shall be provided to OCFA as part of "standard conditions" of approval for the proposed development prior to the issuance of certificate of occupancy.
- PS-12 **Library Impact Fees** - The project applicant shall pay all applicable Orange County Library Services in lieu fees prior to the issuance of any building permits.
- PS-13 **School Impact Fees** - Prior to the issuance of a building permit, the project applicant shall comply with Senate Bill 50 and pay the applicable school impact fees. Presently, the Brea-Olinda Unified School District's adopted School Impact Fees for Residential development is \$2.05 per square foot and \$0.33 per square foot for commercial or mixed use developments. Upon completion of the designated tract map, the valid amount shall be issued.

Mitigation Measures Added

[edited as noted in PS-1 and PS-8 above]

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Utilities and Service Systems

Significant Effects

The following is a summary of significant effects to utilities and service systems.

The Project will result in incremental increase in the demand for utilities and service systems. However, the demands by the proposed project are within the capacities of the service providers. Utilities and services systems such as water, electricity, gas sewer, solid waste, and telecommunications are not anticipated to experience significant impacts due to the developer and service fees typically allocated to fund necessary on-site and off-site improvements.

With implementation mitigation measures impacts relative to utilities and service systems will be reduced to less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

- US-1 **Water Conservation** - Prior to issuance of building permits, the project applicant shall incorporate all practical and mandated water conservation measures to the satisfaction of the Metropolitan Water District of Southern California, Water Conservation Plans.
- US-2 **Recycling Programs** - Prior to issuance of building permits, the applicant shall comply with guidelines set forth by the County of Orange in accordance with the California Integrated Waste Management Act (1989, AB 939), which mandates recycling programs for each jurisdiction in California.
- US-3 **Consultation with Southern California Edison Company** - Prior to the issuance of building permits, the developer shall demonstrate to the Manager, Current Planning, Southern California Edison has been consulted regarding participation in programs designed to increase the efficiency of operation and decrease energy costs.
- US-4 **Consultation with Southern California Gas Company** - Prior to the issuance of building permit, the project applicant shall consult with the Southern California Gas Company to determine the proper facilities and location needed to serve the site.
- US-5 **Payment of Construction Fees** - The project applicant shall be responsible for paying the appropriate costs and fees for the construction of facilities used to

serve the project site per the rules and regulations established by each utility for the extension of said facilities.

US-6 **Water Services** - Prior to the issuance of a grading permit, Southern California Water Company must obtain a Certificate of Public Convenience and Necessity (CPCN) under §1001 of the *Public Utilities Code* from the California Public Utilities Commission (CPUC).

Mitigation Measures Added

None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Insignificance

None.

Statement of Overriding Considerations Tonner Hills Planned Community Environmental Impact Report No. 581

UNAVOIDABLE IMPACTS IDENTIFIED IN EIR No. 581

The Tonner Hills Planned Community will have a significant unavoidable cumulative impacts in the area of air quality, agricultural resources and transportation, as described in detail in the Environmental Impact Report and the Statement of Findings and Facts.

The EIR has identified all feasible mitigation measures with respect to the air quality, agricultural resources and transportation impacts. Although these mitigation measures may substantially lessen this significant impact, adoption of the measures may not fully avoid the impacts.

As a result, to approve the project, the County of Orange, as Lead Agency, must make a statement of overriding considerations pursuant to CEQA Guidelines Section 15093. This statement allows a lead agency to cite a project's general economic, social or other benefits as a justification for choosing to allow the occurrence of specified significant environmental effects that have not been avoided. The statement explains why, in the agency's judgment, the project's benefits outweigh the unavoidable significant effects. Under Section 15043 of the CEQA Guidelines, a public agency may approve a project although the project may have significant impacts.

CEQA does not require lead agencies to analyze beneficial impacts in an EIR. Rather, EIR's are to focus on potential significant effects on the environment, defined to be adverse (Public Resources Code, Section 21068). However, these benefits can be cited, if necessary, in a statement of overriding considerations (CEQA Guidelines, Section 15093).

IDENTIFIED PUBLIC BENEFITS

The County, in its review and consideration of the proposed Tonner Hill Planned Community project, and in consideration of the significant unavoidable cumulative impact in the area of air quality and agricultural resources, hereby finds that the following public benefits of the Alternative 4 Preferred Plan override the above-referenced Unavoidable Adverse Impacts for the following reasons:

1. The adoption of the Tonner Hills Planned Community Alternative 4 Preferred Plan and certification of the EIR will contribute housing in the County of Orange by the provision of additional residential units. The County had determined that the provision of additional housing is a public benefit of the project. The project will provide housing opportunities that meet the objectives and policies the County's General Plan Housing Element and SCAG's Regional Housing Needs Assessment.

2. The adoption of the Tonner Hills Planned Community Alternative 4 Preferred Plan and certification of the EIR will provide substantial job creation opportunities in the County of Orange throughout the duration of the project's construction term. The County has determined that the creation of additional job opportunities is a public benefit of the project.
3. The adoption of the Tonner Hills Planned Community Alternative 4 Preferred Plan and certification of the EIR will create a balanced multi-use development of a residential planned community and continued oil production which provides a mechanism for the preservation and conservation of sensitive habitat, including the wildlife corridor through Tonner Canyon, in perpetuity. The County has determined that the conservation and preservation of sensitive habitat and the wildlife corridor is a public benefit of the project.
4. The adoption of the Tonner Hills Planned Community Alternative 4 Preferred Plan and certification of the EIR will provide connectivity to the regional recreational trail system and bikeway system with the implementation of the Tonner Hills trail and provision of bike paths along the roadways within the Tonner Hills community. The County has determined that this recreational trail and regional connectivity is a public benefit of the project.
5. The adoption of the Tonner Hills Planned Community Alternative 4 Preferred Plan and certification of the EIR will create a 14.6 acre public park. The County has determined that the creation of additional public park space is a benefit of the project.

Based on the public benefits noted above, the Planning Commission of the County of Orange finds that the public benefits of the proposed project substantially outweigh the unavoidable adverse impacts of the project on air quality and agricultural resources and hereby recommends to the Board of Supervisors adoption of this Statement of Overriding Consideration in accordance with the CEQA Guidelines Section 15021.

Mitigation Monitoring and Reporting Plan Tonner Hills Planned Community Environmental Impact Report No. 581

The California Environmental Quality Act (CEQA) requires all public agencies to establish monitoring or reporting procedures for mitigation measures adopted as conditions of approval in order to mitigate or avoid significant project impacts. The monitoring or reporting program must be designed to ensure compliance during project implementation (*Public Resources Code* §21081.6).

Provided on the following pages is a summary of the proposed mitigation measures associated with the proposed project. Following each mitigation measure heading is an indication of the action involved with enforcement, implementation and timing of the mitigation measure ("Mitigation Measure"), implementation action (i.e., "Mitigation Milestone"), and the Responsible Monitoring Party. This Mitigation Monitoring Program is intended to reflect the requirements of AB 3180 (Cortese), which requires a monitoring program to ensure the implementation of these mitigation measures.

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>Geophysical</p> <p>G-1 Fault Investigations - Prior to issuance of the grading permit, the project applicant shall ensure that development throughout the project area shall include geologic investigations performed by a California-licensed geologist or engineering geologist to document the location, orientation, recency of activity, and direction of anticipated offset for active or potentially active faults that impact the development area. In particular, the precise location and activity of the Tonner Fault should be determined, because of its proximity to future home sites (approximately 50 feet). Appropriate setbacks from designated active faults should be included in project planning and design, and a report should be submitted to the Manager, Subdivision and Grading.</p>	<p>Geotechnical review by licensed geologist including appropriate setbacks from active faults. Submit report to Manager, Subdivision & Grading.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>G-2 Geotechnical Investigation and Report - Prior to the issuance of a grading permit, the project applicant shall submit a geotechnical report to the Manager, Subdivision and Grading, for approval. The report shall be prepared by a California-registered engineering geologist and licensed civil engineer with experience in soil engineering, and shall include technical information and recommendations in the format required by the County of Orange Grading Manual.</p>	<p>Submit geotechnical report by California registered engineering geologist per format in County of Orange Grading Manual.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
<p>G-3 Liquefaction - Prior to issuance of a grading permit, the project applicant shall ensure that the geotechnical investigation fully characterizes the presence and extent of liquefiable soils and shall submit a report to the Manager, Subdivision and Grading. The project is not within a state-delineated Seismic Hazard Zone for liquefaction; however, the state maps may not show all potentially liquefiable areas. Therefore, a site-specific analysis of the liquefaction potential in areas of the property underlain by alluvium should be included in future detailed geotechnical investigations. In order to assist in this analysis, the state has published specific guidelines for evaluating and mitigating liquefaction (California Division of Mines and Geology Special Publication 117, 1997). In general, the liquefaction investigation identifies the depth, thickness, and lateral extent of any liquefiable layers that would affect the project site. If such layers exist, an analysis is then performed to estimate the type and amount of ground deformation that might occur, given the seismic potential of the area.</p> <p>Mitigation measures generally fall into two categories: ground improvement or foundation design. Ground improvement measures include removal and recompaction of low density soils, removal of excess ground water, in-situ ground densification, and other types of ground improvement (such as grouting or surcharging). Special foundations that may be</p>	<p>Submit site specific analysis of liquefaction potential per California Division of Mines and Geology guidelines.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>recommended range from deep piles to reinforcement of shallow foundations (such as post-tensioned slabs). The type (or combinations of types) of mitigation depends on the site conditions and on the nature of the proposed project (California Division of Mines and Geology, 1997).</p>			
<p>G-4 Slope Stability – Prior to issuance of the grading permit, the existing slopes that will remain adjacent to development areas should be investigated and analyzed for gross stability in accordance with current soil engineering standards. Graded slopes (including cut, fill, and cut-over-fill slopes) and graded/natural slope combinations will also require investigation and analysis. Grossly unstable slopes can be stabilized by buttressing, flattening the slope gradient, lowering the height of the slope, constructing the slope with geogrid reinforcement, or by combinations of these methods. Where slopes cannot be stabilized, building setbacks will be imposed.</p> <p>Specific recommendations for remediation of slope instability shall be included in the geotechnical report for the project, which shall be submitted for review and approval to the Manager, Subdivision and Grading.</p>	<p>Investigate and analyze existing slopes. Submit specific recommendations in geotechnical report for review.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
<p>G-5 Compressible/Collapsible Soils - Prior to issuance of the grading permit, a geotechnical soil analysis shall be performed to characterize the presence of compressible and/or collapsible soil within the project site. The findings and specific recommendations shall be included in the geotechnical report for the project and shall be submitted for review and approval to the Manager, Subdivision and Grading. Compressible soils are routinely removed and recompacted in proposed fill areas. Where perimeter fill slopes descend into natural canyons, the compressible soils are not only removed under the fill slope, but for a specified distance beyond the toe of the fill slope. This provides support</p>	<p>Prepare geotechnical soil analysis for compressible/collapsible soils. Submit for review.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>for the slope and mitigates the potential for settlement. The removal area generally extends beyond the grading design at a minimum 1:1 projection (if landslides are present, a 1.5:1 or 2:1 projection is used). A 1:1 projection means the bottom of the removal extends beyond the toe to a horizontal distance equal to the depth of the removal bottom below the toe. Consequently, this distance is primarily dependent on the thickness of the compressible soils, but is also dependent on the gradient of the natural slope below the fill (the steeper the slope, the farther the removal is extended).</p>			
<p>G-6 Expansive and Corrosive Soils - Prior to issuance of the grading permit, and as part of the geotechnical investigation performed by a California licensed geologist and geotechnical engineer, the presence and extent of potentially expansive and corrosive soils within the project site shall be characterized. The best defense against expansive soils in new developments is to avoid placing expansive soils near the surface. If this is unavoidable, building areas with expansive soils are typically "presaturated" to a moisture content and depth specified by the soil engineer, thereby "pre-swelling" the soil prior to constructing the structural foundation or hardscape. This method is often used in conjunction with designing stronger foundations that can resist small ground movements without cracking. Good surface drainage control is essential for all types of improvements, both new and old.</p>	<p>Characterize presence and extent of potentially expansive and corrosive soils in geotechnical report.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
<p>G-7 Tar Seeps - The potential for naturally occurring crude oil seeps cannot be completely eliminated; however, it can be greatly reduced by the implementation of the following remedial measures.</p> <ul style="list-style-type: none"> • Prior to the issuance of a grading permit, a thorough analysis and preliminary remediation plan shall be prepared by the geotechnical consultant in order to reduce impacts of future oil seepage to a level of non-significance. The plan shall be submitted for review and 	<p>Analyze tar seeps and prepare remediation plan to reduce impacts. Submit for review.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>approval to the Manager, Subdivision and Grading. For the residential areas, remedial grading will be required to reduce the potential for future oil seepage at finished grades. This could include deeper overexcavation, thereby placing a thick fill column between the seep and finish grade; a subsurface drainage and capture system; and/or higher compaction standards.</p> <ul style="list-style-type: none"> • During grading, the geotechnical consultant shall observe and map all excavations for oil seepage. The geotechnical consultant shall provide specific remedial recommendations based on the actual conditions encountered. Remedial recommendations shall include a means by which to reduce the potential for future landscape irrigation water to form a perched ground water table on the oil-bearing bedrock or fill. 	<p>Observe and map all excavations for oil seepage. Provide specific remedial recommendations.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
<ul style="list-style-type: none"> • During grading the location of any subsurface, utility lines shall be overexcavated a minimum of 2 feet below the base of the line in bedrock or soils with naturally occurring hydrocarbon. The geotechnical consultant shall evaluate any utility line located in oil-bearing areas for its potential to provide a pathway for oil migration (i.e., via the permeable bedding sands). Oil-bearing fill materials shall not be placed as utility line backfill. 	<p>Evaluate subsurface utility lines for potential oil migration.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
<ul style="list-style-type: none"> • During grading, the geotechnical and/or environmental consultant shall evaluate the need for clarifiers in order to reduce the potential of water carrying crude oil to impact the site. 	<p>Evaluate need for clarifiers.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
<ul style="list-style-type: none"> • Prior to issuance of building permits, the geotechnical consultant shall issue an as-graded report documenting the location of naturally occurring oil and any remedial measures installed and a monitoring and maintenance plan for tar seep drainage and collection systems. The report and plan shall be submitted to the Manager, Subdivision 	<p>Issue as-graded report documenting location and remedial measures for oil and monitoring and maintenance plan for tar seep systems. Submit reports and plans.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>and Grading, and the Manager, Current Planning, for approval.</p> <ul style="list-style-type: none"> The oil seep analysis and mitigation shall be performed by a California registered engineering geologist and soil engineer. All reports, work plans, and mitigation plans shall be submitted to the Manager, Subdivision and Grading, for review and approval. 			
<p>G-8 Reservoirs - Prior to issuance of the grading permit, the flow directions, flow volumes, and inundation levels shall be estimated by the design civil engineer for the project and submitted to the Manager, Subdivision and Grading, for approval. If necessary, engineered devices or structures should be considered to redirect any potential flow away from residential neighborhoods. If feasible, the water tanks should be relocated outside the Alquist-Priolo Earthquake Fault Zone. The presence or absence of faults should be determined by conducting a detailed geologic investigation.</p>	<p>Prepare and submit flow direction, volume, and levels report; conduct detailed geologic investigation regarding presence/absence of faults.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
<p>G-9 Observation and Testing - Prior to issuance of building permits, a final report summarizing the observation and testing performed during grading by the geotechnical consultant and for the project shall be submitted to the Manager, Subdivision and Grading for approval.</p>	<p>Prepare and submit final observation and testing report.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
<p>G-10 Grading - All grading shall be performed in accordance with the County of Orange Grading and Excavation Code, County of Orange Grading Manual and the appropriate sections of the Uniform Building Code.</p>	<p>Grading subject to Orange County Grading and Excavation Code and Uniform Building code.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
<p>Hydrology and Drainage</p>			
<p>HD-1 Prior to the recordation of a subdivision map for development (except maps for financing and conveyance purposes only) and prior to the issuance of any grading permits, the following drainage studies shall be submitted to and approved by the Manager, Subdivision and Grading and the Manager, PFRD/Program Development Division:</p>	<p>Prepare and submit drainage studies showing:</p> <ul style="list-style-type: none"> Diversions, off-site areas, Drainage patterns will not overload existing storm drains; Safety of building pads from rainfall 	<p>County of Orange - Manager, Subdivision & Grading County of Orange - Manager PFRD/Program Development Division</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>a. A drainage study of the project including diversions, off-site areas that drain onto and/or through the project, and justification of any diversions; and</p> <p>b. When applicable, a drainage study evidencing that proposed drainage patterns will not overload existing storm drains; and</p> <p>c. Detailed drainage studies indicating how the project grading, in conjunction with the drainage conveyance systems including applicable swales, channels, street flows, catch basins, storm drains, and flood water retarding, will allow building pads to be safe from inundation from rainfall runoff that may be expected from all storms up to and including the theoretical 100-year flood.</p>	runoff inundation.		
<p>HD-2 a. Prior to the recordation of a subdivision map for development (except maps for financing and conveyance purposes only) and prior to the issuance of any grading permits, the applicant shall, in a manner meeting the approval of the Manager, Subdivision and Grading, the Manager, PFRD/Program Development, and the Manager, Flood Control Program:</p> <ol style="list-style-type: none"> 1) Design provisions for surface drainage; and 2) Design all necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff; and 3) Dedicate the associated easements to the County of Orange to ensure adequate maintenance access, if determined necessary. <p>b. Prior to the issuance of any certificates of use and occupancy, said improvements shall be constructed in a manner meeting the approval of the Manager, Subdivision and Grading and Manager, Construction.</p>	Design provisions for surface drainage, storm drain facilities for disposal; dedicate easements for maintenance access.	County of Orange - Manager, Subdivision & Grading County of Orange - Manager PFRD/Program Development Division County of Orange - Manager, Flood Control Program	
<p>HD-3 Prior to the recordation of a subdivision map for development or prior to the issuance of any grading permit, whichever</p>	Record letter of consent from upstream/downstream property owners	County of Orange - Manager, Subdivision &	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>comes first, and if determined necessary by the Manager, Subdivision and Grading, the applicant shall record a letter of consent from the upstream and/or downstream property owners permitting drainage diversions and/or unnatural concentrations. The form of the letter of consent shall be approved by the Manager, Subdivision and Grading Services, and the Manager, PFRD/Program Development Division prior to recordation of the letter.</p>	<p>for drainage diversions and unnatural concentrations. Submit letter for approval.</p>	<p>Grading County of Orange - Manager PFRD/Program Development Division</p>	
<p>HD-4 Prior to the recordation of a subdivision map for development (except maps for financing and conveyance purposes only), the subdiviver shall participate in the applicable Master Plan of Drainage in a manner meeting the approval of the Manager, Subdivision and Grading, and the Manager, PFRD/Program Development, including payment of fees and the construction of the necessary facilities.</p>	<p>Participate in applicable Master Plan of Drainage (fee payment, facility construction)</p>	<p>County of Orange - Manager, Subdivision & Grading County of Orange - Manager PFRD/Program Development Division</p>	
<p>HD-5</p> <p>a. Prior to the approval of a site development permit per Zoning Code §7-9-113, the applicant shall submit an Elevation Certificate to the Manager, Current Planning Services, identifying the base flood elevation and certifying that the planned elevation of the lowest floor, including basements, is at least one (1) foot above the Base Flood Elevation (BFE). <i>(Note: to eliminate FEMA requirements for flood insurance, the lowest elevation of any part of the structure, not only the lowest floor, must be above the BFE.)</i></p> <p>b. Prior to the issuance of certificates of use and occupancy for any building, the applicant shall complete Section "E" of the Elevation Certificate, identifying the Base Flood Elevation (BFE) and certifying the as-built lower floor, including basement, as constructed, is at least one (1) foot above the BFE, in a manner meeting the approval of the Manager, Building Inspection Services. <i>(Note: to eliminate FEMA requirements for flood insurance, the lowest elevation of any part of the</i></p>	<p>Submit elevation certificate regarding base flood elevation; complete Section E of elevation certificate.</p>	<p>County of Orange - Manager, Current Planning Services</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>HD-6 Prior to the issuance of any certificates of use and occupancy, the applicant shall not grant any new easements over any property subject to a requirement of dedication or irrevocable offer to the County of Orange or the Orange County Flood Control District, unless such easements are expressly made subordinate to the easements to be offered for dedication to the County. Prior to granting any of said easements, the subdivider shall furnish a copy of the proposed easement to the Manager, Subdivision and Grading, and the Manager, PFRD/Program Development, for review and approval. Further, a copy of the approved easement shall be furnished to the Manager, Building Inspection Services, prior to the issuance of any certificate of use and occupancy.</p>	<p>Furnish copy of any proposed easements over property subject to County of Orange or Orange County Flood Control District.</p>	<p>County of Orange - Manager, Subdivision & Grading County of Orange - Manager PFRD/Program Development Division County of Orange - Manager, Building Inspection Services</p>	
<p>HD-7 Prior to the recordation of a subdivision map for development (except maps for financing and conveyance purposes only), the subdivider shall not grant any development-related easements (i.e., oil production related easements are excluded) over any property subject to a requirement of dedication or irrevocable offer to the County of Orange or the Orange County Flood Control District, unless such easements are expressly made subordinate to the easements to be offered for dedication to the County. Prior to granting any of said easements, the subdivider shall furnish a copy of the proposed easement to the Manager, Subdivision and Grading, for review and approval.</p>	<p>Furnish copy of any proposed development-related easements over property subject to County of Orange or Orange County Flood Control District.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
<p>HD-8 Prior to the issuance of any grading permits, applicant shall delineate on the grading plan the floodplain which affects the property, in a manner meeting the approval of the Manager, Subdivision and Grading.</p>	<p>Delineate flood plain on Grading Plan.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>HD-9 Prior to the recordation of a subdivision map for development, applicant shall delineate on the final map and the project grading plan the floodplain which affects the property, in a manner meeting the approval of the Manager, Subdivision and Grading.</p>	<p>Delineate flood plain on Final Map.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
<p>HD-10 Prior to the issuance of any grading permits, applicant shall submit a Runoff Management Plan (RMP) to the Manager, Subdivision and Grading, and the Manager, Flood Control Programs, for review and approval.</p>	<p>Submit Runoff Management Plan (RMP) for review and approval.</p>	<p>County of Orange - Manager, Subdivision & Grading County of Orange - Manager, Flood Control Programs</p>	
<p>HD-11 Prior to the issuance of any grading permits for phased improvements, applicant shall submit drainage calculations indicating that the proposed drainage improvements are adequate to mitigate for project impacts as stated in the Runoff Management Plan to the Manager, Subdivision and Grading, and the Manager, Flood Control Programs, for review and approval.</p>	<p>Submit drainage calculations showing adequate mitigation for review and approval.</p>	<p>County of Orange - Manager, Subdivision & Grading County of Orange - Manager, Flood Control Programs</p>	
<p>HD-12 Prior to the recordation of a subdivision map for development (except maps for financing and conveyance purposes only), the applicant shall, in a manner meeting the approval of the Manager, Subdivision and Grading, and the Manager, PFRD/Program Development Division, initiate the formation of a Community Service Area covering the same area as the Master Homeowners Association for the purpose of maintaining the on-site drainage facilities.</p>	<p>Initiate formation of community service area for drainage facilities.</p>	<p>County of Orange - Manager, Subdivision & Grading County of Orange - Manager, PFRD/Program Development Division</p>	
<p>HD-13 During grading and construction activities for the water reservoir storage tanks, all grading and site preparation shall comply with the County Grading Ordinance and the Uniform Building Code (for seismic criteria) and be approved by the Manager, Subdivision and Grading. Water storage tank design shall comply with the American Water Works Association (AWWA) Standard D-100 for structural design and seismic</p>	<p>Comply with County grading ordinance and Uniform Building Code for water reservoir storage tanks.</p>	<p>County of Orange - Manager, Subdivision & Grading County of Orange - Manager, Building Inspection Services</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>requirements. The design plans shall be submitted to the Manager, Building Inspection Services, for approval.</p>			
Water Quality			
<p>WQ-1 Runoff Management & Water Quality Plan - Prior to the recordation of the first final map (either for conveyance or development), or prior to the issuance of any rough or precise grading permit, whichever occurs first, the land owner/applicant shall prepare, and receive approval from the Manager, Subdivision and Grading Services Division, in consultation with the Environmental Resources and Flood Program Sections of the PFRD Program Development Division (PDD) of, a Runoff Management Plan (RMP), including Water Quality Management Plan (WQMP) covering the subject property. The RMP shall include the location of all permanent large-scale Best Management Practices (BMPs), including filtration devices, such as water quality basins, detention basins, debris basins, grass/bio-swales, energy dissipaters, and other BMPs.</p>	<p>Prepare for approval a Runoff Management Plan, including Water Quality Management Plan.</p>	<p>County of Orange - Manager, Subdivision & Grading County of Orange - Manager, PFRD/Program Development Division</p>	
<p>WQ-2 Master Infrastructure Improvements - Prior to the recordation of the first final map (either for conveyance or development), or prior to the issuance of any rough or precise grading permit, whichever occurs first, the land owner shall design and construct all applicable master infrastructure improvements identified in the approved RMP, including debris basins, bio-swales, energy dissipaters, drainage pipes, and other improvements, and shall provide all necessary dedications, all in a manner meeting the approval of the Manager, Subdivision & Grading, and the Manager, PFRD/Program Development Division.</p>	<p>Design and construct all applicable master infrastructure improvements in the Runoff Management Plan.</p>	<p>County of Orange - Manager, Subdivision & Grading County of Orange - Manager, PFRD/Program Development Division</p>	
<p>WQ-3 NPDES - Prior to issuance of any grading permits, the applicant shall submit evidence to the Manager, Subdivision and Grading, that the applicant has obtained coverage under the NPDES statewide General Construction Activity</p>	<p>Submit evidence of coverage under NPDES permit.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>Stormwater Permit from the State Water Resources Control Board, which includes the preparation of a Storm Water Pollution Prevention Program and incorporates EMT to minimize stormwater runoff.</p>			
<p>WQ-4 Final Map Note for Retention Basins - Prior to the recordation of each final map (either for conveyance or development), a note shall be placed on the applicable final map where appropriate, indicating that retention basins will be required on the property in accordance with the approved RMP, in a manner meeting the satisfaction of the Manager, Subdivision & Grading Services Division.</p>	<p>Note retention basins on final Map.</p>	<p>County of Orange - Manager, Subdivision & Grading</p>	
Transportation and Circulation			
<p>T-10 <u>Balsa Avenue between State College Boulevard and Carmichael Drive</u> Prior to issuance of certificates of use and occupancy for residences within Planning Area 8, the developer shall pay to the County on a fair share basis for any agreed upon traffic calming measures along Balsa Avenue.</p>	<p>Pay fair share fee</p>	<p>County of Orange - Manager, Current Planning</p>	
<p>T-11 <u>City of Brea Fee Program</u> Prior to issuance of building permits, the project shall participate in both the City of Brea currently adopted fee program and the City of Brea proposed fee program for transportation improvements. These fees shall be paid on a per unit basis.</p>	<p>Participate in currently adopted fee program.</p>	<p>City of Brea - Development Services Manager</p>	
<p>Scenario 1: Mitigation Measures Required With Tonner Canyon Road</p>			
<p>1. Brea Boulevard (NS) at Central Avenue (EW) Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The southbound approach should be restriped from two exclusive thru lanes and one exclusive right turn lane to provide one exclusive thru lane, one shared thru-right turn lane and an exclusive right turn lane. This location is projected to experience deficient operations under Without</p>	<p>Pay fair share fee.</p>	<p>County of Orange - Manager, Current Planning</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>Project conditions. Therefore, the project is only responsible for a fair share contribution at this location. The fair share contribution is 3.5%.</p>			
<p>2. State College Boulevard (NS) at Lambert Road (EW) Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The project impact mitigation measure at this location includes constructing an additional (second) left turn lane and converting the current shared left turn-through lane to an exclusive through lane. The feasibility of this improvement has been reviewed based on field reconnaissance and aerial photographs. Based upon this review, it appears that this improvement can be implemented. The proposed improvement will not provide acceptable traffic operations. This location is also projected to experience deficient operations under Without Project conditions. Therefore, the project is only responsible for a fair share contribution towards this improvement under these conditions. The fair share contribution at this location is 10.7% in the AM peak hour and 30.0% in the PM peak hour.</p>	Pay fair share fee.	County of Orange - Manager, Current Planning	
<p>3. Kraemer Boulevard (NS) at Lambert Road (EW) Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The eastbound approach should be restriped to provide 2 exclusive through lanes, a shared through-right turn lane, and an exclusive right turn lane (this location is planned to include three exclusive through lanes and an exclusive right turn lane). This will provide acceptable AM peak hour operations (there is no PM peak hour deficiency). The project is responsible for the recommended improvement.</p>	Pay fair share fee.	County of Orange - Manager, Current Planning	
<p>4. Valencia Avenue (NS) at Birch Street (EW) Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. Deficiencies are projected for both AM and PM</p>	Pay fair share fee.	County of Orange - Manager, Current Planning	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>peak hour traffic operations and for both Without Project and With Project conditions. The southbound approach should be restriped to add a second left turn lane, an exclusive thru lane and a shared thru-right turn lane. This improvement will provide acceptable AM peak hour traffic operations and will mitigate the project PM peak hour impact. As this location is also projected to experience deficient operations under Without Project conditions, the project is only responsible for a fair share contribution towards the recommended improvement. The fair share percentages are 6.5% in the AM peak hour and 48.0% in the PM peak hour.</p>			
<p>5. Rose Drive (NS) at Imperial Highway (EW) This location was not identified as impacted by the project in the DEIR under the With Tonner Canyon Road scenario. Based on the updated analysis using the newly constructed intersection geometry, a project impact has been identified. Mitigation consists of contributing on a fair share basis towards construction of an exclusive westbound right turn lane. The project fair share contribution for this mitigation measure is 15.0%.</p>	Pay fair share fee.	County of Orange - Manager, Current Planning	
Scenario 2: Mitigation Measures Required Without Tonner Canyon Road			
<p>6. Brea Boulevard (NS) at Central Avenue (EW) Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The improvement includes a restriped /reconstructed the northbound approach to add a third thru lane, a single exclusive left turn lane and an exclusive right turn lane (the approach currently provides two left turn lanes, two through lanes, and one right turn lane). This will provide acceptable AM peak hour operations. To mitigate the project PM peak hour impact, a southbound right turn arrow (overlap) is required at this intersection. This location is also projected to experience deficient operations under Without Project conditions (PM peak hour only). Therefore, the project is only</p>	Pay fair share fee.	County of Orange - Manager, Current Planning	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>responsible for a fair share contribution (75% A.M. 4.3% P.M.) towards this improvement (the southbound right turn overlap).</p>			
<p>7. Kraemer Boulevard (NS) at Lambert Road (EW) Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The eastbound approach should be restriped to provide two exclusive through lanes, a shared through-right turn lane, and an exclusive right turn lane (this location is planned to include three exclusive through lanes and an exclusive right turn lane). This will provide acceptable AM peak hour operations (there is no PM peak hour deficiency). This location is also projected to experience deficient operations under Without Project conditions. Therefore, the project is only responsible for a fair share contribution towards the recommended improvement. The fair share contribution is 20.5% at this location.</p>	Pay fair share fee.	County of Orange - Manager, Current Planning	
<p>8. Rose Drive (NS) at Imperial Highway (EW) Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. Mitigation consists of contributing on a fair share basis (10%) towards construction of an exclusive westbound right turn lane.</p>	Pay fair share fee.	County of Orange - Manager, Current Planning	
<p>9. Valencia Avenue (NS) at Lambert Road (EW) Prior to the issuance of certificates of use and occupancy, the developer shall pay to the County on a fair share basis for the improvement. The currently planned intersection geometry, per the City of Brea adopted fee program, would provide two eastbound left turn lanes and three eastbound through lanes. The recommended mitigation measure is to reconstruct the eastbound approach to the intersection. The mitigation measure for this intersection includes provides a single eastbound left turn lane, two exclusive eastbound through lanes, a shared eastbound through and right turn lane, and an</p>	Pay fair share fee.	County of Orange - Manager, Current Planning	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
additional exclusive eastbound right turn lane. The project contribution for the Without Tomner Canyon Road Connection conditions is 4.0%.			

Scenario 1 and Scenario 2

10. Prior to or concurrent with the approval of the first tentative tract map, the subdivider shall submit an opening year traffic study analysis in conjunction with the submittal of each Level "B" Tentative Map, to the Manager of Current Planning for review and approval. Such studies shall ascertain the existing traffic conditions and determine if any future mitigation is necessary.	Preparation and submittal of opening year traffic studies.	County of Orange- Manager of Current Planning	
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Air Quality

AQ-1 During grading and construction phases, the project shall apply measures contained in Table 1 and Table 2 of SCAQMD Rule 403. Prior to the issuance of grading permit, the applicant shall obtain appropriate permits from the SCAQMD and submit them to the Manager, Subdivision and Grading Services.	Comply with measures in SCAQMD Rule 403. Obtain appropriate permits from SCAQMD.	County of Orange - Manager, Subdivision & Grading	
AQ-2 During grading and construction phases, the project shall reduce construction equipment emissions by implementing the following measures, which shall be included in grading and improvement plans specifications for implementation by contractors: <ul style="list-style-type: none"> • Use low emissions mobile construction equipment. • Maintain construction equipment engines by keeping them tuned. • Use low sulphur fuel for stationary construction equipment. This is required by SCAQMD Rules 431.1 and 431.2. • Utilize existing power sources (i.e., power poles) when feasible. This measure would minimize the use of higher polluting gas or diesel generators. • Configure construction parking to minimize traffic 	Implement measures to reduce construction equipment emissions. Develop traffic plan for construction activities.	County of Orange - Manager, Subdivision & Grading	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>interference.</p> <ul style="list-style-type: none"> • Minimize construction of through-traffic lanes. When feasible, construction should be planned so that lane closures on existing streets are kept to a minimum. • Schedule construction operations affecting traffic for off-peak hours. <p>Develop a traffic plan to minimize traffic flow interference from construction activities (the plan may include advance public notice of routing, use of public transportation and satellite parking areas with a shuttle service.</p>			
<p>AQ-3 Prior to issuance of building permits, the applicant shall obtain approval of an Air Quality Mitigation Plan by the Manager, Environmental and Project Planning. The Plan shall address each applicable control measure listed below in order to determine which control measures are feasible, recommend implementation conditions, and establish methods of applying conditions to contractors, buyers, lessees, tenants and occupants to comply with Rule 402 and Rule 403. The project applicant shall reimburse the County for costs of an independent third party peer review, if necessary, of this Plan. Specific mitigation measures could include:</p> <ol style="list-style-type: none"> a. Transportation Demand Management Measures <ol style="list-style-type: none"> 1. Schedule truck deliveries and pickups during off-peak hour. 2. Provide adequate ingress and egress at all entrances to public facilities to minimize vehicle idling at curbsides. 3. Provide dedicated turn lanes as appropriate and provide roadway improvements at heavily congested roadways. b. Energy Efficient Measures <ol style="list-style-type: none"> 5. Improve thermal integrity of the buildings and reduce thermal load with automated time clocks or occupant sensors. 	<p>Obtain approval of an Air Quality Mitigation Plan including Transportation Demand Management Measures & Energy Efficient Measures.</p>	<p>County of Orange - Manager, Environmental and Project Planning</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<ol style="list-style-type: none"> 6. Install energy efficient street lighting. 7. Capture waste heat and re-employ it in nonresidential buildings. 8. Landscape with native drought-resistant species to reduce water consumption and to provide passive solar benefits. 9. Provide lighter color roofing and road materials and tree planning programs to comply with the AQMP Miscellaneous Sources MSC-01 measure. 10. Comply with the AQMP Miscellaneous Sources PRC-03, and Stationary Sources Operations Enhanced Inspection and Maintenance and ADV-MISC to reduce emissions of restaurant operations. 11. Provide bicycle lanes, storage areas, and amenities, and ensure efficient parking management. 12. Provide preferential parking to high occupancy vehicles and shuttle services. Also, designate additional car pool or vanpool parking. The air quality benefit cannot be quantified. 13. Employers should provide variable work hours and telecommuting to employees to comply with the AQMP Advanced Transportation Technology ATT-01 and ATT-02 measures. 14. Provide dedicated parking spaces with electrical outlets for electrical vehicles. 15. Develop a trip reduction plan to comply with SCAQMD Rule 2202. 16. Employers should provide ride-matching, guaranteed ride home, or car pool or vanpool to employees as a part of the TDM program and to comply with the AQMP Transportation Improvements TCM-01 measure. 17. Synchronize traffic signals. 18. Encourage the use of alternative fuel or low emission vehicles to comply with the AQMP On- 			

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>Road Mobile M2 measure, and Off-Road Mobile Sources M9 and M10 measures.</p> <p>19. Introduce window glazing, wall insulation, and efficient ventilation methods.</p>			
Noise			
<p>N-1 During grading and construction activities, the project applicant shall comply with the County of Orange Noise Ordinance, including limitations on allowable construction hours.</p>	Comply with County of Orange Noise Ordinance.	County of Orange	
<p>N-2 Prior to the issuance of grading permits, the project proponent shall produce evidence acceptable to the Manager, Building Permits Services, that:</p> <ul style="list-style-type: none"> a. All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with properly operating and maintained mufflers. b. All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control). c. Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings. <p>Notations in the above format, appropriately numbered and included with other notations on the front sheet of the project's permitted grading plans will be considered as adequate evidence of compliance with this condition.</p>	Comply with County of Orange Codified Ordinance Division 6 as noted on grading plans.	County of Orange - Manager, Building Permits Services	
<p>N-4 The applicant shall sound attenuate all residential lots and residential dwellings against present and projected noise (which shall be the sum of all noise impacting the project) so that the composite interior standard of 45 dBA CNEL for habitable rooms and a source specific exterior standard of 65 dBA CNEL for outdoor living areas is not exceeded. The applicant shall provide a report prepared by a County-certified acoustical consultant, which demonstrates that these standards</p>	Sound attenuation measures in compliance with Zoning Code §7-9-137.5 to be submitted by County-certified acoustical consultant.	County of Orange - Manager, Building Permits Services	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>Mitigation Measure</p> <p>will be satisfied in a manner consistent with Zoning Code §7-9-137.5, as outlined below. At a minimum, the report shall address noise levels of above-ground retained oil production facilities and activities within 500 feet of residential areas, as well as noise generated by traffic on nearby roadways.</p> <ol style="list-style-type: none"> a. Prior to the recordation of a subdivision maps or prior to the issuance of grading permits, as determined by the Manager, Building Permits Services, the applicant shall submit an acoustical analysis report to the Manager, Building Permits Services, for approval. The report shall describe in detail the exterior noise environment and preliminary mitigation measures. Acoustical design features to achieve interior noise standards may be included in the report, in which case it may also satisfy item b. below. b. Prior to the issuance of any building permits for residential construction, the applicant shall submit an acoustical report describing the acoustical design features of the structures required to satisfy the exterior and interior noise standards to the Manager, Building Permits Services, for the approval along with satisfactory evidence which indicates that the sound attenuation measures specified in the approved acoustical report have been incorporated into the design of the project. c. Prior to the issuance of any building permits, the applicant shall show all free-standing acoustical barriers on the project's plot plan illustrating height, location and construction in a manner meeting the approval of the Manager, Building Permits Services. d. Prior to the issuance of certificates of use and occupancy, field testing in accordance with the County's Noise Ordinance may be required by the Manager, Building Permits Services to verify compliance with all 			

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>applicable standards. The project applicant shall reimburse the County for the costs of an independent third party peer review of this evidence.</p> <p>N-5 Prior to the issuance of any building or grading permits, the applicant shall obtain approval of the Manager, Building Permits Services, of an acoustical analysis report and appropriate plans which demonstrate that the noise levels generated by project noise generating equipment during its operation shall be controlled in compliance with Orange County Codified Ordinance, Division 6 (Noise Control). The report shall be prepared under the supervision of a County-certified acoustical consultant and shall describe the noise generation potential of the project during its operation and the noise mitigation measures, if needed, that shall be included in the plans and specifications of the project to assure compliance with Orange County Codified Ordinance, Division 6 (Noise Control).</p>	<p>Obtain approval of acoustical analysis report in compliance with Orange County Codified Ordinance Division 6 (Noise Control).</p>	<p>County of Orange - Manager, Building Permits Services</p>	
<p>Biological Resources</p>			
<p>BR-1 Prior to the issuance of any grading, clearing, or other landform modification permit, the developer shall submit evidence to the Director or designee, Development Services Department, that appropriate federal, state, and county permits have been obtained for the biological resources on-site to be removed by development. Said permits shall specify the timing, nature, and review authority for the mitigation measures, if any, that are required in connection with these removals. No removals shall be authorized until all necessary resource agency permits have been obtained.</p>	<p>Submit evidence that appropriate federal, state, and county permits have been obtained for removal of biological resources by development.</p>	<p>County of Orange - Director of Development Services</p>	
<p>BR-2 Prior to the issuance of a grading permit, walnut trees within drainage channels shall be identified on the grading plan and retained to the greatest extent feasible. Said grading shall be subject to review and approval by the Manager, Current Planning Services.</p>	<p>Identify and retain walnut trees within drainage channels.</p>	<p>County of Orange - Manager, Current Planning Services</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>BR-3 Prior to the issuance of a grading permit, the property owner/developer shall obtain a §1603 Streambed Alteration Agreement, if required by the <i>California Fish and Game Code</i>; and a permit under the guidelines of §404(b)(1) of the Clean Water Act, if required by the U.S. Army Corps of Engineers. Mitigation is intended to adhere to the "no net loss" policies of the CDFG and the U.S. Army Corps of Engineers. If a §404 Permit from the ACOE is required, a §401 Water Quality Certification will also be required from the California Regional Water Quality Control Board, Santa Ana Region. Evidence shall be provided to the Manager, Subdivision and Grading.</p>	<p>Obtain necessary permits from the California Department of Fish & Game, the U.S. Army Corps of Engineers, and the California Regional Water Quality Control Board.</p>	<p>County of Orange - Manager, Subdivision and Grading</p>	
<p>BR-4 Prior to initiation of grading, and upon approval from the Manager, Environmental Planning services, the property owner/developer shall implement the Tonner Hills Habitat Mitigation and Monitoring Program (which is included in the Technical Appendices). The Program incorporates measures to:</p> <ul style="list-style-type: none"> • Preserve and protect walnut and oak woodlands outside the project footprint. • Preserve and protect coastal sage scrub habitat outside the project footprint. • Preserve and protect riparian habitat outside the project footprint. • Create additional coastal sage scrub habitat prior to and during project implementation. • Create additional walnut-coast live oak woodland habitat. • Enhance preserved habitat in Cable Canyon. <p>The mitigation plan provides for a phased-in creation of riparian, coastal sage scrub, and walnut-oak woodland habitat on-site.</p>	<p>Implement Tonner Hills Habitat Mitigation and Monitoring Program</p>	<p>County of Orange - Manager, Environmental Planning Services</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
BR 5 Crushing of existing habitat would not occur during the breeding season (February 15 to July 31) unless approved by a biological monitor familiar with requirements of breeding birds, especially coastal California gnatcatchers. Removal of crushed vegetation could occur in the breeding season if a biological monitor is present to prevent disruption to protected breeding birds.	Obtain approval of biological monitor for any crushing of existing habitat during breeding season.	County of Orange – Manager, Environmental Planning Services	
Aesthetics			
AE-1 Prior to the issuance of any grading permit or recordation of a subdivision map that creates building sites, whichever occurs first, the applicant shall obtain approval of the Manager, PFRD/HBP Program Management and Coordination, of a landscape and tree preservation plan for the property. This plan shall be consistent with the revegetation plan required as set forth in Section 4.10, Biological Resources, of this EIR.	Obtain approval of a Landscape and Tree Preservation Plan.	County of Orange - Manager, PFRD/HBP Program Management and Coordination	
AE-2 Prior to the approval of a Site Development Plan, a proposed color palette for the residential building materials and color schemes shall be submitted for review and approval by the Manager, Current Planning. The color palette shall consist of colors which complement with the surrounding hillsides.	Submit for review proposed color palette for building materials.	County of Orange - Manager, Current Planning	
AE-3 Prior to issuance of grading permits for final grading plans, the applicant shall submit for review and approval by the Manager, Current Planning, grading plans that comply with the County of Orange Zoning Code §7-9-139 (Grading and Excavation) and use contour and/or landform grading techniques for slopes viewed from public rights-of-way as described below: a. Contour grading results in landforms that exhibit many of the characteristics present with natural landforms as opposed to traditional terraced grading. Contour grading techniques include: • The use of horizontal and vertical curve variations for slope banks creating a curvilinear pattern.	Submit for review grading plans in compliance with County of Orange Zoning Code §7-9-139.	County of Orange - Manager, Current Planning Services	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<ul style="list-style-type: none"> • Post-development landforms that exhibit natural terrain characteristics (without the heavily modeling effects of landform grading). • A general rounding of slopes at slope intersections and transition zones with natural grade. b. Landform graded slopes replicate the irregular shapes of natural slopes resulting in aesthetically pleasing elevations and profiles. Landform grading techniques should be used whenever slopes are being created which will be open to view from public rights-of-way. 			
<p>AE-4 Prior to approval of a proposed Site Plan application, the Manager, Current Planning Services, shall review detailed development plans to ensure that adequate screening is provided around existing and proposed oil facilities as well as other utility structures. Such screening for all remaining oil well equipment within the residential neighborhoods and public use area shall be consistent with the specifications included in the approved Area Plan. For above-ground oil operations equipment within visual proximity of residential or recreation areas, screening shall be provided through the use of vine covered fences, walls and/or landscape plantings.</p>	<p>Submit for review detailed development plans for screening of oil facilities.</p>	<p>County of Orange - Manager, Current Planning Services</p>	
<p>AE-5 Prior to approval of certificates of use and occupancy, existing electrical above ground utilities with a capacity of 12 kV or less shall be placed underground within the individual residential planning areas.</p>	<p>Place electrical above-ground utilities underground.</p>	<p>County of Orange Manager, Building Permit Services</p>	
<p>AE-6 Prior to issuance of any building permit, the applicant shall demonstrate that all exterior lighting has been designed and located so that all direct rays are confined to the property in a manner meeting the approval of the Manager, Building Permit Services. Lighting shall be designed to minimize visibility of light sources by directing lighting toward the on-site structures and not illuminating areas outside property boundaries.</p>	<p>Design lighting to confine direct rays to property and prevent glare and light spillover into Tonner Creek.</p>	<p>County of Orange - Manager, Building Permit Services</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
Cultural/Scientific Resources			
<p>CR-1 A qualified archaeological monitor approved by the County of Orange and paid for by the developer/property owner shall be present to monitor all ground-disturbing activities within 250 feet of ORA-1483H.</p>	<p>Archaeological monitor on-site during grading.</p>	<p>County of Orange - Approved monitor</p>	
<p>CR-2 If buried cultural resources, such as chipped or ground stone, significant historic debris, building foundations, or human bone, are inadvertently discovered during ground-disturbing activities, work will stop in that area and within 100 feet of the find until a qualified archaeologist monitor approved by the County and paid for by the developer/ property owner can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the County of Orange and other appropriate agencies.</p>	<p>Cease work and assess significance of remains/resources per §7050.5 of California Health and Safety Code.</p>	<p>County of Orange - Approved monitor and Coroner</p>	
<p>If human remains of Native American origin are discovered during project construction, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (<i>Public Resources Code</i> §5097). If any human remains are discovered or recognized in any location other than a dedicated cemetery, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county has been informed and has determined that no investigation of the cause of death is required. Section 7050.5 of the <i>California Health and Safety Code</i> requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the California Native American Heritage Commission.</p>			

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>If the remains are of Native American origin:</p> <p>a. The descendants of the deceased Native Americans may recommend to the landowner or the person responsible for the excavation work a means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in <i>Public Resources Code §5097.98</i>, or</p> <p>b. And the Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission, the landowner shall re-inter the human remains with appropriate dignity on the property in a location not subject to further subsurface disturbance. According to the <i>California Health and Safety Code</i>, six or more human burials at one location constitutes a cemetery (§8100) and disturbance of Native American cemeteries is a felony (§7052).</p> <p>The construction contractor and the County of Orange will ensure that work is halted until appropriate treatment measures are implemented if potentially significant cultural resources are discovered during construction activities.</p>			
<p>CR-3 The areas with dense vegetation but relatively level topography, such as along Tonner Creek and on ridgetops and hilltops, shall be monitored by a qualified archaeological monitor approved by the County and paid for by the developer/property owner when vegetation grubbing and clearing occur and during grading.</p>	<p>Monitor vegetation grubbing and clearing during grading by qualified archeological monitor.</p>	<p>County of Orange - Approved monitor</p>	
<p>CR-4 Prior to the issuance of a grading permit, the developer/property owner shall direct a County Certified Vertebrate Paleontologist (CCVP) to provide written evidence (letter verification) to the Manager, Subdivision and Grading, indicating that a CCVP has been retained to observe (monitor) grading activities and salvage and catalog fossils as necessary. The hiring of the CCVP will be approved by the County and</p>	<p>Provide written evidence indicating retention of certified vertebrate paleontologist to monitor grading. Monitor to ensure all stated mitigation actions are implemented.</p>	<p>County of Orange - Manager, Subdivision and Grading</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>paid for by the developer/property owner. The CCVP will ensure the following actions are implemented:</p> <ul style="list-style-type: none"> • <i>Develop monitoring plan.</i> A paleontological resource monitoring plan shall be developed by a CCVP. This plan should include a schedule for grading monitoring to be maintained while conducted within fossiliferous geologic units, in order to further evaluate on-site fossil resources. • <i>Conduct salvage operations.</i> Salvage operations shall be initiated and coordinated with the developer and the County if significant concentrations of fossils are encountered during grading. • <i>Protect unearthed fossils.</i> Paleontological field monitors (staff paleontologists) shall be equipped to salvage fossils as they are unearthed to avoid construction delays and remove samples of sediments which are likely to contain the remains of small fossil vertebrates. Monitors must be empowered to temporarily halt or divert grading equipment to allow the removal of large specimens. If significant concentrations of fossils are encountered or separate equipment is operating at distances greater than 1/8 mile apart, additional staff paleontologists may be required during grading in order to maintain compliance with mitigation measures. • <i>Establish resource surveillance procedures.</i> The CCVP shall be present at the pre-grading conference, shall establish procedures for paleontological resource surveillance, and shall establish, in cooperation with the project developer, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of the fossils. If major paleontological resources are discovered, which require long-term halting or redirecting of grading, the paleontologist shall report such findings to the project developer and to the County of Orange. • <i>Protect fossil finds.</i> During grading, the CCVP shall 			

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>determine appropriate actions, in cooperation with the project developer, which ensure proper exploration and/or salvage of encountered paleontologic resources (fossils). Excavated significant fossil finds shall be offered to the County of Orange, or its designee, on a first-refusal basis. The project developer may retain said fossil finds if written assurance is provided that they will be properly preserved, unless said finds are of special significance, or the County of Orange indicates a desire to study and/or display them, in which case the fossils shall be immediately accessioned to the County of Orange, or designee. These actions, as well as final mitigation and disposition of the resources, shall be subject to the County of Orange guidelines and regulations. Prior to the issuance of a precise (fine) grading permit, the paleontologist shall submit a final report for approval by the County of Orange.</p> <ul style="list-style-type: none"> • <i>Observe grading.</i> Paleontologic grading observation, supplemented by weekly periodic in-grading supervisory inspections by the CCVP, shall be maintained when grading in all on-site geologic units. This will enable further evaluation, protection and salvaging of any significant paleontological resources encountered on-site. Monitoring on a full-time basis is required as significant concentrations of fossils are anticipated within geologic units to be exposed during grading of the site. Monitoring schedules can only be altered during the project by the CCVP. • <i>Complete salvage operations quickly.</i> If significant concentrations of fossils are encountered, which cannot be collected during monitoring time, salvage operations must be initiated and completed as quickly as feasible at the direction of the CCVP and coordinated with the on-site grading foreman. The County of Orange, or its designee, and the property developer will be notified regarding any 			

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>paleontologic salvage operation as soon as possible.</p> <ul style="list-style-type: none"> • <i>Prepare final report.</i> Prior to the issuance of certificates of occupancy, or as required by the County of Orange, a final paleontological report – paid for by the developer – shall be prepared for submission, review, and approval by the appropriate lead regulatory agency. The report shall include grading dates, methodologies, an itemized inventory of specimens and analysis of the significance of encountered fossils, and information regarding curating of collected fossils to the point of identification and accession of the fossils to the County of Orange or a museum repository with a retrievable storage system. The final report and inventory, when submitted to the appropriate lead agency, signifies completion of the program to mitigate impacts on paleontologic resources. 			
Recreation			
<p>R-1 Prior to approval of any subdivision map that creates building sites, the applicant shall:</p> <ol style="list-style-type: none"> 1. Designate public parkland for dedication or provide for payment of in lieu fees according to the requirements of the Local Park Code. The Wildcatters Park has already been identified as part of the total dedication that will be required. 2. Irrevocably offer to dedicate a 16-foot-wide recreation easement for riding and hiking trails (Tonner Ridge Trail) in a location and in a manner meeting the approval of the Manager, PFRD/Harbors, Beaches and Parks/Program Management and Coordination prior to recordation of an applicable subdivision map in compliance with county Standard Conditions of Approval Manual conditions for recreation easements. 3. Provide for Class I paved bike trails through the project on collector streets and on those pedestrian/emergency access roads. 	<p>Designate and dedicate parkland, trails, and scenic preservation easement. Landscaping to be completed per County Standard Condition of Approval for Public Area Landscaping.</p>	<p>County of Orange - Manager, PFRD/HBP</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>4. Dedicate a Scenic Preservation Easement to the County of Orange over the natural and enhanced open space (of the type to permit fuel modification and continued oil operation infrastructure until oil operations are phased out) to ensure its status in perpetuity. Easement dedication(s) shall be subject to the approval of the Manager, PFRD/HBP Program Management and Coordination, prior to recordation of applicable subdivisions, in compliance with County Standard Conditions of Approval Manual conditions for scenic preservation easements.</p> <p>5. Areas to be irrevocably offered to the County for scenic preservation easement purposes shall be landscaped and equipped for irrigation, as applicable, and approved in accordance with the County Standard Conditions of Approved Manual conditions for Public Area Landscaping, subject to the approval of the Manager, PFRD/HBP Program prior to recordation of applicable subdivision map(s).</p>			
<p>R-2 Prior to approval of an applicable subdivision map, a trail and bikeway improvement plan shall be submitted subject to approval of the Manager, PFRD/HBP Program Management and Coordination. Improvement plans shall include, but not be limited to (as applicable), trail and bikeway alignments, wood rail fences, cross-sections for trail and bikeways, drainage, irrigation, and landscaping palette.</p>	<p>Submit for approval Trail and Bikeway Improvement Plan.</p>	<p>County of Orange - Manager, PFRD/HBP Program Management and Coordination</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
Hazards			
<p>H-1 Document Remediation – An experienced petroleum environmental consultant shall document the remediation efforts during all three remediation phases, overall site grading, and implementation of the project mitigation measures in accordance with the approved RAP. Site closure reports containing environmental documentation will be submitted to the OCHCA and the SARWQCB for approval. A closure letter from the OCHCA will be obtained to document the completion of remediation activities prior to the issuance of building permits.</p>	<p>Document remediation by petroleum environmental consultant. Submit reports.</p>	<p>Orange County Health Care Agency (OCHCA) Santa Ana Regional Water Quality Control Board (SARWQCB)</p>	
<p>H-2 Adhere to Proper Health and Safety Measures - Proper health and safety measures must be followed according to a site-specific Health and Safety Plan prepared by the environmental consultant prior to and during the remediation of all areas, including areas identified to contain elevated VOC concentrations. This includes, but is not limited to, personal protection equipment for workers and monitoring for VOCs during remediation activities. Before starting remediation activities in these areas, the contractor shall obtain a permit from SCAQMD pursuant to Rule 1166. OSHA guidelines will be followed by on-site workers.</p>	<p>Prepare and follow health and safety plan. Obtain permit from SCAQMD. Follow OSHA guidelines.</p>	<p>South Coast Air Quality Management District (SCAQMD)</p>	
<p>H-3 Verification Sampling and Analysis – Verification sampling will be conducted under the direction of a representative of the OCHCA during all three mediation phases. Additional analysis of samples may be necessary to ensure that a site is fully characterized so as not to spread potentially impacted soil throughout the property.</p>	<p>Verification sampling and analysis</p>	<p>OCHCA</p>	
<p>H-4 Disposal of Gun Club Soil - The impacted soil at the former gun club location will be transported off-site and disposed of at a licensed disposal facility. Documentation of the disposal activity will be included in a site closure report submitted to OCHCA.</p>	<p>Transport impacted soil off-site and document disposal.</p>	<p>OCHCA</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>H-5 Disposal of Road Material - Asphaltic road material will be removed during grading activities and used as deep fill, and its placement, location, and elevation will be documented during mass grading activities. Documentation of this activity will be included in the site closure report.</p>	<p>Document removal of impacted asphalt.</p>	<p>OCHCA</p>	
<p>H-6 Disposal of Tarry Material - If the tarry material is found to be suitable, based on analytical results for reuse on-site as deep fill, the exact depth and location will be surveyed and documented in the site closure report. If it is not suitable for burial on-site, it will be removed and transported to a licensed waste facility.</p>	<p>Document removal of tarry material.</p>	<p>OCHCA</p>	
<p>H-7 Disposal of Soil Containing PCB-Impacted Material - Soils containing PCB concentrations greater than 0.22 mg/kg but less than 0.5 mg/kg will be stockpiled and reused in open space or as deep fill at depths greater than 10 feet in non-residential areas of the Tonner Hills project. Excavated soils containing PCB concentrations ranging from 0.5 mg/kg and to 10 mg/kg will be stockpiled and reused as deep fill at depths greater than 10 feet in street locations that will provide a "cap" within the Tonner Hills project. Excavated soils containing PCB concentrations greater than 10 mg/kg or greater will be transported off-site to a licensed disposal facility.</p>	<p>Stockpile, reuse, or dispose of soils containing PCBs per specified methods.</p>	<p>OCHCA</p>	
<p>H-8 Supervision of Mass Grading Activities - An experienced petroleum environmental consultant will be on-site during all mass grading activities to ensure that all "suspect" material is properly characterized and managed.</p>	<p>Monitor grading and manage suspect materials.</p>	<p>OCHCA</p>	
<p>H-9 Prior to commencing grading operations, the developer/property owner shall consult with the CDOGGR for information on the wells located in the residential area. All wells to be abandoned, or wells not abandoned to current standards, shall meet the current standards of CDOGGR. Any previously abandoned well shall be plugged and abandoned in</p>	<p>Consult with and meet standards of CDOGGR for abandoned and plugged wells.</p>	<p>California Department of Conservation, Division of Oil, Gas & Geothermal Resources (CDOGGR) County of Orange - Manager, Subdivision</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>accordance with current CDOGGR specifications prior to grading permit approval. Evidence of this consultation shall be provided to the County Manager, Subdivision and Grading, prior to commencement of grading. Any idle wells within the Planned Community shall be abandoned prior to development unless adequate provisions are taken to ensure that operators have access to these wells prior to grading, to the satisfaction of the County.</p>		and Grading	
<p>H-10 Any previously abandoned well that does not meet current standards and is located within a residential or within an adjacent street right-of-way shall be reabandoned in accordance with current CDOGGR specifications prior to building permit approval. Evidence of conformance to CDOGGR standards for any remedial plugging shall be provided to the Manager, Current Planning, and the Manager, Subdivision and Grading, immediately upon completion of reabandonment activity.</p>	<p>Reabandon wells that do not meet current CDOGGR standards.</p>	<p>County of Orange – Manager, Subdivision and Grading County of Orange – Manager, Current Planning</p>	
<p>H-11 The developer/property owner shall demonstrate on residential site plans that no buildings shall be allowed over wells that have either been plugged and abandoned or reabandoned to the CDOGGR and OCFA current specifications, or that are within 50 feet of a water injection well. Said plans shall be subject to review and approval by the Manager, Current Planning.</p>	<p>Submit for approval plans showing building placement relative to plugged or abandoned wells.</p>	<p>County of Orange – Manager, Current Planning</p>	
<p>H-12 A seismic sensor shall be placed at strategic locations to shut down production in the event of a significant seismic event (5.0 magnitude or higher on the Richter scale). The oil operator shall conduct a study to determine the seismic thresholds for shutting down production and the location, type, and number of sensors required. The study shall be subject to review and approval by the County. The seismic sensor and shut-down system shall be in place and operational prior to the County's issuing the first Certificate of Occupancy for a residential unit.</p>	<p>Conduct study to determine seismic thresholds and locations of seismic sensors.</p>	<p>County of Orange</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>I-13 Oil wells in residential areas will be placed with subsurface pumping units enclosed in a concrete vault. The vault will have a grated steel grill plate to restrict the unit from public access. No new wells shall be drilled in a residential area once the County issues the first Certificate of Occupancy. Within the residential, park, and commercial/mixed-use planning areas, no new wells shall be drilled, nor shall existing wells be redrilled after the County issues the first Certificate of Occupancy for a residential unit.</p>	<p>Enclose wells in residential areas in concrete vault.</p>	<p>County of Orange</p>	
<p>I-14 Any residential structure constructed within 10 feet of an abandoned well shall receive special venting treatment pursuant to CDOGGR and OCFA standards and to the satisfaction of the County and CDOGGR. The developer/property owner shall indicate compliance with this measure on proposed building plans that are subject to review and approval by the Manager, Current Planning. Compliance is also subject to periodic site inspections by the County during construction.</p>	<p>Indicate compliance with special venting treatment of abandoned wells on building plans. Subject to review and approval.</p>	<p>County of Orange – Manager, Current Planning</p>	
<p>H-15 All habitable structures shall be located at least 50 feet from any operating well head, including water injection wells, pursuant to the requirements of the Uniform Fire Code and the OCFA and subject to monitoring and inspection by the OCFA. All habitable structures within 100 feet from an oil well shall comply with OCFA Planning and Development standard guideline C-02 (Guideline for Residences less than 100' from an Oil Well), as adopted at the time of construction.</p>	<p>Comply with OCFA planning and development standards for building locations from wells.</p>	<p>Orange County Fire Authority</p>	
<p>H-16 All drilling, operations, maintenance, and abandonment of wells during the life of the project shall be in accordance with §3106 of the Public Resources Code and overseen and approved by the CDOGGR. Compliance with this measure is subject to periodic site inspections by the Manager, Building Inspection Services and the CDOGGR.</p>	<p>Comply with §3106 of <i>Public Resources Code</i> for drilling, operations, maintenance and abandonment of wells.</p>	<p>CDOGGR</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>H-17 If any abandoned or unrecorded wells are uncovered or damaged during excavation or grading, remedial plugging operations shall be required. If such discovery occurs, approval from CDOGGR to perform remedial activities is required. In the event the abandoned or unplugged wells are encountered during grading, Nuevo or the Construction Manager shall inform the Manager, Subdivision and Grading, within 24 hours of such an occurrence. Evidence of conformance to CDOGGR standards for any remedial plugging shall be provided to the County and the OCFA immediately upon completion of said remediation activity.</p>	<p>Obtain approval for remedial plugging of abandoned or unrecorded wells. Provide evidence of conformance of remediation</p>	<p>CDOGGR County of Orange Orange County Fire Authority</p>	
<p>H-18 Oil wells within open space planning areas where Scenic Preservation Easements have been dedicated to the County shall contain security fencing that meets the standards and requirements of CDOGGR. This fencing shall be indicated on project plans and subject to the review and approval of the Manager, County PFRD/HBP Program Management and Coordination.</p>	<p>Submit for approval plans for security fencing of wells in scenic preservation easement areas.</p>	<p>County of Orange – Manager, County PFRD/HBP Program Management</p>	
<p>H-19 Prior to issuance of building permits, soils adjacent to oil wells abandoned in residential areas will be mitigated to meet residential cleanup requirements of the RAP. Once the project is occupied, subsequent well abandonments shall be subject to and processed in accordance with CDOGGR and OCHCA regulations.</p>	<p>Mitigate soils in residential areas adjacent to wells to meet RAP.</p>	<p>CDOGGR</p>	
<p>H-20 Prior to the County's issuing the first Certificate of Occupancy, a program to carefully monitor the hydrogen sulfide (H₂S) content of the produced gas shall be developed and implemented to prevent higher levels of H₂S from becoming present in the produced gas. This program shall be reviewed by the CDOGGR and reviewed and approved by the OCHCA. Downhole treatment shall begin when the level of H₂S exceeds 10 ppm.</p>	<p>Develop and implement program to monitor hydrogen sulfide for review and approval.</p>	<p>County of Orange CDOGGR OCHCA</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>I-21 All oil and gas flowlines shall be installed in underground trenches, separate from other utilities. Location of all pipelines shall be recorded on site plans. Seismic joints and flexible couplings shall be installed in all cases where flowlines cross known or suspected fault lines. Seismic sensing devices shall be installed to allow for the shutdown of the field in the event of a significant seismic event (5.0 magnitude or higher on the Richter scale). The developer/property owner shall indicate compliance with these measures on project utility and building plans and be subject to review and approval by the Manager, Current Planning, prior to implementation of the proposed project.</p>	<p>Comply with measures regarding flowline installations as shown on utility and building plans.</p>	<p>County of Orange - Manager, Current Planning</p>	
<p>H-22 The oil operator shall compile a list of all hazardous materials used on the project site and demonstrate that the storage and use of these materials do not present a public safety hazard. This list, and documentation demonstrating that no public safety hazard exists, shall be reviewed and approved by the OCHCA and the OCFA prior to the County's issuing the first Certificate of Occupancy for a residential unit. In addition, the oil operator and the owner shall provide the same type of documentation it proposes to use a hazardous material not currently on the approved list.</p>	<p>Compile hazardous materials list on project site. Submit for review and approval proof of no public safety hazard.</p>	<p>OCHCA OCFA</p>	
<p>H-23 Prior to issuance of occupancy permits, the geotechnical consultant shall prepare a maintenance/monitoring manual describing the responsible parties, upkeep, monitoring program, record keeping and reporting required with respect to any oil seep mitigation measures installed within the project. The report shall include a map showing the locations of all pertinent structures (such as subdrain outlets, vaults, clarifiers, etc.) and shall be approved by the Manager, Subdivision and Grading.</p>	<p>Prepare maintenance/monitoring manual with respect to oil seep mitigation measures.</p>	<p>County of Orange - Manager, Subdivision and Grading</p>	
<p>H-24 Prior to grading, a baseline study shall be performed to gain a better understanding of the current distribution and concentrations of methane in the area proposed for</p>	<p>Prepare baseline study of distribution and concentrations of methane. Include work plan for further investigation.</p>	<p>Orange County Fire Authority</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>development. This study shall include soil gas sampling and analysis performed by a methane consultant. Since the distribution of methane can change with depth, the consultant's report shall include a work plan for further investigation during grading, including sampling intervals, procedures, and potential mitigation measures that might be implemented during grading. This report shall be submitted to the OCFA for approval.</p>			
<p>H-25 During grading, soil gas sampling and analysis shall be performed on the bottom of all excavations in the development area. This would include cuts to design grade, over-excavation of building pads, the bottoms of areas where unsuitable foundation soils have been removed, buttress cuts, etc. "Bottoms" sampling shall also be conducted at each well location. The sampling and analysis shall include a determination of gas pressure, hydrocarbon concentration, and chemical composition. If anomalous and potentially hazardous gas seeps are identified, the methane consultant shall recommend specific remedial measures and submit findings to the OCFA for approval.</p>	<p>Conduct bottom sampling at each well location. If hazardous seeps are identified, recommend specific remediation for approval.</p>	<p>Orange County Fire Authority</p>	
<p>H-26 During grading, any subsurface structures that may act as a conduit for methane gas (such as sewer lines, storm drains, subdrains, etc.) shall be evaluated by the methane consultant with respect to the local conditions. The methane consultant shall provide specific remedial recommendations, such as venting, as needed for approval by OCFA.</p>	<p>Evaluate conduits for methane gas and provide specific remedial measures.</p>	<p>Orange County Fire Authority</p>	
<p>H-27 Full time monitoring of the grading activities shall be provided by the petroleum environmental consultant in order to document the depth, lateral extent, and concentrations of any crude oil-impacted fills. This information shall be provided to the methane consultant for evaluation and consideration in the final methane remedial recommendations.</p>	<p>Monitor and document crude oil impacted fills for evaluation.</p>	<p>Orange County methane consultant</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>H-28 At the completion of grading, and prior to the issuance of building permits, sampling and analysis shall be performed by the methane consultant at future building locations. Based on the data collected prior to, during, and at the completion of grading, the methane consultant shall make final recommendations for methane mitigation during construction and future ongoing monitoring at buildout. The analysis and recommendations shall consider the guidelines recommended by OCFA (Guideline C-03 dated January 31, 2000) as minimum requirements. Any deviations from the guidelines shall be supported by scientific evidence, and approved by the OCFA.</p>	<p>Sample and analyze future building locations for methane mitigation per OCFA Guideline C-03.</p>	<p>Orange County Fire Authority</p>	
<p>H-29 Prior to the issuance of occupancy permits, the methane consultant shall prepare a manual describing the responsible parties, upkeep, monitoring program, record-keeping required, and reporting required with respect to the methane mitigation installed within the project. The report shall include a map showing the locations of all monitoring wells, vents, or other pertinent structures. The Tonner Hills Homeowners Association shall be responsible for ongoing monitoring and reporting to the OCHCA and the OCFA as described in the methane consultant report.</p>	<p>Prepare manual of responsible parties for methane mitigation.</p>	<p>OCHCA OCFA</p>	
<p>H-30 All methane investigation and analyses shall be performed by a California registered engineer and/or geologist with demonstrated proficiency in the subject of soil gas investigation and mitigation. All methane reports, work plans, mitigation plans, and monitoring plans are subject to the review and approval of the OCFA.</p>	<p>Submit for review and approval all methane reports, plan, and mitigation.</p>	<p>Orange County Fire Authority</p>	
<p>H-31 Prior to issuance of building permits, the project will be subject to the latest edition of the Orange County Fire Authority "Combustible Soil Gas Hazard Mitigation Guidelines" and the City of Brea Combustible Soil Gas Mitigation System Installation and Inspection Requirements.</p>	<p>Submit to OCFA Combustible Soil Gas Hazard Mitigation Guidelines and Brea Combustible Soil Gas Mitigation System Installation and Inspection Requirements.</p>	<p>Orange County Fire Authority</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>H-32 The oil operator shall update and revise as necessary the RMP (Risk Management Plan) on file with the OCFA for the Oil Field operations adjacent to the proposed development. Such RMP revisions shall be submitted and accepted by OCFA prior to the issuance of any certificates of occupancy for the project.</p>	<p>Update and review Risk Management Plan and submit for review and acceptance.</p>	<p>Orange County Fire Authority</p>	
<p>Public Services</p>			
<p>PS-1 Secured Fire Protection Agreement - Prior to recordation of the first final map within the project boundaries, including maps for financial and conveyance purposes only, or prior to grading, whichever comes first, the applicant shall enter into a Secured Fire Protection Agreement with the Orange County Fire Authority (OCFA).</p>	<p>Enter into Secured Fire Protection Agreement.</p>	<p>Orange County Fire Authority</p>	
<p>PS-2 Fire Hydrants</p> <p>a. Prior to the recordation of a subdivision map for development, the applicant shall submit a fire hydrant location plan for the review and approval of OCFA.</p> <p>b. Prior to the issuance of a building permit, the applicant shall submit to OCFA evidence of the on-site fire hydrant system and indicate whether it is public or private. If the system is private, it shall be reviewed and approved by OCFA prior to issuance of a building permit. Provisions shall be made by the applicant for the repair and maintenance of the system, in a manner meeting the approval of OCFA.</p> <p>c. Prior to the issuance of any certificate of use and occupancy, all fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street or drive per the Orange County Fire Authority Standards as approved by OCFA. These markers are to be maintained in good condition by the property owner.</p>	<p>Submit Fire Hydrant Plan (location, system type, pavement markers).</p>	<p>Orange County Fire Authority</p>	
<p>PS-3 Water Availability - Prior to the issuance of a building permit, the applicant shall provide evidence of adequate fire</p>	<p>Submit OCFA Water Availability for Fire Protection Form.</p>	<p>Orange County Fire Authority</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>flow. The Orange County Fire Authority Water Availability for Fire Protection form shall be signed by the applicable water district and submitted for approval to the Orange County Fire Authority. If sufficient water to meet fire flow requirements is not available, an automatic fire extinguishing system may be required in each structure affected by insufficient fire flow. It is recommended, but not required, that fire flows are based upon field testing and not solely on engineering calculations to avoid issues at time of certificates and use and occupancy when verification is again required.</p>			
<p>PS-4 Automatic Fire Sprinkler Systems</p> <p>a. Prior to the recordation of a subdivision map for development, a note shall be placed on the map stating that all commercial structures over 6,000 square feet, and all residential structures over 5,500 square feet, and all structures exceeding fire department access requirements shall be protected by an automatic fire sprinkler system, in a manner meeting the approval of OCFA. To the extent feasible, such situations should be identified during the tentative map review process, or equivalent review, and such approval should be specifically conditioned regarding appropriate fire sprinkler requirements.</p> <p>b. Prior to the issuance of a building permit, the applicant shall submit plans for any required automatic fire sprinkler system in any structure to the OCFA for review and approval.</p> <p>c. Prior to the issuance of a certificate of use and occupancy, this system shall be operational in a manner meeting the approval of OCFA.</p>	<p>Place note on Subdivision Map for automatic fire sprinkler systems. Submit plans for sprinkler system.</p>	<p>Orange County Fire Authority</p>	
<p>PS-5 Fire Access Roads</p> <p>a. Prior to the issuance of a mass or rough grading permit, the applicant shall provide plans and/or information for review and approval by OCFA demonstrating that</p>	<p>Provide plans for review and approval for emergency access roads. Provide plans for review and approval of all roads, streets, and courts.</p>	<p>Orange County Fire Authority County of Orange - Manager, Subdivision</p>	

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<p>adequate fire and emergency response access ways through the disturbed areas of the project site will be maintained during all phases of mass or rough grading operations.</p> <p>b. Prior to the recordation of a subdivision map for development or the issuance of any precise grading permit, whichever occurs first, the applicant shall obtain approval of OCFA for all fire protection access roads within 150 feet of all portions of the exterior of every structure on-site, or an alternative means and method request shall be approved by OCFA.</p> <p>c. Prior to the issuance of any precise grading permits, the applicant shall submit and obtain approval of plans for all roads, streets and courts, public or private, from OCFA in consultation with the Manager, Subdivision and Grading Services. The plans shall include the plan view and section view, and indicate the grade and width of the street or court measured flow line to flow line. All proposed fire apparatus turnarounds shall be approved by OCFA and, if needed, clearly marked when a dead-end street exceeds 150 feet or when otherwise required. Applicable CC&Rs or other approved documents shall contain provisions that prohibit obstructions, such as speed bumps/humps, control gates, or other modifications within said easement or access road unless prior approval of OCFA is granted.</p> <p>d. A note shall be placed on the fire protection access easement plan indicating that all street/road signs shall be designed and maintained to be either internally or externally illuminated in a manner meeting approval of OCFA.</p>		and Grading	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>S-6 Street Markings</p> <p>a. Prior to the issuance of a building permit, the applicant shall submit plans and obtain approval from OCFA for fire lanes on required fire access roads less than 36 feet wide. The plan shall indicate the locations of red curbing and signage. A drawing of the proposed signage with the height, stroke and color of lettering and the contrasting background color shall be submitted to and approved by OCFA.</p> <p>b. Prior to the issuance of any certificate of use and occupancy, the fire lanes shall be installed in accordance with the approved fire lane plan. The CC&Rs or other approved documents shall contain a fire lane map and provisions which prohibit parking in the fire lanes. The method of enforcement shall be documented.</p>	<p>Submit plans for approval regarding fire lane widths and signage.</p>	<p>Orange County Fire Authority</p>	
<p>PS-7 Fire Hazard Notification</p> <p>a. <i>State Responsibility Areas.</i> Prior to the recordation of a subdivision map for development, the subdivider shall place a note on the map meeting the approval of OCFA that the property is in a "(High/Very High) Fire Hazard Area" due to wildland exposure based on State SRA Maps.</p> <p>b. <i>Special Fire Protection Area Notification.</i> Prior to recordation of any final tract map, the subdivider shall place a note on the map meeting the approval of OCFA that the property is in a "Special Fire Protection Area" and must meet all requirements for development within the area or file for a conditional exclusion with OCFA.</p> <p>c. <i>Special Fire Protection Area Development.</i> Prior to the issuance of a building permit, the applicant shall meet all requirements for development and construction within a Special Fire Protection Area, including increase street widths, Class A roof assemblies, fire</p>	<p>Place a note on map designating "High/Very High Fire Hazard Area," "Special Fire Protection Area." Meet requirements for development in those areas. Identify conditional exclusions.</p>	<p>Orange County Fire Authority</p>	

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<p>sprinklers, etc., or shall receive a conditional exclusion approved from OCFA.</p> <p>d. <i>Special Fire Protection Area Conditional Exclusion.</i> If applicable, prior to recordation of any final tract map, the subdivider shall place a note on the map meeting the approval of OCFA that the property is "Conditionally Excluded" from a "Special Fire Protection Area," and shall identify lots/buildings which are subject to construction requirements.</p>			
<p>PS-8 Fuel Modification - Prior to the issuance of any preliminary grading permit, the applicant shall obtain the approval of OCFA, in consultation with the Manager, Subdivision and Grading Services, of a conceptual fuel modification plan and program.</p> <p>Prior to the issuance of any precise grading permit, the applicant shall obtain the approval of OCFA, in consultation with the Manager, Subdivision and Grading Services, of a precise fuel modification plan and program. The plan shall indicate the proposed means of achieving an acceptable level of risk to structures by vegetation.</p> <p>Prior to the issuance of a building permit, the developer shall have completed, under the supervision of OCFA, that portion of the approved fuel modification plan determined to be necessary by OCFA before the introduction of any combustible materials into the project area. Approval shall be subject to on-site inspection.</p> <p>Prior to the issuance of any certificate of use and occupancy, the fuel modification shall be installed and completed under the supervision of OCFA. Further, the installed fuel modification plant pallet shall be established to a degree meeting the approval of OCFA. The CC&Rs, or other</p>	<p>Obtain approval of Conceptual fuel Modification Plan and Precise Fuel Modification Plan. Install fuel modification materials and plants.</p>	<p>Orange County Fire Authority County of Orange - Manager, Subdivision and Grading</p>	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
<p>approved documents, shall contain provisions for maintaining the fuel modification zones including the removal of all dead and dying vegetation subject to triennial inspections.</p> <p>All fuel modification plans shall be in accordance with the OCFA guidelines for development within Special Fire Protection Areas as outlined in Guidelines C-04, C-05 and C-06.</p>			
<p>S-9 Access Gates - If applicable, prior to the issuance of any grading permits, the applicant shall submit and obtain OCFA's approval for the construction of any gate across required fire authority access road/drives. Contact the Orange County Fire Authority at (714) 744-0499 for a copy of the "Guidelines for Design and Installation of Emergency Access Gate and Barriers."</p>	<p>Submit for approval plans for gate construction across fire access roads.</p>	<p>Orange County Fire Authority</p>	
<p>S-10 Fire Impact Fees - The project applicant shall pay all applicable dispatch impact fees prior to the issuance of any building permits.</p>	<p>Pay all applicable fees.</p>	<p>County of Orange</p>	
<p>S-11 Oil Field Mitigation - Copies of oil field mitigation measures specified in the Mitigation Measures subsection of the Hazards section shall be provided to OCFA as part of "standard conditions" of approval for the proposed development prior to the issuance of certificate of occupancy.</p>	<p>Provide copies of oil field mitigation measures.</p>	<p>Orange County Fire Authority</p>	
<p>S-12 Library Impact Fees - The project applicant shall pay all applicable Orange County Library Services in lieu fees prior to the issuance of any building permits.</p>	<p>Pay all applicable fees.</p>	<p>Orange County Library Services</p>	
<p>S-13 School Impact Fees - Prior to the issuance of a building permit, the project applicant shall comply with Senate Bill 50 and pay the applicable school impact fees. Presently, the Brea-Olinda Unified School District's adopted School Impact Fees for Residential development is \$2.05 per square foot and \$0.33 per square foot for commercial or mixed use developments. Upon completion of the designated tract map.</p>	<p>Pay all applicable fees.</p>	<p>Brea Olinda Unified School District</p>	

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the valid amount shall be issued.			
Utilities and Service Systems			
US-1 Water Conservation - Prior to issuance of building permits, the project applicant shall incorporate all practical and mandated water conservation measures to the satisfaction of the Metropolitan Water District of Southern California, Water Conservation Plans.	Incorporate all conservation measures per MWD conservation plans.	Metropolitan Water District of Southern California	
US-2 Recycling Programs - Prior to issuance of building permits, the applicant shall comply with guidelines set forth by the County of Orange in accordance with the California Integrated Waste Management Act (1989, AB 939), which mandates recycling programs for each jurisdiction in California.	Comply with California Integrated Waste Management Act Guidelines	County of Orange	
US-3 Consultation with Southern California Edison Company - Prior to the issuance of building permits, the developer shall demonstrate to the Manager, Current Planning, Southern California Edison has been consulted regarding participation in programs designed to increase the efficiency of operation and decrease energy costs.	Consult regarding programs to increase efficiency and decrease costs.	Southern California Edison	
US-4 Consultation with Southern California Gas Company - Prior to the issuance of building permit, the project applicant shall consult with the Southern California Gas Company to determine the proper facilities and location needed to serve the site.	Consult with Southern California Edison to determine facilities and locations	Southern California Gas Company	
US-5 Payment of Construction Fees - The project applicant shall be responsible for paying the appropriate costs and fees for the construction of facilities used to serve the project site per the rules and regulations established by each utility for the extension of said facilities.	Pay appropriate fees and costs to utilities.	Southern California Edison Southern California Gas Company	
US-6 Water Services - Prior to the issuance of a grading permit, Southern California Water Company must obtain a Certificate of Public Convenience and Necessity (CPCN) under §1001 of	Obtain Certificate of Public Convenience and Necessity	Southern California Water Company	

Mitigation Measure	Mitigation Milestone	Responsible Monitoring Party	Verification Date
the <i>Public Utilities Code</i> from the California Public Utilities Commission (CPUC).			

PLANNING & DEVELOPMENT SERVICES DEPARTMENT



PLANNING COMMISSION - AGENDA ITEM No. 1

DATE: September 18, 2002

TO: Orange County Planning Commission

FROM: Current Planning Services Division

SUBJECT: Continued Public Hearing on Planning Application PA 01-0009 for Zone Change ZC 01-01; Area Plan and for Nuevo Energy Company

PROPOSAL: To rezone the property from the A1 (O) ("General Agricultural" "Oil Production") district to PC (O) ("Planned Community" "Oil Production") district; adopt the Tonner Hills Planned Community Development Regulations, Development Map and Statistical Summary Table, and approve an Area Plan for the purpose of directing the development of a 795 dwelling unit planned community that would provide a range of single-family detached and attached dwelling units, as well as 559.7 acres to be retained in open space with continued oil production activities.

LOCATION: The 789-acre Tonner Hills Planned Community project site is located north of Lambert Road on the easterly and westerly sides of the Orange Freeway (SR 57) in the Sphere of Influence of the City of Brea. The project is located within the **Third Supervisorial District**.

STAFF CONTACT: Marta B. Crane, AICP, Project Manager
Phone: (714) 834-5144 FAX: (714) 834-4652
Chad Brown, Senior Planner
Phone : (714) 834-5159

SYNOPSIS: This is the second public hearing, continued from September 18, 2002 Planning Commission hearing held at the City of Brea to consider the applicant's request for approval of a zone change to establish a PC "Planned Community" District, adopt land use regulations, Development Map, and Statistical Table and associated Area Plan. These documents are attachments to this staff report. A Development Agreement between the County of Orange and the applicant will be submitted separately to the Commission for review.
This staff report expands on the previous 9/18/2002 report, and analyzes in further detail the specific elements of the proposed project.

PROJECT PROPONENTS:

Property Owner:
Nuevo Energy Company
500 N. Kraemer Blvd, Bldg. B
Brea, CA 93455

Applicant/Agent:
Ullom Associates
16149 Redmond Way, #401
Redmond, WA 98052

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site on September 6, 2002. Additionally, notices were posted as required by established public posting procedures on September 6, 2002, at the 300 N. Flower Building; and at three locations on the site, specifically at the end of Carmichael Drive west of the 57 Freeway; at the intersection of Kraemer Boulevard and Lambert Road; and at the intersection of Valencia Avenue and Santa Fe Street. During the September 18, 2002, Planning Commission hearing, the Commission continued this item to the October 16, 2002 hearing, to be held at the Hall of Administration, building 10, Civic Center Plaza, Santa Ana.

CEQA COMPLIANCE:

Draft EIR 581 has been prepared in accordance with the California Environmental Quality Act (CEQA). Environmental Planning Services staff has prepared and will present Draft EIR 581 within a separate staff report for this item. Information about the proposed project contained in Draft EIR 581 is referred to in this report. Draft EIR 581 also contains information about possible alternatives to the proposed project. Prior to project approval, the Planning Commission must find this EIR adequate to satisfy the requirements of CEQA.

GENERAL PLAN CONSISTENCY:

The majority of the project site has a (1B) "Suburban Residential" land use designation with allowable densities of 0.5 to 18 dwelling units per acre. Portions of the site located at the intersection of Lambert Road and Wild Cat Way and where an existing oil facility is located are designated (2A) "Community Commercial". The proposed project consisting of residential detached and attached land uses, open space uses, and continued oil production uses are all consistent with the General Plan "Suburban Residential" and "Community Commercial" designations.

PROJECT SITE AND EXISTING CONDITIONS:

The project site is comprised of three oil and gas producing properties with a total of 789.8 gross acres owned entirely by the Nuevo Energy Company, the project applicant.

Existing access to the project site is provided from Lambert Road, Tonner Canyon Road, Carmichael Drive, Kraemer Boulevard, Valencia Avenue, and Wild Cat Way. The primary access to the property east of the 57 Freeway is from Kraemer Boulevard, which intersects Lambert Road approximately one mile east of the 57 Freeway. Kraemer Boulevard is an existing signalized intersection and is one of two proposed access points to the proposed project. The second access point is proposed from Valencia Avenue at the intersection with Santa Fe Avenue, where the adjacent master planned Olinda Ranch project is located east of the Tonner Hills project site. Access to the western portion of the project, west of the 57 Freeway is currently from oil roadways extending from the Tonner Canyon exit off of the 57 Freeway. Future access to this portion of Tonner Hills is proposed via a local street to be aligned with Carmichael Drive extended.

The project site has been utilized for oil production purposes since 1900 and has been steadily developed into its present industrialized condition. Existing site improvements resulting from this industrialized use include surface and subsurface gas lines, oil storage and processing facilities, paved roads, water storage facilities, maintenance facilities, and operation support office buildings. Nuevo Energy Co. will implement restoration and remediation of the site while operation of oil and gas production facilities continues. There are approximately 5 acres in the northeasterly portion of the project site that are leased to a green waste facility. This facility is proposed to remain on the project site while development occurs. There are also two out parcels, approximately 6.1 acres, owned by the City of Brea and improved with two 10 million-gallon City water reservoirs.

The project site's topography, geotechnical, seismic, and hydrology conditions among others, are fully described within various sections of Draft Environmental Impact Report (DEIR 581) presented under separate Planning Commission review and consideration. These areas are fully described with the project Area Plan presented to the Commission. The project development plan has been designed with the site constraints and existing uses contemplated.

PROJECT SITE SURROUNDING LAND USE:

Direction	Existing Zoning	Existing Land Use
Project Site	A1 "General Agriculture" District, (O) "Oil Production" District	Oil Production
North	A1 "General Agriculture" District, (O) "Oil Production" District	Oil Production
South	City of Brea – Residential PC/R1	Single Family, Multi-Family Residential
East	City of Brea – Olinda Ranch Specific Plan	Olinda Ranch Master Planned Community
West	City of Brea – Residential R1 /PD	Commercial office, Brea Olinda High School and single family residential.

PROPOSED PROJECT:

The applicant, Nuevo Energy Company proposes to develop a planned community on a 789.8 acre site, located in the northernmost area of unincorporated Orange County, within the sphere of influence of the City of Brea. The majority of the project site (681 acres or 86 %) is located east of the Orange Freeway (SR 57), with a small portion (108 acres, or 14%) located west of the freeway, at the northerly terminus of Carmichael Drive.

The Nuevo Energy Company proposes to implement this project as a Planned Community. Therefore, the project will require a zone change to establish the Planned Community zoning designation. The Tonner Hills Planned Community Program Text establishing the land use and development regulations and a Development Map, and Statistical Summary Table have been developed for this proposal. The proposed development is depicted in Exhibit 1 and includes the following:

Local Parks – Wildcatters Park will be expanded from 5.8 acres to 14.6 acres. The City of Brea considers improvement of this park an important benefit for the community; therefore, development of this planning area is expected to occur earlier in the development phasing. Implementation of the expanded Wildcatters Park as depicted in the Area Plan is detailed in the Development Agreement presented to the Commission under a separate staff report. At build out, Planning Area 8 will include recreation and community facility uses such as a recreation building, ball fields, off street parking, riding hiking and bicycle trails and other active recreational uses. This local parkland will satisfy the Orange County local park code and will meet the more stringent City of Brea local park requirements as well.

Planned Community Program Text

The Planned Community Program Text Regulations (PC Text) will establish regulations, authority and procedures necessary for the orderly development of the Tonner Hills property. The land use regulations in the table below specify the uses permitted and the development standards applicable within each planning area. These regulations will not permit any new oil production activity within any residential planning area.

RESIDENTIAL SITE DEVELOPMENT STANDARDS

	SFD CONVENTIONAL	SFD CONVENTIONAL	SFD CONVENTIONAL	SFD CLUSTER	SFA TOWNHOME PAIRED HOME	MULTIPLE FAMILY
PLANNING AREA	PA's 1-7	PA's 1-6	PA's 1-6	PA's 1-3	PA 2	PA 2
MIN. BUILDING SITE AREA	No Minimum	No Minimum	No Minimum	No minimum	2,000 sf	5,000 sf
MIN. BLDG. SITE AREA/UNIT	N/A	N/A	N/A	1200 SF	1000 SF	1,000 sf
LOT WIDTH @ SETBACK LINE	60 ft.	50 ft.	50 ft.	25 ft.	N/A	None
MIN. LOT SIZE	8,000 sf.	5,000 sf.	4,000 sf.	2,600 sf.	N/A	N/A
SETBACKS(1)(3) Front Rear Side Yard	20 ft. 25 ft. (2) 8 ft.	10 ft. 15 ft. 10 ft. min. one side only/ 10 ft. aggregate both sides.	10 ft. 15 ft. 10 ft. min. one side only/10 ft. aggregate both sides.	5 ft. 10 ft. 5 ft.	8 ft. 10 ft. 10 ft. on one side.	Buildings shall be setback a minimum of 15 ft. from any exterior property line and 15 ft. between buildings internal to one another.
From a residential Street (corner lot)	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	N/A
Patios	3 ft. (4)	3 ft. (4)	3 ft. (4)	3ft.(4)	0 ft. (4)	N/A

SET- BACK FROM OIL WELLS/ HABITABLE STRUCTURES	150 ft, or as approved by OCFA per Guideline C-02.	150 ft, or as approved by OCFA per Guideline C-02.	150 ft, or as approved by OCFA per Guideline C-02.	150 ft, or as approved by OCFA per Guideline C-02.	150 ft, or as approved by OCFA per Guideline C-02.	150 ft, or as approved by OCFA per Guideline C-02.
SITE COVERAGE	No Maximum	No Maximum	No Maximum	70%	60%	60% excluding carports or garages.
PRIVATE OPEN SPACE	NA	NA	NA	10% of net area	100 sf/unit	200 sf/unit of which a minimum of 50% shall be in common areas
PARKING	Per Section 6					
BUILDING HEIGHT	35 ft.	40 ft.(5)				
Fences/Walls	See 2.7.1.j	See 2.7.1.j	See 2.7.1.j	See 2.7.2l	See 2.7.3.j	See 2.7.4.i
Trash/Storage	N/A	N/A	N/A	N/A	N/A	See 2.7.4.l
Screening	N/A	N/A	N/A	N/A	N/A	See 2.7.4.m

- 1) Projections into required setbacks including front porches and architectural projections including but not limited to chimneys, pot shelves, cornices, eaves, outside staircases, balconies, enhanced window sills, shutter details, window trims, and entry gates may project 5 feet or within 1 foot of the property line whichever is the least projection into the setback.
- 2) May be counted as required fuel modification area.
- 3) 20 Feet where abutting a fuel modification area.
- 4) 8 feet when adjacent to a side street property line of a corner lot.
- 5) 10 feet allowance for architectural elements.

The proposed regulations will require discretionary approval of Area Plans and/or Site Development Permits prior to any subdivision map or residential development. All Area Plans will require review and approval by the Planning Commission. Additionally, the proposed regulations designate the City of Brea as an official review body per the Orange County Zoning Code Section 7-9-150.3(b), thereby affording the City of Brea additional input as more specific development proposals occur.

At its September 18, 2002, public hearing, the Planning Commission was presented with an introductory overview of the proposed project. A brief comparison of the existing project in contrast with the project originally submitted in January of 2001 was also presented in conjunction with a synopsis of the issues that lead to the project currently under consideration in this staff report. The Planning Commission received public input and continued the public hearing to October 16, 2002.

A major theme of the public comments received at the public hearing related to the concern that the City of Brea's vision did not receive appropriate consideration. Staff worked with the applicant to address these issues and believes that revisions to the final project, as discussed in this staff report, have embraced the vast majority of the City's vision and specific requests as follows:

- Preservation of natural resources such as Cable Canyon and Tonner Canyon.
- Preservation of the 5.8 acre Wildcatters Park and its enhancement to 14.6 acres.
- Early improvement and construction of Wildcatters Park.
- Provide access to the development from Valencia Avenue.
- Delete the Tonner Hills Road access.
- Provide estate-type housing including 8,000 square foot minimum lot size in desigrated areas.

- Honoring the City's development standards and Neighborhood Design Elements. (As stated above, the regulations that this project will be subject to among many others include all standards of public benefit that the City requested in its memorandum of 9/23/97. For example, single story residential units intermixed within the development; sidewalks on both sides of double loaded streets; quality architectural detailing and building materials; fully articulated building elevations, garage door and window design, etc.)

A number of other public benefit components of this project such as affordable housing and dedication of open space are further addressed in the Tonner Hills Development Agreement submitted for the Planning Commission consideration as a separate item.

CONCLUSION

The development proposal has been the subject of a number of pre-annexation meetings facilitated by the County of Orange CEO's office between the applicant, the City of Brea, and the County Planning & Development Services Department. A number of significant revisions to the scale of the development plan occurred in response to the comments received on the DEIR 581 from the public and various reviewing agencies, and as a result of these joint meetings. The final documents submitted for Planning Commission consideration are the outcome of consensus building reached during the review process, with input from County staff, the City of Brea and the community at large. Staff believes that the final project, and its regulatory documents have embraced most of the elements of the City's vision. In some instances, the development guidelines and regulations proposed for Tonner Hills go well beyond the City's adopted policies and codified standards to ensure that the Tonner Hills community contributes and improves upon the City's residential opportunities. In addition, the project includes public benefits in the form of commitment of 10% of the total dwelling units as affordable housing; dedication of 559.7 acres of open space; 21.5 acres of public use land, and trails and wildlife corridors. These elements and the phasing of the project are part of the Tonner Hills Development Agreement submitted for Planning Commission consideration as a separate public hearing item. Based on the analysis presented in this staff report, staff supports approval of Zone Change ZC 01-01; the Planned Community Program Text, Development Map and Statistical Summary Table; and the Tonner Hills Area Plan, subject to the findings and conditions of approval in appendices A and B.

RECOMMENDED ACTION:

Planning and Development Services Department, Current Planning Services Division recommends the Planning Commission:

- a. Receive staff report and public testimony as appropriate; and
- b. Certify DEIR 581 for the Project and recommend its certification by the Board of Supervisors,
- c. Approve Draft Board of Supervisors Resolution for Zone Change ZC01-01 (Tonner Hills Planned Community Program Text and Development Map and Statistical Summary Table) and recommend its approval by the Board of Supervisors, and
- d. Approve Draft Planning Commission Resolution approving the Area Plan for the Tonner Hills Planned Community, subject to the Board of Supervisors adoption of the proposed Zone Change ZC 01-01.

Respectfully submitted,

George Britton, Manager
Current Planning Services

EXHIBITS:

1. Proposed Draft Planned Community Program Text, Development Map and Statistical Table
2. Proposed Area Plan
3. Draft Board of Supervisors Resolution for Zone Change
4. Planning Commission Resolution for Area Plan

/Tonner Hills DRAFT staff report 2 PC 10-02.doc

PLANNING & DEVELOPMENT SERVICES DEPARTMENT



PLANNING COMMISSION - AGENDA ITEM No. 1

DATE: October 16, 2002

TO: Orange County Planning Commission

FROM: Current Planning Services Division

SUBJECT: Continued Public Hearing on Planning Application PA 01-0009 for Zone Change ZC 01-01; Area Plan and for Nuevo Energy Company

PROPOSAL: A zone change to reclassify the property from the A1 (O) "General Agricultural" ("Oil Production") district to PC (O) "Planned Community" ("Oil Production") District establishing the Tonner Hills Planned Community Development Regulations, Development Map and Statistical Summary Table; and an Area Plan for a maximum of a 795 dwelling units including a range of single-family detached and attached dwelling units, as well as a minimum of 559.7 acres to be retained in open space with continued interim oil production activities.

LOCATION: The 789-acre Tonner Hills Planned Community project site is located north of Lambert Road on the easterly and westerly sides of the Orange Freeway (SR 57) in the Sphere of Influence of the City of Brea. The project is located within the **Third Supervisorial District**.

STAFF CONTACT: Marta B. Crane, AICP, Project Manager
Phone: (714) 834-5144 FAX: (714) 834-4652
Chad Brown, Senior Planner
Phone : (714) 834-5159

SYNOPSIS: Staff recommends that the Planning Commission approve the attached resolutions:
1. Recommending that the Board of Supervisors adopt Zone Change ZC01-01 to establish the Tonner Hills PC "Planned Community" Land Use Regulations, Development Map and Statistical Summary Table; and 2. Approving the associated Area Plan. This is the second public hearing on the project continued from the September 18, 2002, Planning Commission hearing held at the City of Brea to consider the applicants proposal.
This staff report expands on the previous 9/18/2002 report, and analyzes in further detail the specific elements of the proposed project.

PROJECT PROPONENTS:

Property Owner:
Nuevo Energy Company
500 N. Kraemer Blvd, Bldg. B
Brea, CA 93455

Applicant/Agent:
Ullom Associates
16149 Redmond Way, #401
Redmond, WA 98052

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site on September 6, 2002. Additionally, notices were posted as required by established public posting procedures on September 6, 2002, at the 300 N. Flower Building; and at three locations on the site, specifically at the end of Carmichael Drive west of the 57 Freeway; at the intersection of Kraemer Boulevard and Lambert Road; and at the intersection of Valencia Avenue and Santa Fe Street. During the September 18, 2002, Planning Commission hearing, the Commission continued this item to the October 16, 2002 hearing, to be held at the Hall of Administration, building 10, Civic Center Plaza, Santa Ana.

CEQA COMPLIANCE:

Proposed Final EIR 581 has been prepared in accordance with the California Environmental Quality Act (CEQA). Environmental Planning Services staff has prepared and will present proposed final EIR 581 within a separate staff report for this item. Information about the proposed project contained in proposed Final EIR 581 is referred to in this report. Proposed Final EIR 581 also contains information about possible alternatives to the proposed project. Prior to project action, the Planning Commission must find this proposed final EIR adequate to satisfy the requirements of CEQA.

GENERAL PLAN CONSISTENCY:

The majority of the project site has a (1B) "Suburban Residential" land use designation with allowable densities of 0.5 to 18 dwelling units per acre. Portions of the site located at the intersection of Lambert Road and Wildcat Way and where an existing oil facility is located are designated (2A) "Community Commercial". The proposed project consisting of residential detached and attached land uses, open space uses, and continued oil production uses are all consistent with the General Plan "Suburban Residential" and "Community Commercial" designations.

PROJECT SITE AND EXISTING CONDITIONS:

The project site is comprised of three oil and gas producing properties with a total of 789.8 gross acres owned entirely by the Nuevo Energy Company, the project applicant.

Existing access to the project site is provided from Lambert Road, Tonner Canyon Road, Carmichael Drive, Kraemer Boulevard, Valencia Avenue, and Wildcat Way. The primary access to the property east of the 57 Freeway is from Kraemer Boulevard, which intersects Lambert Road approximately one mile east of the 57 Freeway. Kraemer Boulevard is an existing signalized intersection and is one of two proposed access points to the proposed project. The second access point is proposed from Valencia Avenue at the intersection with Santa Fe Avenue, where the adjacent master planned Olinda Ranch project is located east of the Tonner Hills project site. Access to the western portion of the project, west of the 57 Freeway is currently from oil roadways extending from the Tonner Canyon exit off of the 57 Freeway. Future access to this portion of Tonner Hills is proposed via a local street to be aligned with Carmichael Drive extended.

The project site has been utilized for oil production purposes since 1900 and has been steadily developed into its present industrialized condition. Existing site improvements resulting from this industrialized use include surface and subsurface gas lines, oil storage and processing facilities, paved roads, water storage facilities, maintenance facilities, and operation support office buildings. Nuevo Energy Co. will implement restoration and remediation of the site while operation of oil and gas production facilities continues. There are approximately 5 acres in the northeasterly portion of the project site that are leased to a green waste facility, which is proposed to remain on the project site. There are also two out parcels, approximately 6.1 acres, owned by the City of Brea and improved with two 10 million-gallon City water reservoirs.

The project site's topography, geotechnical, seismic, and hydrology conditions among others, are fully described within various sections of Draft Environmental Impact Report (DEIR 581) presented under separate Planning Commission review and consideration. These areas are fully described with the project Area Plan presented to the Commission. The project development plan has been designed with the site constraints and existing uses contemplated.

PROJECT SITE SURROUNDING LAND USE:

Direction	Existing Zoning	Existing Land Use
Project Site	A1 "General Agriculture" District, (O) "Oil Production" District	Oil Production
North	A1 "General Agriculture" District, (O) "Oil Production" District	Oil Production
South	City of Brea – Residential PC/R1	Single Family, Multi-Family Residential
East	City of Brea – Olinda Ranch Specific Plan	Olinda Ranch Master Planned Community
West	City of Brea – Residential R1 /PD	Commercial office, Brea Olinda High School and single family residential.

PROPOSED PROJECT:

The applicant, Nuevo Energy Company proposes to develop a planned community on a 789.8 acre site, located in the northernmost area of unincorporated Orange County, within the sphere of influence of the City of Brea. The majority of the project site (681 acres or 86 %) is located east of the Orange Freeway (SR 57), with a small portion (108 acres, or 14%) located west of the freeway, at the northerly terminus of Carmichael Drive.

The Nuevo Energy Company proposes to implement this project as a Planned Community. Therefore, the project will require a zone change to establish the Planned Community zoning designation. The Tonner Hills Planned Community Program Text establishing the Land Use and Development Regulations and a Development Map and Statistical Summary Table have been developed for this proposal. The proposed development is depicted in the Planned Community Documents attached and includes the following:

1. A maximum of 795 residential dwelling units within approximately 180 acres - Residential Planning Areas 1-7
2. 14.6 acres of Local Park Land – Planning Area 8
3. Approximately 559.7 acres of Open Space with continued and new oil production activities – Planning Areas 10-12
4. 21.5 acres of Open Space/Public Use area – Planning Area 9
5. Approximately 16.3 acres of existing oil facilities – Tonner Tank Farm and Main Oil Operations Facility.

The project also includes an evaluation of a proposed Area Plan for Planning Commission consideration that defines the development consistent with the proposed Tonner Hills Planned Community.

The proposed project, through negotiations with the applicant, the City of Brea, and PDS staff, has been reduced from a maximum 914 dwelling units to a maximum of 795 dwelling units. In addition, the commercial site has been deleted; development adjacent to Cable Canyon has been deleted, and residential development near the major ridgelines has been reduced. Overall, the project has been scaled back in density and intensity compared to the applicant's original proposal, and the open space and recreation areas have been increased.

Zone Change 01-01

The project includes a zone change that would rezone the site from A1 (“General Agriculture”) District, with an (O) “Oil Production” overlay to (PC), “Planned Community” District. It should be noted that included with the proposed zone change to PC, the project anticipates retaining the existing “Oil Production” (O) District in order to continue the oil extraction activities currently operating on site. Therefore, the zone change proposed includes the suffix (O) in conjunction with the PC zone change as stated above. The majority of oil production wells and facilities are proposed in the open space designated areas (Planning Areas 10 through 12) with restrictions and limited maintenance of existing operations elsewhere on site.

The Area Plan and Program Text documents discussed below are Exhibits 3 and 4 of this staff report.

Area Plan

The Area Plan sets forth guidelines for grading, circulation, infrastructure, integrated oil production operations, landscape, public parks and community hiking and riding trails, architecture and community design. The Area Plan also allows for the initial mass grading of the site in preparation of future development, however, development of property within the planned community will be subject to land use regulations contained the Planned Community Program Text discussed below.

The overall community design concept includes the following principles:

- Preservation and enhancement of natural habitat.
- Non-automotive mobility within the community.
- Neighborhood interaction and connectivity.
- Diversity and choice of residential neighborhood character.

- o Opportunities for a variety of lifestyles and economic segments of the marketplace.

Residential – A total of 795 dwelling units to be developed in 7 different planning areas in 180 acres of the project site. The residential concepts envisioned for Tonner Hills include a wide range of residential product types intended to create a series of distinct neighborhoods with distinct scale, character and architectural styles. The neighborhoods would be linked by a network of pedestrian paths and by bicycle trails connecting them all together with the local parks and with the rest of Brea’s neighborhoods surrounding Tonner Hills.

To accomplish this vision, a variety of housing types within each planning area has been proposed. The Area Plan establishes a target number of dwelling units, a target lot size for each planning area, and a target residential density. Provisions within the Tonner Hills Planned Community Regulations allow the target number of units for any planning area to be adjusted provided the total number of 795 dwelling units is not exceeded. A minimum lot size for each planning area is also established in the event that the target number of dwelling units is exceeded. Planning Areas 1, 2 and 3 include a mixture of single family detached and single family attached residential development. Planning Areas 4 through 7 include only single family detached residential development. Planning Area 7 is slated for large-lot development. The table below describes the housing types proposed and characteristics anticipated for each Planning Area.

**TABLE 1
RESIDENTIAL PLANNING AREAS**

PLANNING AREA	GROSS ACRES	RESIDENTIAL TYPE(S)	MINIMUM LOT SIZE	TARGET LOT SIZE	TARGET DWELLING UNITS	NET DENSITY
PA 1	15.5	Conventional SF Cluster SF	Conventional: 4,000 sf Cluster: 2,600 sf	5,000 sf	54	3.5
PA 2	11.4	Single Family Attached Cluster SF Conventional SF	SFA N/A Cluster: 2,600 sf Conventional: 4,000 sf	SFA : No minimum lot size applicable	102	8.9
PA 3	42.6	Conventional SF Cluster SF	Cluster: 2,600 sf Conventional: 4,000 sf	Cluster: 2,600 sf Conventional : 4,000 sf	233	5.5
PA 4	38.9	Conventional SF	4,000 sf	5,000 sf	182	4.7
PA 5	23.6	Conventional SF	4,000 sf	5,000 sf	97	4.1
PA 6	34.9	Conventional SF	4,000 sf	6,000 sf	87	2.5
PA 7	13.1	Conventional SF	7,200 sf	8,000 sf	40	3.0
TOTAL	180				795	4.4

Community Design Guidelines – A major component of the Area Plan establishes the design guidelines for the proposed community. These guidelines are extensive and detailed and they embrace the vast

majority of the City of Brea's Neighborhood Design Elements memorialized in the City's memorandum of 9/23/1997 (Exhibit 1). PDS Staff does not support adoption the City of Brea's recommendation to prohibit the use of wood fences in the Planned Community. Staff does not object to their use along interior property lines because there is no compelling public benefit to preclude their use. Poor maintenance of wood fences in general was a concern of the City of Brea. Although PDS staff concurs, existing County Property Maintenance Regulations already in place are better suited to address that problem. Other regulations recommended by the City of Brea related to the dimensions of architectural elements, window box planters, the quality of bird stoops on roofs and the quality of garage doors. Staff did not find the Planned Community Land Use Regulations in the PC Text or the Area Plan Design Guidelines to be the appropriate regulatory mechanism to control such issues, and recommended that they become responsibility of the Homeowners Association should they become an issue to the community. In regards to the City of Brea's recommendation to require developer-installed front yard landscaping on single family residential lots, staff did not find that at the price range anticipated for the homes in the proposed Planned Community, landscaping issues would warrant the need to require installation by the developer. However, in the case of attached and multi-family developments, developer-installed landscape will be required.

The proposed Tonner Hills Planned Community guidelines include the following:

Circulation Design, at the community and neighborhood level – Guidelines for collector streets, local streets, sidewalks and bikeways. Specifics of the design concept are discussed below under *Circulation*.

Grading Concept – Guidelines for contour and landform grading techniques; building pads, cut/fill slopes; retaining walls and drainage devices. Specifics of the design concept are discussed below under *Grading*.

Neighborhood Design– Guidelines for streets, varied setback depth, building placement and orientation, mixture of one and two story homes, placement and orientation of garages, neighborhood entry statements, pedestrian walkways and parking auto courts.

Residential Architecture – The community theme and architectural goal for Tonner Hills is that of "compatible variety". Rather than specify particular architectural styles, builders and their professional design teams are encouraged to develop architectural designs based upon styles historic to Orange County and the Southern California region.

For each residential planning area, and for the purpose of diversity, builders will be required to identify and provide a variety of architectural styles for their projects. Three different elevations will be required within each architectural style.

Elements guiding residential architecture include, bulk, mass and scale; building and roof materials and colors; window and doors design; porches and balconies; columns and posts; and building elevation articulations.

Other architectural design elements addressed in the documents are mechanical equipment, gutters and downspouts; chimneys; skylights; solar panels and accessory structures.

Landscape Design Concept – The Design Guidelines include a “Conceptual Master Landscape Plan” that contains a master list of tree and plant materials intended to create a distinctive, diverse environment that will lend identity and character to the developed and natural areas of the project. The landscape concept integrates the built environment with the natural features of the land. The landscape design standards address Streetscapes, local and community wide; neighborhood entries; slopes and buffer zones, brush management and view corridors.

Circulation – The Planned Community includes two major access points. The primary access to the easterly portion of the project will be from the south, at Kraemer Boulevard, just north of the fire station at the intersection with Lambert Road. This collector street will continue eastbound, to intersect with Valencia Avenue where a second access point into the project is planned to align with the existing intersection of Santa Fe and Valencia Avenue. The western portion of the Planned Community will be accessed from the continuation of a local collector street to be aligned with the existing Carmichael Drive.

Street design of the major collector roads proposed for the Planned Community is responsive to the natural terrain of the site. For the most part, collector roads follow existing oil field roadway alignments, except along the proposed access to and from Valencia Avenue.

Grading - The grading concept proposed for Tonner Hills is a balanced grading program respectful of the natural topography recognizing the nature of the existing terrain with special attention to the preservation of major landforms and significant drainage courses. Grading in the site will result in 4.2 million cubic yards of earth with balancing cut and fill on-site based upon the retention of open space areas that have value as wildlife habitat, the avoidance of natural hazards, and consideration of topographical features that comprise the visual backdrop to the neighboring communities. Edge conditions of residential planning areas will seek to replicate natural conditions wherever practical given habitat or geological constraints through the use of contour grading and landform grading.

Contour grading creates a curvilinear pattern to slopes by using variations of horizontal and vertical curves and provides for a general rounding of slopes at slope intersections and at areas of transition to open space, given geologic conditions and habitat restoration activities underway. Landform grading replicates the irregular shapes of natural slopes resulting in aesthetically pleasing elevations and profiles.

Perimeter manufactured slopes proposed to provide an edge to open space areas are expected to blend with the natural terrain, and the major contiguous ridges that provide a visual backdrop to neighboring communities will be retained. Building pad grading concepts will encourage conformance with or replication of the natural topographic conditions of the site. A variety of lot depths and widths are proposed to discourage rigid and uniform development edges.

Open Space – A minimum of 559.7 acres within Planning Areas 10 through 12, will be retained in open space. The uses proposed for these planning areas include primarily passive open space for coastal sage scrub, wetland/riparian walnut and other habitat preservation and restoration, as well as the continuation of interim oil production activities

A total of 21.5 acres of open space land (Planning Area 9) located on the westerly side of Valencia Avenue near Santa Fe Avenue will be reserved for public/quasi public use such as parks, nature trails, or playgrounds. The Area Plan includes design guidelines for graded open space and fuel modification areas as well as design concepts for hiking and riding trails.

Art in Public Places – The County of Orange does not have an art in public places program, however, the Planned Community proposal will address the City of Brea's Art in Public Places Program by establishing a developer funded mechanism with an agreed upon value of 1,500,000 dollars. Up to 50% of this value may be used to establish a community Art Education Endowment Program in cooperation with the Brea Olinda Unified School District. Allowable expenses under this program are the cost of the art and related expenses to display the art. The land and art will be owned and maintained by the Master Community Association.

Oil Operations – Oil operations will continue on portions of Planning Areas 10 through 12 as well as 16.3 acres of the Main Facility and the Tonner Tank Farm. Any new wells will be subject to the regulations of the Orange County Oil Code, the Orange County Fire Authority (OCFA), and the California Department of Conservation, Division of Oil Gas and Geothermal Resources (DOG&GR). In residential Planning Areas (1 through 7), no new wells will be drilled, nor will existing wells be re-drilled. A number of existing wells will be phased out of the site, specifically from the proposed residential areas. Any well proposed for continued operation within a residential planning area will be replaced with subsurface vault units, subject to the regulations and standards of the County, the OCFA and the DOG&GR. The Area Plan includes guidelines for screening and integration of oil production activities within and near residential Planning Areas. The PC regulations further establish specific requirements for separation between residential structures and oil wells.

Local Parks – Wildcatters Park will be expanded from 5.8 acres to 14.6 acres. PDSD staff and The City of Brea consider improvement of this park an important benefit for the community; therefore, development of this planning area is expected to occur early in the development phasing. Implementation of the expanded Wildcatters Park as depicted in the Area Plan is detailed in the Development Agreement presented to the Commission under a separate staff report. At build out, Planning Area 8 will include recreation and community facility uses such as a recreation building, ball fields, off street parking, riding hiking and bicycle trails and other active recreational uses. This local parkland will satisfy the Orange County local park code as well as the City of Brea local park standards.

Planned Community Program Text

The Planned Community Program Text Regulations (PC Text) will establish regulations, authority and procedures necessary for the orderly development of the Tonner Hills property. Table 2 (Exhibit 2), summarizes the uses permitted and the development standards applicable within each planning area. These regulations will not permit any new oil production activity within any residential planning area.

The proposed regulations will require discretionary approval of Area Plans and/or Site Development Permits prior to approval of any subdivision map or residential development. All Area Plans will require review and approval by the Planning Commission. Additionally, the proposed regulations designate the City of Brea as an official review body with a 30 day review period prior to action on discretionary permits, thereby affording the City additional input as more specific development proposals occur.

At its September 18, 2002, public hearing, the Planning Commission was presented with an introductory overview of the proposed project. A brief comparison of the existing project in contrast with the project originally submitted in January of 2001 was also presented in conjunction with a synopsis of the issues

that lead to the project currently under consideration in this staff report. The Planning Commission received public input and continued the public hearing to October 16, 2002.

A major theme of the public comments received at the public hearing related to the concern that the City of Brea's vision did not receive appropriate consideration. Staff worked with the applicant to address these issues and believes that revisions to the final project, as discussed in this staff report, have embraced the vast majority of the City's vision and specific requests as follows:

- Preserve natural resources such as Cable Canyon and Tonner Canyon.
- Preserve the 5.8 acre Wildcatters Park and its enhancement to 14.6 acres.
- Early improvement and construction of Wildcatters Park.
- Provide access to the development from Valencia Avenue.
- Delete the Tonner Hills Road access.
- Provide estate-type housing including 8,000 square foot minimum lot size in designated areas.
- Honoring the City's development standards and Neighborhood Design Elements. (As stated above, the regulations that this project will be subject to among many others include all standards of public benefit that the City requested in its memorandum of 9/23/97. For example, single story residential units intermixed within the development; sidewalks on both sides of double loaded streets; quality architectural detailing and building materials; fully articulated building elevations, garage door and window design, etc.)

A number of other public benefit components of this project such as affordable housing and dedication of open space are further addressed in the Tonner Hills Development Agreement submitted for the Planning Commission consideration as a separate item.

CONCLUSION

The development proposal has been the subject of a number of pre-annexation meetings facilitated by the County of Orange CEO's office between the applicant, the City of Brea, and the County Planning & Development Services Department. A number of significant revisions to the scale of the development plan occurred in response to the comments received on the DEIR 581 from the public and various reviewing agencies, and as a result of these joint meetings. The final documents submitted for Planning Commission consideration are the outcome of consensus building reached during the review process, with input from County staff, the City of Brea and the community at large. Staff believes that the final project, and its regulatory documents have embraced most of the elements of the City's vision. In some instances, the development guidelines and regulations proposed for Tonner Hills go beyond the City's adopted policies and codified standards to ensure that the Tonner Hills community contributes and improves upon the City's residential opportunities. In addition, the project includes public benefits in the form of commitment of 10% of the total dwelling units as low income affordable housing; dedication of a minimum of 559.7 acres of open space; 21.5 acres of public use land, and trails and wildlife corridors. These elements and the phasing of the project are also included in the Tonner Hills Development Agreement submitted for Planning Commission consideration as a separate public hearing item. Based on the analysis presented in this staff report, staff supports approval of Zone Change ZC 01-01; the Planned Community Program Text, Development Map and Statistical Summary Table; and the Tonner Hills Area Plan, subject to the findings and conditions of approval in appendices A and B.

RECOMMENDED ACTION:

Planning and Development Services Department, Current Planning Services Division recommends the Planning Commission:

- a. Receive staff report and public testimony as appropriate; and,
- b. Certify DEIR 581 for the Project and recommend its certification by the Board of Supervisors,
- c. Approve Draft Board of Supervisors Resolution for Zone Change ZC01-01 (Tonner Hills Planned Community Program Text and Development Map and Statistical Summary Table) and recommend its approval by the Board of Supervisors, and
- d. Approve Draft Planning Commission Resolution approving the Area Plan for the Tonner Hills Planned Community, subject to the Board of Supervisors adoption of the proposed Zone Change ZC 01-01.

Respectfully submitted,

George Britton, Manager
Current Planning Services

EXHIBITS:

1. City of Brea's Memorandum of 9/23/97. Neighborhood Design Elements.
2. Table 2- Residential Site Development Standards Table.
3. Proposed Draft Planned Community Program Text, Development Map and Statistical Table.
4. Proposed Area Plan.
5. Draft Board of Supervisors Resolution for Zone Change.
6. Planning Commission Resolution for Area Plan.

**TABLE 2
RESIDENTIAL SITE DEVELOPMENT STANDARDS**

	SFD CONVENTIONAL	SFD CONVENTIONAL	SFD CONVENTIONAL	SFD CLUSTER	SFA TOWNHOME PAIRED HOME	MULTIPLE FAMILY
PLANNING AREA	PA's 1-7	PA's 1-6	PA's 1-6	PA's 1-3	PA 2	PA 2
MIN. BUILDING SITE AREA	No Minimum	No Minimum	No Minimum	No minimum	2,000 sf	5,000 sf
MIN. BLDG. SITE AREA/UNIT	N/A	N/A	N/A	1200 SF	1000 SF	1,000 sf
LOT WIDTH @ SETBACK LINE	60 ft.	50 ft.	50 ft.	25 ft.	N/A	Nore
MIN. LOT SIZE	8,000 sf.	5,000 sf.	4,000 sf.	2,600 sf.	N/A	N/A
SETBACKS(1)(3) Front Rear Side Yard	20 ft. 25 ft. (2) 8 ft.	10 ft. 15 ft. 10 ft. min. one side only/ 10 ft. aggregate both sides.	10 ft. 15 ft. 10 ft. min. one side only/10 ft. aggregate both sides.	5 ft. 10 ft. 5 ft.	8 ft. 10 ft. 10 ft. on one side.	Buildings shall be set back a minimum of 15 ft. from any exterior property line and 15 ft. between buildings internal to one another.
From a residential Street (corner lot)	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	N/A
Patios	3 ft. (4)	3 ft. (4)	3 ft. (4)	3ft.(4)	0 ft. (4)	N/A
SET- BACK FROM OIL WELLS/ HABITABLE STRUCTURES	150 ft, or as approved by OCFA per Guideline C-02.	150 ft, or as approved by OCFA per Guideline C-02.	150 ft, or as approved by OCFA per Guideline C-02.	150 ft, or as approved by OCFA per Guideline C-02.	150 ft, or as approved by OCFA per Guideline C-02.	150 ft, or as approved by OCFA per Guideline C-02.
SITE COVERAGE	No Maximum	No Maximum	No Maximum	70%	60%	60% excluding carports or garages.
PRIVATE OPEN SPACE	NA	NA	NA	10% of net area	100 sf/unit	200 sf/unit of which a minimum of 50% shall be in common areas
PARKING	Per Section 6	Per Section 6	Per Section 6	Per Section 6	Per Section 6	Per Section 6
BUILDING HEIGHT	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	40 ft.(5)
Fences/Walls	See 2.7.1.j	See 2.7.1.j	See 2.7.1.j	See 2.7.2l	See 2.7.3.j	See 2.7.4.i
Trash/Storage	N/A	N/A	N/A	N/A	N/A	See 2.7.4.l
Screening	N/A	N/A	N/A	N/A	N/A	See 2.7.4.m

- 1) Projections into required setbacks including front porches and architectural projections including but not limited to chimneys, pot shelves, cornices, eaves, outside staircases, balconies, enhanced window sills, shutter details, window trims, and entry gates may project 5 feet or within 1 foot of the property line whichever is the least projection into the setback.
- 2) May be counted as required fuel modification area.
- 3) 20 Feet where abutting a fuel modification area.
- 4) 8 feet when adjacent to a side street property line of a corner lot.
- 5) 10 feet allowance for architectural elements.

RESOLUTION OF THE BOARD OF SUPERVISORS
OF ORANGE COUNTY CALIFORNIA
NOVEMBER 19, 2002

On the motion of Supervisor _____, duly seconded and carried, the following Resolution was adopted:

WHEREAS, pursuant to California Government Section 65000 et seq., the County of Orange has an adopted General Plan which meets all of the requirements of State Law; and

WHEREAS, pursuant to State Planning and Zoning Law, this Board has reviewed Zone Change ZC 01-01 for the Tonner Hills Planned Community Program and the proposed Development Map and Statistical Summary; and

WHEREAS, the Tonner Hills Planned Community Program and Development Map and Statistical Summary will provide for a maximum of 795 residential dwelling units on approximately 789.8 acres within unincorporated Orange County; and

WHEREAS, in conformance with State Law, legally noticed public hearings for said project and related items were held by the Orange County Planning Commission on September 18, 2002 and October 16, 2002; and

WHEREAS, in conformance with California Environmental Quality Act (California Public Resources Code Section 21000, et seq.), the State CEQA Guidelines (California Administrative Code Section 15000, et seq.), and the County's environmental analysis procedures, the County has prepared EIR No. 581 (State Clearinghouse Number 2001031137) to evaluate the potential environmental impacts of the proposed project; and

WHEREAS, proposed Final EIR 581 has been reviewed and analyzed by the County and reflects the County's independent judgment on the proposed project; and

WHEREAS, the adoption of the Planned Community Program would establish zoning for the Tonner Hills Planned Community area as PC "Planned Community" District; and

WHEREAS, the 789.8 acre project area is located within an area of land currently zoned A1 "General Agricultural" District, with an (O) "Oil Production" District overlay and is located within unincorporated Orange County; and

WHEREAS, a proposed Zone Change (ZC 01-01) has been prepared which will reflect the adoption of the Planned Community Program and the adoption of the PC zoning for the property consistent with the Planned Community Program, and would delete the existing zoning of A1 which provided a General Agricultural designation; and

**RESOLUTION OF THE ORANGE COUNTY PLANNING
COMMISSION
COUNTY OF ORANGE, CALIFORNIA**

**RES. NO. 02-
DATE OF ADOPTION:
October 16, 2002**

On the motion of Commissioner _____, duly seconded and carried, the following Resolution was adopted:

WHEREAS, Nuevo Energy Company (the "Applicant") filed an application for an Area Plan to develop a maximum of 914 residential units 7.7 acres of commercial and 508.4 acres of open space on approximately 789.8 acres within unincorporated Orange County for a residential development project hereinafter referred to as the "Tonner Hills"; and

WHEREAS, the Applicant has amended the Area Plan to reduce the number of dwelling units to a maximum of 795 residential units, increased the open space to 559.7 acres and deleted the commercial site that is now reflected within the proposed Tonner Hills Area Plan; and

WHEREAS, these 789.8 acres are located within an area of land currently zoned A1 "General Agricultural" District, with an (O) "Oil Production" District overlay and is located within unincorporated Orange County; and

WHEREAS, Zone Change ZC 01-01 has been considered by this Planning Commission and this Planning Commission has recommended approval by the Board of Supervisors to change the zoning for said 789.8 acres within unincorporated Orange County to PC "Planned Community" District, with an (O) "Oil Production" District overlay (Tonner Hills Planned Community Program) to permit a maximum of 795 residential units; and

WHEREAS, this Area Plan for Tonner Hills Planned Community will only become valid and effective following the final adoption of Zone Change ZC 01-01 for the Tonner Hills Planned Community Program and Development Map and Statistical Summary by the Board of Supervisors; and

WHEREAS, pursuant to California Government Code Section 65000 et seq. the County of Orange has an adopted General Plan which meets all of the requirements of State Law;

WHEREAS, in compliance with the provisions of the California Government Code, a legally noticed public hearing was held by the Orange County Planning Commission on September 18, 2002 and October 16, 2002 to consider the Tonner Hills Planned Community Program and Development Map and Statistical Summary, together with the proposed Area Plan for the Tonner Hills project submitted by the Applicant; and

WHEREAS, in conformance with California Environmental Quality Act (California Public Resources Code Section 21000, et seq.), the State CEQA Guidelines (California Administrative Code Section 15000, et seq.), and the County's environmental analysis

PLANNING COMMISSION RESOLUTION

Page 2

procedures, the County has prepared EIR No. 581 (State Clearinghouse Number 2001031137) to evaluate the potential environmental impacts of the proposed project; and

WHEREAS, EIR 581 has been reviewed and analyzed by the County and reflects the County's independent judgment on the proposed project; and

WHEREAS, the Planning Commission has determined pursuant to CEQA that Final EIR 581 constitutes adequate environmental documentation for the Tonner Hills Area Plan and certified EIR 581 at a legally noticed public hearing on October 16, 2002 as being complete and adequate and that it fully complies with all requirements of CEQA, the State CEQA Guidelines, and the County's environmental analysis procedures; and

WHEREAS, the Planning Commission has reviewed and fully considered EIR 581, and has listened to and considered the public comments that were presented to it at all of the public hearings held on this project; and

NOW THEREFORE, BE IT RESOLVED that the Planning Commission makes the following findings with respect to the EIR 581 and the Tonner Hills Planned Community Area Plan:

1. That this Orange County Planning Commission considered the Tonner Hills Planning Application PA 01-0009, for Zone Change 01-01, Area Plan, and EIR No. 581.
2. That EIR No. 581 was considered prior to approval of the project and was determined to adequately address all potential adverse environmental impacts of the proposed project and to meet all the requirements of CEQA and the State CEQA Guidelines.
3. That this Planning Commission finds that the Final EIR has identified all significant environmental impacts of the Tonner Hills Planning Application.
4. That the conditions adopted herein are reasonably related to the use of the property and necessary for appropriate development and operation of the uses permitted by the County General Plan and the Tonner Hills Planned Community.
5. That this Area Plan for Tonner Hills Planned Community will only become valid and effective following the final adoption of Zone Change ZC 01-01 for the Tonner Hills Planned Community Program and Development Map and Statistical Summary by the Orange County Board of Supervisors.

NOW THEREFORE, BE IT FURTHER RESOLVED that the Orange County Planning Commission hereby approves the Tonner Hills Planned Community Area Plan for the Tonner Hills Development Project subject to the Findings as set forth in Appendix A and the Conditions of Approval as included in Appendix B to this Resolution.

AYES:

PLANNING COMMISSION RESOLUTION

Page 3

NOES:

ABSENT:

I HEREBY CERTIFY that the foregoing Resolution No. 02-___ was adopted on October 16, 2002 by the Orange County Planning Commission.

ORANGE COUNTY PLANNING COMMISSION

By: Chuck McBurney, Chairman



Appendix A Findings PA010009

1 **GENERAL PLAN** **PA010009**

That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.

2 **ZONING** **PA010009**

That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.

3 **COMPATIBILITY** **PA010009**

That the location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity.

4 **GENERAL WELFARE** **PA010009**

That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

5 **PUBLIC FACILITIES** **PA010009 (Custom)**

That the approval of this application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).

6 **COMMUNITY ANALYSIS AREA** **PA010009**

That the project will not reduce the availability of affordable housing within the community analysis area and will otherwise substantially comply with the intent of this section.

7 **FINAL EIR** **PA010009 (Custom)**

That Final EIR No.581 was considered prior to approval of the project and determined to adequately address all potential adverse environmental impacts of the proposed

project and meets all the requirements of CEQA and the state CEQA Guidelines.

a. Based on the Initial Study, it is found that the EIR serves as a Program EIR for the proposed project; and

b. The approval of the certified Final EIR for the project reflects the independent judgement of the lead agency.

8

FISH & GAME - SUBJECT

PA010009

That pursuant to Section 711.4 of the California Fish and Game Code, this project is subject to the required fees as it has been determined that potential adverse impacts to wildlife resources may result from the project.

9

NCCP SIGNIFICANT

PA010009

That the project has the potential of adversely affecting significant Coastal Sage Scrub habitat and therefore, may preclude the ability to prepare an effective subregional Natural Communities Conservation Planning (NCCP) Program.



Appendix B Conditions of Approval PA010009

1 CP CP NA BASIC/ZONING REG PA010009

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.

2 CP CP NA BASIC/PRECISE PLAN PA010009

Except as otherwise provided herein, this permit is approved as a precise plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

3 CP CP NA BASIC/COMPLIANCE PA010009

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

4 CP CP NA BASIC/OBLIGATIONS PA010009

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant shall reimburse the County for any court costs and attorneys fees that the County may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.

5 CP CP NA BASIC/APPEAL EXACTIONS PA010009

Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.

6 CP CP R DEVELOPMENT STANDARDS PA010009 (Custom)

Prior to the recordation of any subdivision map, the applicant shall place a note on the map that the property is subject to the standards of the Tonner Hills Planned Community and use zoning regulations.

7 CP CP B SCHOOL FEES PA010009 (Custom)

Prior to the issuance of a building permit for residential construction, the applicant shall provide written verification from the School District, in a manner meeting the approval of the Manager of Community and Advance Planning that a mitigation agreement has been reached with the District for subject property consistent with the provision of land contiguous to, but outside of the project boundaries, to the Brea Olinda School for the expansion of the existing parking lot for the High School, and provision of substantial funds for improvements.

8 CP/EP CPEP R/G MITIGATION MONITORING PROGRAM PA010009 (Custom)

Prior to recordation of the first final map, either for conveyance or development, or prior to any grading or building permit, whichever comes first, the applicant shall comply with all applicable mitigation measures which shall be applied as conditions of approval due at the development milestone applicable at the time recordation of a final map or permit issuance. The specific mitigation measures, which shall be applied as conditions of approval are incorporated herein by reference as contained in the Mitigation Monitoring Program of Final EIR No. 581 certified by the Board of Supervisors.

9 CP CP NA PROJECT PHASING AND PROJECT IMPROVEMENTS/DEDICATIONS PA010009 (Custom)

Stipulations contained in the Tonner Hills Development Agreement between the County of Orange and Nuevo Energy Company, as they pertain to the timely implementation of improvements as scheduled in the project phasing plan are incorporated herein as conditions of approval of the Area Plan for the Tonner Hills Planned Community.

10 CP CP AP CITY OF BREA REVIEW PA010009 (Custom)

Thirty days (30) prior to action on any discretionary permits located within the Tonner Hills Planned Community, the permit application must be submitted to the City of Brea for review and comment.

11 AREA PLAN SUBJECT TO ZONE CHANGE APPROVAL PA010009 (Custom)

Approval of this Area Plan for Tonner Hills Planned Community will only become valid and effective following the final adoption of Zone Change ZC01-01 for the Tonner Hills Planned Community Program and Development Map and Statistical Summary Table

by the Orange County Board of Supervisors.

12 HP HP G ARCHAEO OBS & SALVAGE PA010009

Prior to the issuance of any grading permit, the applicant shall provide written evidence to the Manager, Subdivision and Grading, that applicant has retained a County-certified archaeologist, to observe grading activities and salvage and catalogue archaeological resources as necessary. The archaeologist shall be present at the pre-grade conference, shall establish procedures for archaeological resource surveillance, and shall establish, in cooperation with the applicant, procedures for temporarily halting or redirecting work to permit the sampling, identification, and evaluation of the artifacts as appropriate. If the archaeological resources are found to be significant, the archaeological observer shall determine appropriate actions, in cooperation with the project applicant, for exploration and/or salvage.

Prior to the release of the grading bond the applicant shall obtain approval of the archaeologist's follow-up report from the Manager, Harbors, Beaches & Parks HBP/Coastal and Historical Facilities. The report shall include the period of inspection, an analysis of any artifacts found and the present repository of the artifacts. Applicant shall prepare excavated material to the point of identification. Applicant shall offer excavated finds for curatorial purposes to the County of Orange, or its designee, on a first refusal basis. These actions, as well as final mitigation and disposition of the resources, shall be subject to the approval of the Manager, HBP/Coastal and Historical Facilities. Applicant shall pay curatorial fees if an applicable fee program has been adopted by the Board of Supervisors, and such fee program is in effect at the time of presentation of the materials to the County of Orange or its designee, all in a manner meeting the approval of the Manager, HBP/Coastal and Historical Facilities.

13 HP HP G PALEO OBS & SALVAGE PA010009

Prior to the issuance of any grading permit, the project applicant shall provide written evidence to the Manager, Subdivision and Grading, that applicant has retained a County certified paleontologist to observe grading activities and salvage and catalogue fossils as necessary. The paleontologist shall be present at the pre-grade conference, shall establish procedures for paleontological resource surveillance, and shall establish, in cooperation with the applicant, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of the fossils. If the paleontological resources are found to be significant, the paleontologist shall determine appropriate actions, in cooperation with the applicant, which ensure proper exploration and/or salvage.

Prior to the release of the grading bond the applicant shall submit the paleontologist's follow up report for approval by the Manager, HBP/Coastal and Historical Facilities. The report shall include the period of inspection, a catalogue and analysis of the fossils found, and the present repository of the fossils. Applicant shall prepare excavated material to the point of identification. The applicant shall offer excavated finds for curatorial purposes to the County of Orange, or its designee, on a first refusal basis.

These actions, as well as final mitigation and disposition of the resources, shall be subject to approval by the HBP/Coastal and Historical Facilities. Applicant shall pay curatorial fees if an applicable fee program has been adopted by the Board of Supervisors, and such fee program is in effect at the time of presentation of the materials to the County of Orange or its designee, all in a manner meeting the approval of the Manager, HBP/Coastal and Historical Facilities.

14 F F GBU FUEL MODIFICATION PA010009 (Custom)
[Res] Service Codes: 1.9 & 1.10

- A. Prior to the recordation of a subdivision map or the issuance of a preliminary grading permit, the applicant shall obtain approval from the Fire Chief in consultation with the Manager, Subdivision and Grading Services for a conceptual fuel modification plan and program. Please contact the Orange County Fire Authority at (714) 744-0499 or visit the Orange County Fire Authority website to obtain a copy of the "Guideline for Fuel Modification Plans and Maintenance."
- B. Prior to the issuance of a precise grading permit, the applicant shall obtain approval from the Fire Chief in consultation with the Manager, Subdivision and Grading Services for a precise fuel modification plan and program. The plan shall indicate the proposed means of modifying vegetation to reduce the risk to structures. Please contact the Orange County Fire Authority at (714) 744-0499 or visit the Orange County Fire Authority website to obtain a copy of the "Guideline for Fuel Modification Plans and Maintenance."
- C. Prior to the issuance of a building permit, the developer, under the supervision of the Fire Chief, shall have completed the portion of the approved fuel modification plan determined to be necessary before the introduction of any combustible materials into the project area. Approval shall be subject to an on-site inspection.
- D. Prior to the issuance of any certificate of use and occupancy, the fuel modification shall be installed and completed under the supervision of the Fire Chief with an approved plant pallet. The CC&Rs or other approved documents shall contain provisions for maintaining the fuel modification zones, including the removal of all dead and dying vegetation. The fuel modification zones shall be subject to triennial inspections.

15 F F G SECURED FIRE PROTECTION PA010009 (Custom)
AGREEMENT

Prior to recordation of the first final map, including maps for financial and conveyance purposes, or a grading permit, whichever ever comes first, the applicant shall enter into a Secured Fire Protection Agreement with the fire protection agency with jurisdiction over the project site.

16 EP/CAP EP/CAP R AFFORDABLE HOUSING PA010009 (Custom)

Prior to the recordation of the first subdivision map that creates residential building sites, the subdivider shall submit and obtain approval of a Housing Program Report from the Manager, Environmental and Project Planning. The subdivider shall demonstrate in said report how the proposed housing program complies with the Affordable Housing Implementation Plan for the Tonner Hills Planned Community as follows: A minimum of 10% of the total number of residential units will be developed as low-income affordable housing in a manner meeting the approval of the Manager, Community and Advance Planning Services.

17 SG SG/ER R HAZARDOUS MATERIAL PA010009 (Custom)

Prior to the recordation of a subdivision map, the subdivider shall submit, a "Hazardous Materials Assessment" and a "Disclosure Statement" covering the property (both fee and easement) which will be offered for dedication or dedicated to the County of Orange or the Orange County Flood Control District, for review and approval by the Manager, Subdivision and Grading, in consultation with the Manager, PFRD/ Environmental Resources.

18 HP HP R OPEN SPACE DEDICATIONS PA010009 (Custom)

Prior to or concurrent with recordation of the first Level A map, the applicant shall irrevocably offer to dedicate in fee, free of liens and leases, to the County of Orange or its designee all of the Open Space shown on the Development Map (Planning Areas 10, 11, 12 and 9) in a manner meeting the approval of the County Counsel, and Managers of Current Planning and HBP/Program Management and Coordination.

19 EP/HBP EP/HBP G RESOURCE MANAGEMENT PLAN (REMP) PA010009 (Custom)

Prior to issuance of the first grading permit or approval of the first subdivision map, whichever occurs first, the applicant shall obtain approval from the Director, Planning and Development Services Department (PDSD) of a Resource Management Plan (REMP) for the Tonner Hills Planned Community. Said REMP shall address: 1) restoration of habitat that will occur as part of the oil site remediation process or as required mitigation by State and Federal wildlife agencies, 2) restoration monitoring and success criteria, 3) long-term invasive species control requirements, 4) protocols for conducting oil operations and facility maintenance within restoration areas, and 5) a perpetual funding mechanism to support these activities.

Based upon the REMP the applicant shall be required to dedicate open space areas in scenic and/or resource preservation easements in a manner meeting the approval of the Director, PSDS in consultation with the Manager, PFRD/HBP Program Management and Coordination consistent with Section 3 "Open Space Use Regulations" of the Tonner Hills Planned Community Regulations. The easement shall identify areas of ongoing oil operation to be distinguished from areas intended to be preserved as wildlife habitat.

20 EP/HBP CP/SG G CONSISTENCY WITH REMP PA010009 (Custom)

All construction related activities shall be consistent with the approved Resource Management Plan (REMP) in a manner meeting the approval of the Director, PDSD, in consultation with the Manager PFRD/HBP Program Management and Coordination.

ORANGE COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

November 19, 2002

Submitting Agency/Department: PLANNING AND DEVELOPMENT SERVICES

Public Hearing to consider adopting resolution approving Zone Change ZC01-01 (Tonner Hills Planned Community Program Text, development map and statistical summary table); and adopt "An Ordinance of the County of Orange, California, amending the County of Orange zoning map by rezoning certain land from the A1(O) District to the PC (O) District, (Tonner Hills Planned Community) and adopting the Tonner Hills Planned Community Program in accordance with the zoning code of Orange County (ZC 01-01)" - District 3

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED OTHER

APPROVED AS AMENDED TO: CERTIFY FINAL EIR 581; ADOPT RESOLUTION APPROVING ZONE CHANGE ZC01-01 (TONNER HILLS PLANNED COMMUNITY PROGRAM TEXT, DEVELOPMENT MAP AND STATISTICAL SUMMARY TABLE); ADOPT AN ORDINANCE ESTABLISHING THE TONNER HILLS PLANNED COMMUNITY ZONING DISTRICT; AND TO AMEND THE PLANNED COMMUNITY REGULATIONS FOR THE PUBLIC USE AREA TO PROHIBIT BUS STORAGE AND MAINTENANCE YARDS

Unanimous (1) SMITH: Y (2) SILVA: Y (3) VACANT: Y (4) COAD: Y (5) WILSON: Y

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- Resolution(s) 02-365 - 02-366
- Ordinances(s) 02-010
- Contract(s)

Item No. 93

Special Notes:

Copies sent to:

CEO
Planning & Development Services – Marta Crane
Auditor
12/16/02



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
DARLENE J. BLOOM, Clerk of the Board

By *Darlene J. Bloom*
Deputy

RECEIVED

JAN 10 2003



AGENDA STAFF REPORT

Agenda Item

93

ASR Control 02-000549

253

2002 NOV 7 PM 4:56:51

MEETING DATE: 11/19/02

LEGAL ENTITY TAKING ACTION: Board of Supervisors

BOARD OF SUPERVISORS DISTRICT(S): 3

SUBMITTING AGENCY/DEPARTMENT: Planning and Development Services (Approved)

DEPARTMENT CONTACT PERSON(S): Marta Crane 834-5144
George Britton 834-5312, Chuck Shoemaker 834-2166

SUBJECT: Tonner Hills Planned Community

CEO CONCUR Concur	COUNTY COUNSEL REVIEW Approved Ordinance to Form	CLERK OF THE BOARD Public Hearing 3 Votes Board Majority
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Budgeted: N/A Current Year Cost: N/A Annual Cost: N/A

Staffing Impact: No # of Positions: Sole Source: No

Current Fiscal Year Revenue: N/A

Funding Source: N/A

Prior Board Action: No

RECOMMENDED ACTION(S)

1. Conduct Public Hearing.
2. Certify Final EIR 581 for the project.
3. Adopt Board of Supervisor Resolution approving Zone Change ZC01-01 (Tonner Hills Planned Community Program Text, Development Map and Statistical Summary Table);
4. Adopt an Ordinance establishing the Tonner Hills Planned Community Zoning District.

SUMMARY:

On October 9 and 16, 2002, the Orange County Planning Commission held duly noticed public hearings on Planning Application PA 01-0009, and acted to Certify Draft Final EIR 581 for the project and recommended its certification by the Board of Supervisors; and subsequently acted to approve the Area Plan for the Tonner Hills Planned Community project, subject to Board of Supervisors approval of Zone Change ZC01-01; and recommended approval of the draft Ordinance establishing the Tonner Hills Planned Community by the Board of Supervisors.

BACKGROUND INFORMATION:

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The applicant, Nuevo Energy Company, proposes to develop a planned community on a 789.8 acre site, located in the northernmost area of unincorporated Orange County, within the sphere of influence (SOI) of the City of Brea.

The project site is comprised of three oil and gas producing properties owned entirely by the Nuevo Energy Company. The majority of the project site (681 acres or 86 %) is located east of the Orange Freeway (SR 57), with a small portion (108 acres, or 14%) located west of the freeway, at the northerly terminus of Carmichael Drive.

The proposed development as presented in the project documents, which include an Area Plan and a Planned Community Program Text (PC Text), consists of the following (Exhibits 4 and 5):

1. A maximum of 795 residential dwelling units within approximately 180 acres - Residential Planning Areas 1-7
2. 14.6 acres of Local Park Land - Planning Area 8
3. Approximately 559.7 acres of Open Space with continued and new oil production activities - Planning Areas 10-12
4. 21.5 acres of Open Space/Public Use area - Planning Area 9
5. Approximately 16.3 acres of existing oil facilities - Tonner Tank Farm and Main Oil Operations Facility.

The proposed regulations contained in the PC Text establish the authority and procedures necessary for the orderly development of the Tonner Hills property. These regulations contain zoning requirements such as permitted uses, lot size, setbacks, building height, etc. They will require discretionary approval of Area Plans and/or Site Development Permits prior to approval of any subdivision map or residential development. All Area Plans will require review and approval by the Planning Commission. Additionally, the proposed regulations designate the City of Brea as an official review body with a 30 day review period prior to action on discretionary permits.

In conjunction with the zone change, the Tonner Hills project includes an Area Plan that will direct the initial phase of development, allowing preliminary mass grading of the site. This Area Plan was unanimously approved by the Planning Commission at its October 16, 2002 public hearing (Exhibits 1 and 2).

CEQA

Nuevo Energy submitted a development proposal for 914 dwelling units with the County of Orange in January 2001, after withdrawing an application in November 2000 that had been on file with the City of Brea since December 1998. This withdrawal occurred prior to a November 2000 election, which included a City ballot measure that, if passed, would have affected the processing of development projects within the City.

The County issued a Notice of Preparation (NOP) on March 27, 2001 as a first indication of its intent to prepare an EIR to address the potential environmental impacts associated with the applicant's proposal. On April 26, 2001 the County conducted an EIR scoping meeting in the City of Brea at Brea Olinda High School. The NOP period ended on May 9, 2001.

On April 25, 2002, the County of Orange released Draft EIR 581 (SCH # 2001031137) for a 45-day public review period. The public comment period was scheduled to end on June 10, 2002. However, it was extended to 60 days and ended on June 25, 2002. Prior to the close of the public comment period, the

County received over 60 pieces of correspondence transmitting comments on the project. Many comments focused on wildlife movement, residential density, traffic, and biological habitat concerns.

As the applicant and staff reviewed the concerns, it became evident that additional refinements could be incorporated into the applicant's plan that could further reduce some project impacts and respond to comments from various sources. The refinements made to the Tonner Hills project included: The elimination of Tonner Hills Road, which provided secondary access to the project site but bifurcated a wildlife corridor; the reduction in the number of dwelling units from 914 to 795 units; the elimination of the 7.7 acre commercial site; the expanded preservation of an area referred to as Cable Canyon; a greater pull back of development from the ridgelines along the northern development edge; and the preservation of a wildlife corridor which provides linkage to larger open space areas to the east and west of the Tonner Hills project site.

The Planning Commission heard testimony regarding the proposed refinements and public comments regarding still greater project revisions. The Commission considered all testimony and materials provided to them. They determined that the impacts of the Tonner Hills project had been adequately addressed in the draft EIR and the project alternatives. The key project alternative is Alternative 4, "The City of Brea Alternative". The Planning Commission certified the EIR for Alternative 4 and recommends certification of Final EIR 581 by the Board of Supervisors (Exhibit 3).

Conclusion

The development proposal has been the subject of a number of pre-annexation meetings facilitated by the County of Orange CEO's office between the applicant, the City of Brea, and the County Planning & Development Services Department. A number of significant revisions to the scale of the development plan occurred in response to the comments received on the DEIR 581 from the public and various reviewing agencies, and as a result of these joint meetings. The final documents submitted for the Board of Supervisor's consideration are the outcome of consensus building reached during the review process, with input from County staff, the City of Brea and the community at large. The final project as proposed, and its regulatory documents have embraced the spirit of the City's vision. In addition, the project includes public benefits in the form of commitment of 10% of the total dwelling units as low income affordable housing; dedication of a minimum of 559.7 acres of open space; 21.5 acres of public use land, and trails and wildlife corridors. These benefits and the phasing of the project are included in the Tonner Hills Development Agreement submitted as a separate item for Board's consideration.

REVIEWING AGENCIES:

County Counsel

EXHIBIT(S):

1. Draft Planning Commission 10/16/2002, Meeting Minutes;
2. Planning Commission Staff Reports;
3. Draft Final EIR 581;
4. Draft Planned Community Program Text.
5. Area Plan and Planning Commission Resolution No. 02-10 adopted on October 16, 2002.

ATTACHMENT(S):

- 9-
1. Draft Resolution Certifying EIR 581 including Attachment A. Statement of Facts and Findings; Attachment B. Overriding Considerations, and Attachment C. Mitigation Monitoring and Reporting Program
 2. Draft Resolution approving Zone Change ZC 01-01.
 3. Draft Ordinance adopting the Tonner Hills Planned Community Program Text.



County of Orange
Planning & Development Services Department

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Supplemental Transmittal
Agenda Items Nos. 93, 94 and 95
November 19, 2002 Agenda

DATE: November 15, 2002

2002 NOV 15 PM 1:52:15

TO: Clerk of the Board

FROM: Director, Planning and Development Services Department

SUBJECT: Board of Supervisors November 19, 2002 Agenda – Items Nos. 93, 94 and 95 for
Tonner Hills EIR, Zone Change and Related Projects

This supplements the reports for Item 93 the Final EIR 581, Item 94 the Memorandum of Understanding for the Tonner Hills Planned Community, and Item 95 the Development Agreement for the Tonner Hills Planned Community.

Final EIR 581- Intersection Data:

At the October 16, 2002 Planning Commission hearing, Ms. Diane Taylor stated that the traffic conditions at the intersection of Lambert Road – Carbon Canyon Road/Valencia described in the Tonner Hills EIR, the Hover Project EIR and the Brea Sports Park EIR (the latter two are City of Brea EIRs projects) were inconsistent. Traffic consultants reviewed the EIRs and determined there is no conflict among the documents. The Tonner Hills EIR utilized a conservative analysis of the potential impacts and offered specific traffic mitigation at the specified locations. (Attachment 1)

Final EIR 581- Errata:

The second attachment is “Errata to Tonner Hills Planned Community Responses to Comments and Draft EIR No. 581.” This attachment outlines for ease of reference the minor corrections, which have been incorporated in the Final EIR.

Final EIR 581- Mitigation Measure H-21:

The third attachment is a statement that the intent of Mitigation Measure H-21 (page 43 of the CEQA Statement of Facts and Findings, Exhibit A of the Draft Board of Supervisors Resolution) applies only within development areas. The mitigation measure does not permit trenches for underground lines in the open space areas of the project. The mitigation measure applies only to areas subject to “site plans.” Site plans are only required for development areas such as, Planning Areas 1 through 7 of the proposed Planned Community. The undergrounding of oil and gas lines in these areas is to promote safety and land use compatibility.

Supplemental Transmittal
Agenda Items Nos. 93, 94 and 95
November 19, 2002 Agenda

Item 94 – Memorandum of Understanding (MOU):

In an e-mail on November 12, 2002, the City of Brea staff submitted late comments on the MOU between the County, City of Brea and the applicant. The MOU sets assumptions intended to lead to a pre-annexation agreement and annexation of the site. Attachment 4 includes the MOU with revisions proposed by staff and the applicant to respond to the City's comments.

In four instances, staff disagrees with City comments:

1. Section 1.3 of the MOU: The City staff proposes to delete the requirement that the City execute a pre-annexation agreement and annex the property, and substitute a wholly new and different provision never discussed during the six months of negotiations on the MOU. The City staff's proposed deletion would effectively relieve the City of compliance with the MOU by allowing the City not to annex the site. PDSD proposes that the Board approve the City's late addition to Sec. 1.3, but we recommend that the requirement of a deadline for City approval of the pre-annexation agreement be retained in the MOU as shown in Attachment 4.
2. The City proposes that funding for the Sheriff Department (\$400 per unit) for countywide facilities and service be diverted to the City. The funding is required by Board policy on Development Agreements to mitigate regional Sheriff Department needs. The City's request should therefore be denied.
3. The City staff's e-mail alleges that the MOU somehow anticipates or permits (a) an acquisition of the public use area by the Brea Olinda School District for a bus yard and (b) that the County and applicant agreed to lighted sports fields at the local park. Neither of these statements is accurate. The proposed Tonner Hills regulations and plans do not permit either proposal. The MOU does not anticipate or permit these uses or facilities.
4. Finally, the City staff's e-mail states:

“City staff is aware of the past difficulties associated with this project and have made every effort to maintain a positive, constructive approach to this most recent effort to cooperate and coordinate the review of this project, as called for in the LAFCO/County/BIA SOI resolution. These most recent events have undermined the information we have presented to our elected officials and damage the credibility of the process. The attached MOU revisions are our attempt to provide certainty regarding the high expectations for this project to be an asset to the Brea community and to allow for future acquisition of open space areas where feasible.”

In response, this statement is misleading and implies that the County staff and applicant are the source of the past difficulties associated with this project. In addition, the City staff continue to misstate the policies of the Sphere of Influence Guidelines and imply that County staff and the applicant have not complied with the Guidelines. PDSD categorically denies the accuracy and

Supplemental Transmittal
 Agenda Items Nos. 93, 94 and 95
 November 19, 2002 Agenda

implications of the City staff's statement. Finally, the most recent events (See 2 above) were caused by the School District's actions not the County or the applicant. As noted above, the City's staff's proposed deletion of a deadline for a pre-annexation agreement in Section 1.3 would effectively relieve the City of compliance with the MOU while leaving all the County and applicant requirements. No further changes to the MOU are justified.

Item 95 - Tonner Hills Development Agreement: Attachment 5 is the revised Tonner Hills Development Agreement text with errata changes (excluding Exhibits). This document, which includes minor changes to the development agreement text, replaces the development agreement text provided previously as Attachment 1 to the Agenda Staff Report for Agenda Item No. 95.

There are no changes to Attachments 2 and 3 to the Agenda Staff Report for this item.

SUPPLEMENTAL RECOMMENDATIONS:

- Item 93: Amend the recommended certification of Final EIR 581 to include the Errata to the Response to Comments in Attachment 2.
- Item 94: Amend the approval of the Memorandum of Understanding to include the modifications in Attachment 4.
- Item 95: Amend the adoption of the Development Agreement to include the modifications in Attachment No. 5.

Respectfully submitted,


 Thomas B. Mathews Director

Contact person: Chuck Shoemaker, 834-2166

Attachments

Cc: Members, Board of Supervisors
 CEO
 County Counsel

AGENDIZER	1
BOARD CLERKS	7
SUPERVISOR	1
PUBLIC/TUB	1
BOARD OFFICES	1
CEO	1
COCO	1
GRAND JURY	1
DATE 11/13 BY EJE	

Sec. 7-9-144. Signs.

All references to this section shall include sections 7-9-144.1 through 7-9-144.9. In addition to the requirements for each district and the regulations of the Sign Code, the following sign regulations shall apply.

Sec. 7-9-144.1. Sign definitions.

Sign definitions are grouped according to sign type, i.e., how the sign is constructed and how the sign is used, as follows:

(a) Construction:

- (1) Banner signs: Any sign hung either with or without frames, possessing written communication applied to non-rigid paper, plastic or fabric of any kind.
- (2) Electronic message board sign: A sign with a fixed or changing display composed of a series of lights. (Does not include time and temperature displays.)
- (3) Freestanding sign: An independent sign permanently affixed in or upon the ground, and which is neither attached to nor a part of a building, e.g., monument/ground and pole signs.
- (4) Monument/ground sign: A freestanding sign mounted on a low profile solid base or a fence, or a freestanding wall, as distinguished from support by a pole or poles.
- (5) Pole sign: A freestanding sign directly supported by a pole or poles with air space between the grade level and the sign face.
- (6) Portable sign:
 - a. A sign not securely attached or fixed to the ground or to a permanent structure; or
 - b. A sign upon a vehicle or trailer used as a stationary advertising display, the primary purpose of which is to serve as a base or platform for the sign.
- (7) Projecting sign: A sign, other than a wall sign, perpendicular to the wall upon which it is mounted and suspended from or supported by a building or structure and projecting outward therefrom.
- (8) Roof sign: A sign erected wholly upon or above the roof of a building or above canopies, marquees and similar overhangs. Signs on mansards shall be considered wall signs.
- (9) Wall sign: A sign attached to, erected on, painted on or otherwise affixed to the exterior wall of a building or structure in such a manner that the face of the sign is approximately parallel to the exterior wall of the building and exposed to the exterior side of the building. Signs and/or advertising displays in or on windows are not considered wall signs.

- (c) One hundred (100) feet or more: Freestanding and roof signs shall not exceed a maximum height of twenty-five (25) feet plus one (1) foot of height for each ten (10) feet of horizontal distance over one hundred (100) feet.

Sec. 7-9-144.8. Lighted/illuminated signs.

Lighted and illuminated signs shall be designed and installed so that direct light rays shall be confined to the premises.

Sec. 7-9-144.9. Sign permit.

Any sign over six (6) square feet in area shall require a sign permit per the Sign Code in addition to any other discretionary permit as may be required by the Zoning Code

Sec. 7-9-145. Off-street Parking Regulations.

All references to this section shall include sections 7-9-145.1 through 7-9-145.7. These regulations apply to all districts, planned communities and specific plan areas, unless otherwise specified.

Sec. 7-9-145.1. Purpose and intent.

The intent of the Off-street Parking Regulations is to provide for the on-site, off-street parking of motor vehicles that are attracted by the use or uses on the premises. The parking facilities for motor vehicles required by this section are assumed to be the minimum which will be required by the various land use categories. However, the parking and maneuvering facilities required by this section should not be used as a fixed standard to determine the amount of off-street parking which may be adequate for any specific use.

If the decision maker determines minimum parking standards are inadequate for a specific project, he may require the developer, owner or operator of any specific use to provide the adequate parking even though such addition may be in excess of the minimum requirements set forth in this section. It is intended that these regulations will result in the installation of properly designed parking facilities of sufficient capacity to minimize traffic congestion, enhance public safety, generally provide for the parking of motor vehicles at locations other than on the streets, and for safe passage of pedestrians to and from parked vehicles.

Sec. 7-9-145.2 General requirements.

(a) Location of off-street parking.

- (1) Required parking facilities shall be located on the same building site and conveniently proximate to the use or uses they serve, except as otherwise provided in sections 7-9-145.4 and 7-9-145.7.
- (2) Property within the ultimate right-of-way of a street (either public or private), shall not be included in provision of the minimum parking.

(b) Accessibility.

All required off-street parking spaces shall be designed, located, constructed and maintained so as to be fully and independently usable and accessible at all times.

(c) Usability.

- (1) The required off-street parking facilities and driveways shall not be used for any purpose which at any time would preclude the use of the area for the temporary storage of motor vehicles.
- (2) Unless otherwise provided by an approved discretionary permit, no owner or tenant shall lease, rent or otherwise make unavailable to intended users any off-street parking spaces required by this article.

(d) Access to arterial highways.

- (1) Wherever access to a parking area is off an arterial highway designated on the Master Plan of Arterial Highways, parking spaces, driveways, and maneuvering areas shall be designed so that motor vehicles may enter the arterial highway traveling in a forward direction.
- (2) Vehicular access to arterial highways designated on the Master Plan of Arterial Highways will be permitted only in accordance with specifically approved driveway locations and access design.

(e) Maximum grades permitted.

- (1) Whenever access is taken from a street, alley or driveway to an off-street parking area serving four (4) or less dwelling units, the driveway or other vehicular accessway shall have a maximum grade of plus fifteen percent (+15%) or minus six percent (-6%), measured from the street, alley or driveway grade along the driveway centerline, for a distance of not less than eighteen (18) feet from the street, alley or driveway right-of-way line.
- (2) Whenever access is taken from a street, alley or driveway to an off-street parking area serving industrial, commercial or professional uses, public or community facilities, or five (5) or more dwelling units, the driveway or other vehicular accessway shall have a maximum grade of plus fifteen percent (+15%) or a minus two percent (-2%), measured from the street, alley or driveway grade along the driveway centerline for a distance of not more than eighteen (18) feet from the street, alley or driveway right-of-way line.
- (3) The maximum grades in (1) and (2) will generally provide adequate sight distance at street level and prevent vehicles from dragging on extreme grade breaks. Exceptions may be approved by the Director, EMA, where physical design prevents such extreme grade breaks and provides safe sight distance.
- (4) Off-street parking spaces and the abutting parking aisles shall have a maximum grade of two (2) percent for retail commercial and five (5) percent for all other uses. Said grade shall be measured across the parking space and the abutting parking aisle in any direction. (See diagram in section 7-9-145.5.)
- (5) Ramps or driveways providing vehicular access within the interior of an off-street parking area located beyond eighteen (18) feet from the ultimate right-of-way line of a street, alley or driveway shall have a maximum slope of plus or minus twenty percent (20%). When such ramp or driveway slopes exceed plus or minus ten percent (10%), the ramp or driveway design shall include transitions not less than eight (8) feet in length, having a slope equal to one-half the ramp slope. (See diagram in section 7-9-145.5.) When parking is provided on a ramp, the maximum slope shall not exceed six percent (6%).

(f) Parking area notices and directional instructions.

Notwithstanding the regulations of any district or any planned community, parking area notices, each not to exceed two (2) square feet in area, and directional instructions lettered on the paved surface of driveways and parking areas are permitted for parking facilities serving industrial, commercial, or professional uses; public or community facilities; and five (5) or more residential dwelling units. Such parking notices may contain the name of the owner or occupant of the property and only such words and symbols that are directly related or essential to parking, enforcement, or the direction of vehicular traffic within the parking area.

(g) Paving.

All permanent parking spaces, driveways and maneuvering areas shall be paved and permanently maintained with asphaltic concrete, cement concrete or other all-weather, non-erodible, hard surfacing. Temporary parking spaces, driveways and maneuvering areas may use decomposed granite or other stable, all-weather surfacing.

(h) Lighting.

Any lights used to illuminate the parking spaces or driveways shall be designed and located so that direct rays are confined to the property.

(i) Change or increase in use of property.

Whenever the occupancy or use of any premises which is not in compliance with off-street parking requirements is changed to a different use or the existing use is altered, enlarged, expanded or intensified, parking to meet the requirements of this section shall be provided for the new use or occupancy. This provision shall not apply to the addition of rooms or other alterations of a single-family dwelling which do not increase the total floor area more than fifty (50) percent.

(j) Fractional parking spaces.

Whenever the computation of the number of off-street parking spaces required by this section results in a fractional parking space, one (1) additional parking space shall be required for one-half ($\frac{1}{2}$) or more fractional parking space, and any fractional space less than one-half ($\frac{1}{2}$) of a parking space shall not be counted.

(k) Parking facilities for the physically handicapped.

Public accommodations or facilities, including industrial, commercial, professional, institutional, and multifamily dwellings of five or more units shall provide parking spaces for the physically handicapped in compliance with the following provisions (see also section 7-9-145.5, Design requirements):

- (1) Spaces Required. The following table establishes the number of handicapped parking spaces required:

<u>Total Number of Parking Spaces</u>	<u>Number of Handicapped Parking Spaces Required</u>
1-4	0
5-40	1
41-80	2
81-120	3
121-160	4
161-300	5
301-400	6
401-500	7
Over 500	1 for each 200 additional spaces provided.

- (2) Parking space size. Physically handicapped parking spaces shall be located as near as practical to a primary entrance. If only one space is provided, it shall be 14 ft. wide and outlined to provide a 9 ft. parking area and a 5 ft. loading and unloading area. When more than one space is provided in lieu of providing a 14 ft. wide space for each parking space, two spaces can be provided within a 23 ft. wide area lined to provide a 9 ft. parking area on each side of a 5 ft. loading and unloading area in the center. The minimum length of each parking space shall be 18 ft. (See also section 7-9-145.5, Design requirements.)
- (3) Arrangement of parking space. In each parking area, a bumper or curb shall be provided and located to prevent encroachment of cars over the required width of walkways. Also, the space shall be so located that a handicapped person is not compelled to wheel or walk behind parked cars other than their own. Pedestrian ways which are accessible to the physically handicapped shall be provided from each such parking space to related facilities, including curb cuts or ramps as needed. Ramps shall not encroach into any parking space except where such encroachment into the length of any handicapped space does not limit the handicapped person's capability to leave or enter their vehicle.
- (4) Slope of parking space. Surface slopes of parking spaces for the physically handicapped shall be the minimum possible and shall not exceed one-half (.5) percent in any direction.
- (5) Identification. Each parking space reserved for the handicapped shall be identified by a permanently affixed reflectorized sign constructed of porcelain on steel, beaded text, or equal, displaying the International Symbol of Accessibility. This sign shall not be smaller than 70 square inches in area and shall be centered at the interior end of the parking space at a minimum height of 80 in. from the bottom of the sign to the parking space finished grade, or centered on the wall at the interior end of the parking space at a minimum height of 36 in. from the parking space finished grade, ground, or sidewalk. A sign shall also be posted, in a conspicuous place, at each entrance to the off-street parking facility, not less

than 17 in. x 22 in. in size with lettering not less than 1 in. in height, which clearly and conspicuously states the following:

"Unauthorized vehicles not displaying distinguishing placards or license plates issued for physically handicapped persons may be towed away at owner's expense. Towed vehicles may be reclaimed at _____ or _____ by telephoning _____."

In addition to the above requirements, the surface of each parking place shall have a surface identification duplicating the symbol of accessibility in blue paint, at least 3 square feet in area.

- (6) Parking structures. Entrances to and vertical clearances within parking structures shall have a minimum vertical clearance of 8 ft. 2 in. where required for accessibility to handicapped parking spaces.

Note: For additional handicapped site development requirements, including curbs, ramps, and landing requirements, refer to the State of California "Regulations for the Accommodation of the Disabled." Information is available at:

Office of the State Architect
Access Compliance Unit
1500 5th Street
Sacramento, CA 95814

Sec. 7-9-145.3. Residential off-street parking requirements.

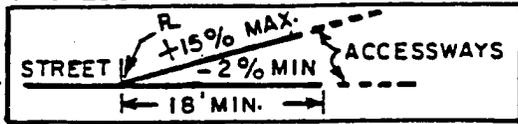
Off-street parking facilities shall be provided for all residential uses in compliance with section 7-9-145.2 and this section.

(a) Size of parking spaces.

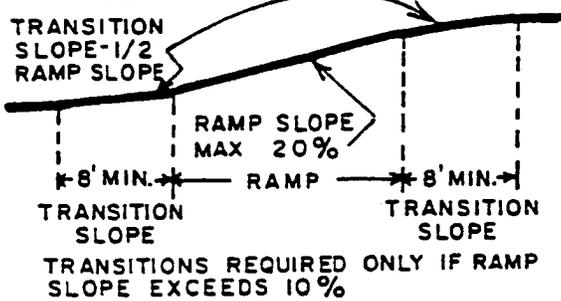
- (1) Each required covered off-street parking space for single family dwellings shall be in a garage or carport a minimum of ten (10) feet in width and twenty (20) feet in length of unobstructed area. In garages or carports containing two (2) or more side-by-side parking spaces, the required minimum width may include the exterior walls or supports of the structure, provided minimum unobstructed dimensions of nine (9) feet in width and eighteen (18) feet in length are met.
- (2) Uncovered off-street parking spaces shall be a minimum of nine (9) feet in width and eighteen (18) feet in length. In measuring the length of paving required for uncovered parking spaces, allowance may be made for vehicular projection beyond the bumper or tire stop if such projection does not interfere with screening or pedestrian use, except under (g)(3) following.
- (3) When a side of any space abuts a building, fence, support column or other obstruction which interferes in any way with access to a motor vehicle, the space shall be a minimum of two (2) feet wider than otherwise required by this section.

(a) Con't

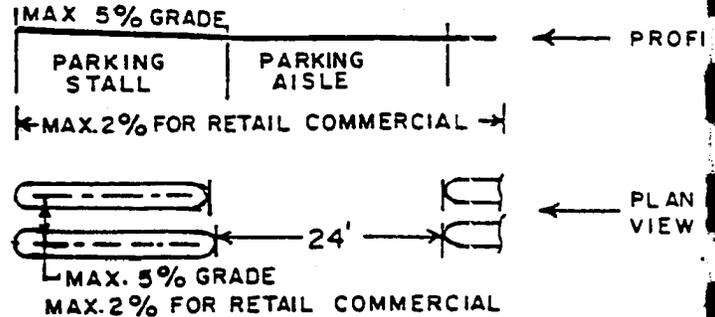
(1) ACCESSWAY GRADE AT STREET R/O/W



(2) DRIVEWAY OR PARKING STRUCTURE RAMP



(3) MAXIMUM PARKING STALL AND PARKING AISLE GRADES



(b) Minimum parking aisle width for one-way traffic.

Parking Angle Degree	Aisle Width (feet)	Parking Angle Degree	Aisle Width (feet)
0-44	14.0	65-69	18.0
45-49	14.5	70-74	19.5
50-54	15.0	75-79	21.0
55-59	16.0	80-90	24.0
60-64	17.0		

(c) Minimum parking aisle width for two-way traffic.

For two-way traffic, aisle widths and maneuvering areas shall be a minimum of twenty-four (24) feet wide.

Sec. 7-9-145.6. Off-street parking requirements.

- (a) All land uses shall provide off-street parking in compliance with the following requirements unless otherwise modified by the provisions contained in section 7-9-145.7.

The off-street parking requirements listed under this section are the minimum requirements for each specific use; however, it shall be the responsibility of the developer, owner or operator of any specific use to provide adequate off-street parking, even though such parking may be in excess of the minimum requirements set forth in this section.

<u>Use</u>	<u>Minimum Parking Stalls Required</u>
(1) Auditoriums, theaters, (not including cinemas), sports arenas, stadiums.	1 for each 3 seats or 1 for each 35 square feet of gross floor area where there are no fixed seats.
(2) Cinemas	1 space for every 2 seats, plus 5 spaces for employees.
(3) Automobile washing and cleaning establishment except self-service.	16 minimum.
(4) Automobile washing and cleaning establishments, self-service.	5 spaces for each 2 washing stalls.
(5) Banks, savings and loans, credit unions and other financial institutions.	1 for each 200 square feet of gross floor area.
(6) Barbershops or beauty parlors.	2 for each barber chair and 3 for each beautician station.
(7) Bowling lanes and billiard halls.	5 for each hall, alley, 2 for each billiard table contained herein.
(8) Churches, temples and other places of assembly not specified elsewhere.	1 for each 3 fixed seats within the main auditorium or for every 35 square feet of seating area within the main auditorium where there are no fixed seats; 18 lineal inches of bench shall be considered a fixed seat.
(9) Clubs, lodge halls, union halls.	1 for each 75 square feet of gross floor area.
(10) Congregate care facility serving more than twelve persons.	1 for each unit per section 7-9-141.1.

- (11) Convalescent and nursing homes, homes for the aged, rest homes, children's homes and sanitariums. 1 for every 4 beds in accordance with the resident capacity of the home as listed on required license or permit.
- (12) Dance halls. 1 for each 7 square feet of dance floor area, plus 1 for each 35 square feet of additional gross floor area.
- (13) Day nurseries, including pre-schools and nursery schools. 2 for each 3 employees and teachers plus 1 loading space for every 8 children.
- (14) Golf courses.
- a. Driving ranges. 1 per tee, plus the spaces required for additional uses on the site.
- b. Pitch and putt and miniature golf courses. 3 per hole, plus requirements for accessory uses.
- c. Regulation course. 8 per hole, plus the space required for additional uses on the site.
- (15) Handball/racquetball facility. 1.5 for each court plus the spaces required for additional uses on the site.
- (16) Health studios and spas. 1 for each 150 square feet of gross floor area (for the purposes of this subsection, swimming pool area shall be counted as floor area).
- (17) Hospitals. 1.75 for each patient bed.
- (18) Industrial uses of all types except a building used exclusively for warehouse purposes. 1 for each 500 square feet of gross floor area.
- (19) Laundry or dry cleaning establishments, solely coin operated. 1 for each 3 machines.
- (20) Libraries. 1 for each 300 square feet of gross floor area.
- (21) Lumberyards. 1 for each 500 square feet of gross floor area for retail sales, plus 1 for each 1,000 square feet of open area devoted to display or sales, plus 1 for each 2 employees.
- (22) Model home sales complex. 10 spaces.

- (23) Mortuaries and funeral homes. 5 plus 250 square feet of usable and accessible paved parking area for every 25 square feet or fraction thereof of assembly room floor area.
- (24) Motels and hotels. 1 for each guest unit, plus additional parking as required for accessory uses.
- (25) Motor vehicle sales and automotive repair shops. 1 per 400 square feet of gross floor area.
- (26) Offices.
- a. General and administrative. 1 for each 250 square feet of gross floor area.
 - b. Medical clinics or offices; dental clinics or offices. 1 for each 150 square feet of gross floor area.
 - c. Professional, other than medical or dental. 1 for each 250 square feet of gross floor area.
 - d. Veterinary hospitals and clinics. 1 for each 150 square feet of gross floor area.
- (27) Public utility facilities including, but not limited to, electric, gas, water, telephone and telegraph facilities not having business offices on the premises. 1 for each 2 employees in the largest shift, plus 1 for each vehicle used in connection with the use. A minimum of spaces shall be provided for each such use regardless of building space or number of employees.
- (28) Restaurants, drive-ins, cafes, nightclubs, taverns, lounges or other establishments for the sale and consumption on the premises of food and beverage. 10 minimum or 1 for each 100 square feet of gross floor area (including outdoor serving areas) up to 4,000 square feet, plus 1 for each 80 square feet of gross floor area over 4,000 square feet.
- (29) Retail stores.
- a. General, except as otherwise specified herein. 1 for each 200 square feet of gross floor area.
 - b. Discount department stores. 1 for each 125 square feet of gross floor area.
 - c. Furniture and appliances. 1 for each 500 square feet of gross floor area.
- (30) Schools.
- a. Elementary and junior high. 2 for each classroom.

- b. College, universities and institutions of higher learning. 1 for each 3 full-time equivalent students, plus 1 for each 2 faculty and employee members.
 - c. Senior high schools. 1 for each member of the faculty and each employee, plus 1 for each 6 full-time equivalent students regularly enrolled.
 - d. Trade schools, business colleges and commercial schools. 1 for each 3 student capacity of each classroom plus 1 for each faculty and employee member.
- (31) Shopping centers. 1 for each 200 square feet of gross floor area pursuant to section 7-9-145.4(i)(5). Regional shopping centers may require additional parking and will be evaluated on a case-by-case basis.
 - (32) Skating rinks, ice or roller. 1 for each 100 square feet of gross floor area, plus the spaces required for additional uses on the site.
 - (33) Stables, commercial. Sufficient area, treated to prevent dust, to provide for the needs of customers and employees, but not less than 1 accessible space for each 5 horses kept on the premises.
 - (34) Storage yards in connection with contractor's business; salvage yard; junk yard; automobile wrecking yard. 6 which shall be separated from the enclosed storage area.
 - (35) Swimming pools, commercial. 1 for each 500 square feet of gross enclosed area, plus the spaces required for additional uses on the site.
 - (36) Tennis clubs, commercial. 3 for each court, plus the spaces required for additional uses on the site.
 - (37) Timeshare condominiums and timeshare hotels. 1.5 for each dwelling unit.
 - (38) Warehouses, storage building or structures used exclusively for storage. 1 for each 1,000 square feet of gross floor area for storage purposes.
 - (39) Wholesale establishments and warehouses not used exclusively for storage. 1 for each 500 square feet of gross floor area excluding that area devoted to office or sales, plus 1 for each 250 square feet of office or sales area.

- (b) Requirements not specified.

If no provisions for the required number of off-street parking spaces are set forth in these regulations, or the provisions are not clear for any specific use or uses the Director, EMA, shall determine the number of off-street parking spaces required.

Sec. 7-9-145.7. Alternatives to off-street parking regulations.

- (a) Alternative provisions to any of the off-street parking regulations may be permitted subject to the approval of a use permit application approved in compliance with the provisions of section 7-9-150. Any such application may be approved provided the approving authority finds:
- (1) Applicable off-street parking requirements are excessive or inappropriate due to the nature of the specific use involved or because of special circumstances applicable to the property; and
 - (2) The proposed off-street parking facilities comply with the intent of these regulations as specified by section 7-9-145.1.

Sec. 7-9-146. Special Regulations.

All references to this section shall include sections 7-9-146.1 through 7-9-146.11.

In order to permit certain uses in some districts or areas where they may be appropriate but may not otherwise be compatible with other permitted uses in the district or where additional development or performance standards are needed, the special regulations are established to ensure the adequacy of development and performance standards and the compatibility of these uses so they may be established and maintained in harmony with surrounding uses.

The special regulations contained in this section shall govern the land, uses, buildings, structures and improvements specified below or where so designated in the district regulations. Except as otherwise provided in this section, no use, building or structure shall be established, enlarged, operated or maintained unless such use, building or structure conforms with applicable standards within this section and in the district regulations.

Sec. 7-9-146.1. Animal hospitals and clinics - performance and development standards.

In addition to the requirements of each district, the following performance and development standards shall apply to the establishment, maintenance and operation of animal hospitals and clinics in any district in which they are permitted:

- (a) All animal service and confinement areas shall be in an air conditioned and sound attenuated building.
- (b) Air conditioning shall be sound attenuated so as to minimize noise from within the building.
- (c) Facilities for housing of not less than five (5) animals shall be maintained on the premises.
- (d) Runs shall be in an air conditioned and sound attenuated building.
- (e) All facilities for treatment and confinement of animals shall be designed, installed or constructed and maintained in a manner meeting the approval of the Director, Animal Control, Health Care Agency.

Sec. 7-9-146.2. Adult entertainment businesses.

- (a) Purpose and intent.

Special locational regulation of adult entertainment businesses is necessary to ensure that adverse effects caused by operational characteristics will not contribute to the blighting or downgrading of the surrounding neighborhoods. The primary purpose of the regulation is to prevent the concentration or clustering of these businesses in any area.

Sec. 7-9-21. Definitions.

All references to this section shall include sections 7-9-21 through 7-9-47 and also to section 7-9-118.3, CD District and 7-9-113.3, FP District.

Sec. 7-9-21.1. Title, purpose and applicability.

Sections 7-9-21 through 7-9-47, inclusive, shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the Comprehensive Zoning Code. The meaning and construction of words and phrases as set forth shall apply throughout this Code, except where the context of such words or phrases clearly indicates a different meaning or construction.

Sec. 7-9-21.2. General rules for construction of language.

The following general rules of construction shall apply to the textual provisions of the Comprehensive Zoning Code:

- (a) The specific shall supersede the general.
- (b) In the case of any difference of meaning or implication between the text of the provision and any caption or illustration, the text shall control.
- (c) "Shall" is mandatory. "May" is discretionary.
- (d) Words used in the present tense include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (e) Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
 - (1) "And" indicates that all connected items or provisions shall apply.
 - (2) "Or" indicates that the connected items or provisions may apply singly or in any combination.
 - (3) "Either ... or" indicates that the connected items or provisions shall apply but not in combination.
- (f) All public officials, bodies, and agencies to which reference is made are those of the County of Orange unless otherwise indicated.

Sec. 7-9-21.3. General terms.

- (a) "County" means the County of Orange including any special district governed by the Board of Supervisors.

- (b) "Days" included within a specific time period do not include the day action was taken but include all subsequent days unless the last day falls upon a Saturday, Sunday, or upon a legal County holiday, in which case the next business day shall be the last day of the time period.
- (c) "Director" or "Director, EMA" means the Director of the Planning and Development Services Department, County of Orange, or his authorized agent or representative.
- (d) "General Plan" means the Orange County General Plan.
- (e) "Government Code" means the California Government Code.
- (f) "State" means the State of California.
- (g) "Zoning Code" means the Comprehensive Zoning Code of the County of Orange, including zoning district maps and planned community or specific plan development maps and texts adopted pursuant to or as an amendment to sections 7-9-48, 7-9-103, 7-9-155, and 7-9-156.

Sec. 7-9-22. Definitions. (A)

Abutting: Having a common boundary except that parcels having no common boundary other than a common corner shall not be considered abutting.

Accessory building: A subordinate building located on a building site, the use of which is customarily ancillary to that of a main building or to the use of the land.

Accessory use: A use ancillary to the principal use of the land or building site, or to a building or other structure located on the same building site as the accessory use. An accessory use includes outside storage and structures which do not require a building permit.

Administrative office: A place of business for the rendering of service or general administration, but excluding retail sales.

Adult entertainment business: See section 7-9-146.2.

Advertising device/display: See section 7-9-144.1.

Agricultural mineral: Any mineral substance, mixture of mineral substances or mixtures of mineral and organic substances produced, labeled and sold as a soil additive which does not require licensing by the State of California as a fertilizer pursuant to the California Agricultural Code, Title 3, Agriculture.

Alley: A public or private way not more than twenty (20) feet wide permanently reserved as a secondary means of access to abutting property.

Animal Clinic: A place where animals no larger than the largest breed of dogs are given medical and surgical treatment. A facility primarily for treatment of outpatients and where only critical patients are kept longer than twenty-four (24) hours. No boarding of animals shall be permitted.

Animal hospital, livestock: A place where livestock (horses, cows, etc.) and small animals are given medical or surgical treatment. Boarding of animals shall be incidental to such hospital use.

Apartment: See "dwelling, multifamily."

Area per unit: The area of a building site, in square feet, divided by the number of dwelling units on the building site.

Area plan: See section 7-9-150.1.

Area, project net: See "project net area."

Attached buildings and structures: Two (2) or more buildings or structures which are physically connected with a wall, roof, deck, floor, bearing or support structures, trellises, architectural features, or any other structure, fixture or device that exceeds thirty (30) inches in height above the finished grade.

Automobile repair specialty shops: A retail and service place of business engaged primarily in light repair, and sale of goods and services for automotive vehicles including brake, muffler and tire shops and their accessory uses. Heavier automobile repair such as major body and paint work, transmission and engine rebuilding are not included herein.

Automobile service station: A retail place of business engaged primarily in the sale of motor fuels and supplying those incidental goods and services which are required in the day-to-day operation of automotive vehicles and the fulfilling of motorists' needs.

Sec. 7-9-23. Definitions. (B)

Basement: A story partly underground and having more than one-half of its height above the ground level grade.

Bed and breakfast (B and B): Any building or portion thereof with access provided through a common entrance to less than six (6) guest rooms having no cooking facilities and which are rented on a weekly basis or less. Meals may or may not be provided.

Bedroom: Any habitable room other than a kitchen, a dining room or a living room.

Billboard sign: See "outdoor advertising sign" in section 7-9-144.1.

Boarding house: Any building or portion thereof with access provided through a common entrance to guest rooms having no cooking facilities and which are rented on a monthly basis or longer. Meals may or may not be provided.

Building: A structure having a roof supported by columns or walls.

Building height: The height of a building relative to the surrounding ground area. See section 7-9-129.

Building line: An imaginary line on a building site specifying the closest point from an ultimate right-of-way line or a property line where a main building may be located. It may be a line shown as such on a map entitled "Precise Plan of Highway Alignment" or any other officially adopted precise plan, and any amendments thereto. If no such precise plan has been adopted, the building line shall be a line as specified on the chart entitled "Building Lines" in section 7-9-127.1. When computed from the Building Lines Chart, the building line shall be at the required distance from, and measured at right angles to, the ultimate right-of-way line or property line.

Building, main: See "main building."

Building site: A parcel or contiguous parcels of land which was established in compliance with the building site requirements of this code.

Building site area, minimum: The net development area calculated by measuring the building site horizontally as a level plane and excluding rights-of-way or easements that prohibit the surface use of the site, except easements for open space purposes on single-family lots. (Examples of open space easements include, but are not limited to, resource preservation and scenic easements.) The minimum building site area shall be undivided and relatively compact although the entire building site may be larger with diffuse parts.

Building site coverage, maximum: The relationship between the ground floor area of the building or buildings and the net area of the site. Said net area shall be computed by deducting from the gross site area any ultimate street rights-of-way together with all rights-of-way and all easements that prohibit the surface use of the site, except easements for open space purposes on single-family lots. (Examples of open space easements include, but are not limited to, resource preservation and scenic easements.) Unenclosed post-supported roofs over patios and walkways, unenclosed post-supported eave overhangs and swimming pools shall not constitute buildings for the purpose of this definition.

Building site, panhandle or flag: A building site wherein the only vehicular access to the site is by way of a corridor or vehicular accessway which serves no other property, is less than forty (40) feet wide and is more than forty (40) feet long.

Building site, shoreline: A parcel of land abutting both a public or private beach or public or private harbor and a public or private street or highway.

Building site, through: A building site having frontage on two (2) parallel or approximately parallel streets.

Business sign: See section 7-9-144.1.

Sec. 7-9-24. Definitions. (C)

Caretaker: A person who lives on the premises for the necessary purposes of managing, operating, maintaining, or guarding the primary use or uses permitted on the premises.

Carport: A roofed structure, or a portion of a building which is open on two (2) or more sides, for the parking of automobiles belonging to occupants of the property.

Cellar: A portion of a building partly or wholly underground and having more than one-half of its height below the ground level grade. A cellar shall not be considered a building story.

Centerline: A line described by the first situation that applies in the following instances:

- (1) A section line, half section line or quarter section line whenever a mapped highway is plotted on the "Master Plan of Arterial Highways" along a section, half section or quarter section line. (In the Irvine Subdivision, any original subdivision lot line shall be deemed a "section line" for the purposes of this paragraph.)
- (2) A line shown as a centerline on a map entitled "Precise Plan of Highway Alignment," and any amendments thereto.
- (3) A line shown as a centerline on a recorded tract map, an approved record of survey map or a parcel map.
- (4) A line in the center of the ultimate street right-of-way.

Child day care facilities: See "day (care) nursery."

Clinic, medical: An organization of doctors providing physical or mental health service and medical or surgical care of the sick or injured but not including inpatient or overnight accommodations.

Club: An association of persons for some common purpose but not including groups organized primarily to render service which is customarily carried on as a business.

Commercial: Operated or conducted on a frequent basis for the purpose of financial gain.

Commercial coach: A vehicle, with or without motive power, designed and equipped for human occupancy for industrial, professional or commercial purposes.

Commercial extraction: The removal or displacement of sand, gravel, rock, aggregate, earth, clay or similar materials conducted for financial gain. The exporting of more than five thousand (5,000) cubic yards of these materials from any property during each of two (2) consecutive years shall be prima facie evidence of a commercial extraction operation. An extraction carried out as a necessary but supplemental part of a project leading to impending development of the site is not a commercial extraction.

Commercial recreation: Any use or activity where the primary intent is to provide amusement, pleasure or sport but which is operated for financial gain. It includes establishments where food and beverages are sold as a secondary or ancillary use, but does not include restaurants, night clubs and cocktail lounges.

Community apartment project: A project in which an undivided interest in the land is coupled with the right of exclusive occupancy of an apartment located thereon.

Community care facility: Any facility which may or may not require a State license to provide nonmedical residential care or day care for children, adults, or both, including physically handicapped and mentally incompetent persons. This includes child day care facilities/day care nurseries and family day care homes.

Community facility: A noncommercial use established primarily for the benefit or enjoyment of the population of the community in which it is located.

Condominium: An estate consisting of an undivided interest in common in a parcel of real property together with a separate interest in space in a residential, industrial or commercial building on such real property, such as an office or store or multifamily dwelling. A condominium may include, in addition, a separate interest in other portions of such real property.

Congregate care facility: A facility, including a Congregate Living Health Facility as defined in State law, providing care on a monthly basis or longer and which is the primary residence of the people it serves. It provides services to the residents such as the following: dining, housekeeping, security, medical, transportation and recreation. Any commercial services provided are for the exclusive use of the occupants of the facility.

Such a facility may be located in more than one building and on contiguous parcels within the building site. It includes facilities offering occupancy on a monthly basis and longer such as hotels, resorts, etc. which have characteristics similar to the above.

Convalescent home: A facility licensed by the State Department of Health Services which provides bed and ambulatory care for more than six (6) patients with postoperative convalescent, chronically ill or dietary problems and persons unable to care for themselves; including persons undergoing psychiatric care and treatment both as inpatients and outpatients but not including persons with contagious diseases or afflictions. Also known as nursing home, convalescent hospital, rest home, or home for the aged.

Conversion project: An apartment house, multiple or group dwelling existing, under construction or for which building permits have been issued, which is proposed for conversion to a residential condominium, community apartment, residential stock cooperative or planned development; or an existing mobilehome park which is proposed to be converted to a mobilehome condominium project, a mobilehome stock cooperative project, a mobilehome planned development or a conventional mobilehome subdivision.

Sec. 7-9-25. Definitions. (D)

Day (care) nursery: A.k.a. child day care facility and day care center. Any facility operated by a person, corporation or association used primarily for the provision of nonmedical daytime care, training, or education of more than six (6) children under eighteen (18) years of age at any location other than their normal place of residence, excluding any children normally residing on the premises.

Detached buildings and structures: Two (2) or more buildings or structures that are each structurally independent and freestanding and not connected by walls, roofs, floors, decks, supports, trellises, architectural features or any other structure, fixture or device that exceeds thirty (30) inches in height above the finished grade.

Drive-in: Designed or operated so as to enable persons to receive a service or purchase or consume goods while remaining within a motor vehicle.

Driveway: A vehicular passageway within a building site for the exclusive use of the occupants of that building site and their guests. A driveway shall not be considered as a street or alley.

Driveway approach: A designated area between the curb or traveled way of a street and the street right-of-way line that provides vehicular access to abutting properties. When vehicular access to a building site is provided by way of a common driveway, the driveway approach is the line of intersection where the individual driveway abuts the common driveway.

Driveway, multi-family: See "street, multi-family."

Dry cleaning and laundry plant: A central processing facility for cleaning of clothing and fabrics collected from and returned to patrons and to dry cleaning and laundry agencies.

Duplex: A permanent building containing two (2) dwelling units.

Dwelling, multifamily: Two (2) or more dwelling units on the same building site.

Dwelling, single-family: One (1) dwelling unit per building site.

Dwelling unit: One or more rooms in a structure including a kitchen of any size, designed for occupancy by one family for living and sleeping purposes, and including a mobilehome when such mobilehome bears an insignia of approval issued by the California Department of Housing and Community Development or a housing seal number from the Federal Department of Housing and Urban Development (HUE).

Sec. 7-9-26. Definitions. (E)

Easement: A recorded right or interest in the land of another, which entitles the holder thereof to some use, privilege or benefit in, on, over or under said land.

Easement, multi-family vehicular: See "street, multi-family."

Educational institution: Private or public elementary or secondary schools, colleges or universities qualified to give general academic instruction.

Employee's quarters: Quarters for the housing of agricultural or domestic employees when such quarters are located upon the same land occupied by their employer.

Enclosed: Contained on all sides by walls which are pierced only by windows, vents, or customary entrances and exits.

Sec. 7-9-27. Definitions. (F)

Family: One or more persons occupying one dwelling unit. "Family" includes the occupants of community care facilities serving six (6) or fewer persons which are permitted or licensed by the State. "Family" does not include occupants of a fraternity, sorority, boarding house, lodging house, club, or motel.

Family day care home: A home at which the resident of the home provides regular nonmedical care, protection, and supervision of one to fourteen children for periods of less than 24 hours per day. The provider shall be licensed per the State Health & Safety Code unless specifically exempted therein.

Family day care home, large: A family day care home which provides family day care to 7 to 14 children, including children who reside at the home.

Feature plan: See section 7-9-150.1.

Flag: See section 7-9-144.1.

Flood, floodplain, floodway, etc.: See section 7-9-113.3.

Floor area, gross: The total horizontal floor area of all floors of a building, including the exterior walls thereof, measured in square feet; excepting that for commercial, professional and administrative office or industrial buildings or building complexes, areas used in common such as covered malls, walkways, patio areas and entries open to and directly connecting with outside areas, shall not be included when calculating off-street parking requirements.

Floor area ratio: Numerical value obtained by dividing the gross floor area of all buildings located on a building site by the building site area.

Fraternity house or sorority house: A building, or portion of a building, occupied by a chapter of a regularly organized college fraternity or sorority officially recognized by an educational institution.

Freestanding sign: See section 7-9-144.1.

Sec. 7-9-28. Definitions. (G)

Garage: A building, or a portion of a building, used primarily for the parking of four-wheeled motor vehicles.

Grade, ground level: The average elevation, determined by averaging the elevations of four (4) or more points as necessary, at the building site boundary line where it is less than five (5) feet from the building or at five (5) feet outside the perimeter of the bearing or foundation line of building.

Grazing: The act of pasturing livestock on growing grass or other growing herbage, or

on dead grass or other dead herbage existing in the place where grown, as the principal sustenance of the livestock so grazed.

Ground sign: See section 7-9-144.1.

Guesthouse: A detached building having no kitchen facilities, which is used primarily for sleeping purposes for members of the family occupying the main dwelling and their nonpaying guests.

Sec. 7-9-29. Definitions. (H)

Habitable room: Any room usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A room designed and used only for storage purposes is not a "habitable room."

Home for the aged: See "convalescent home."

Home occupation: An occupation conducted as an accessory use within a dwelling unit. See section 7-9-146.6.

Hospital: A facility licensed by the State Department of Health Services providing clinical, temporary or emergency service of a medical, obstetrical, surgical, or mental health nature to human patients.

Hotel: Any building or portion thereof with access provided through a common entrance, lobby or hallway to six (6) or more guest rooms which are rented on a weekly basis or less and which have cooking facilities in less than 25 percent of the guest rooms.

Sec. 7-9-30. Definitions. (I)

Identification sign: See section 7-9-144.1.

Industrial park: An industrially zoned area wherein the permitted uses are planned, developed, managed, and maintained as a unit, with common off-street parking provided to serve all uses on the property.

Sec. 7-9-31. Definitions. (J) Reserved.

Sec. 7-9-31. Definitions. (K)

Kennel: Any property where four (4) or more dogs, or four (4) or more cats, over the age of four (4) months, are kept or maintained for any purpose, except veterinary clinics and hospitals, and except property for which an animal permit has been issued pursuant to section 4-1-76.

Sec. 7-9-33. Definitions. (L)

Large family day care home: See "family day care home, large."

Laundry plant: See "dry cleaning and laundry plant."

Lodging house: See "boarding house."

Lot: Any area identified as a lot or parcel on a recorded final map, parcel map, record of survey recorded pursuant to an approved division of land, certificate of compliance or lot line adjustment. A lot is not necessarily a building site.

Lot, mobilehome: See "mobilehome lot."

Sec. 7-9-34. Definitions. (M)

Main building(s): The building(s) containing the main or principal use(s) of the premises, or occupied for the purpose of operating or administering the main or principal use(s).

Master Plan of Arterial Highways: Aka Circulation Plan. A component of the Transportation Element of the Orange County General Plan designating adopted and proposed routes for all commuter, secondary, primary and major highways within the County of Orange.

Master Plan of Drainage: Refers to an official engineering report outlining the drainage facilities needed for the proper development of a specific increment of the unincorporated area.

Medical clinic: See "clinic, medical."

Mining: See "quarrying."

Mini-storage facility: Aka self-storage facility. A building or buildings containing various size storage compartments not exceeding five hundred (500) square feet each, and wherein each compartment is offered for rent or lease to the general public for the private storage of materials excluding materials sold at the facility or delivered directly to customers.

Mobilehome:

- (1) A structure transportable in one or more sections, designed to be used with or without a permanent foundation system. Mobilehome does not include recreational vehicle, commercial coach, noncommercial coach or factory-built housing.
- (2) A trailer coach designed to be used without a permanent foundation and which is in excess of eight (8) feet in width and in excess of forty (40) feet in length.

Mobilehome development: Any area or tract of land used to accommodate mobilehomes for human habitation, and includes mobilehome accommodation structures. Includes mobile home parks and mobile home subdivisions. See section 7-9-149.

Monument sign: See section 7-9-144.1.

Motel: A building or group of buildings containing six (6) or more guest rooms rented on a weekly basis or less and which have cooking facilities in less than twenty-five (25) percent of the guest rooms.

Multifamily dwelling/residence: See "dwelling, multifamily."

Sec. 7-9-35. Definitions. (N)

Noncommercial coach: A vehicle, with or without motive power, designed and equipped for human occupancy for classrooms and other nonresidential and noncommercial uses.

Nonconforming use/structure/site, legal: A use/structure/site that was lawfully established in compliance with the zoning regulations that were applicable to the property at the time the use/structure/site was established, but which does not presently comply with the existing regulations of the zoning district within which it is located. See section 7-9-151.

Nursery: See "day (care) nursery."

Nursing home: See "convalescent home."

Sec. 7-9-36. Definitions. (O)

Open space: Any parcel or area of land or water, public or private, which is reserved for the purpose of preserving natural resources, for the protection of valuable environmental features, or for providing outdoor recreation or education. For purposes of measuring the amount of open space, it does not include public/private road right-of-way areas, driveway and parking areas not related to recreational uses, any buildings, building setback areas, or the required space between buildings, and surface utility facilities. Open space may include structures and impervious surfaces as identified in "open space, usable."

Open space, usable: Open space without any slopes in excess of twenty (20) percent. Such open space may include structures and impervious surfaces such as tot lots, swimming pools, basketball courts, tennis courts, picnic facilities, and greenbelts with walkways or bicycle trails.

Outdoor advertising structure and sign: See section 7-9-144.1.

Sec. 7-9-37. Definitions. (P)

Parking accessway: A vehicular passageway that provides access and circulation from a street access point into and through a parking lot to parking aisles and between parking areas.

Parking structure: An area or structure which is open or closed and is used for the hourly or day-to-day parking of motor vehicles.

Planned (unit) development: A subdivision of separately owned lots, parcels or areas, other than a community apartment, a condominium, or a stock cooperative project, having either or both of the following features:

- (1) Lots, parcels or areas owned in common by the owners of the separately owned lots, parcels or areas.
- (2) Power to enforce any obligation in connection with membership in the owners association or any obligation pertaining to the beneficial use and enjoyment of any portion of, or any interest in, either the separately or commonly owned lots, parcels or areas.

Pole sign: See section 7-9-144.1.

Portable sign: See section 7-9-144.1.

Precise Plan of Highway Alignment: A plan, supplementary to the Master Plan of Arterial Highways, (aka Circulation Plan), which establishes the highway centerline, the ultimate right-of-way lines and may establish building setback lines.

Project net area: All of the land area included within a plan for a development project excepting those areas designated for public and private road rights-of-way, schools, parks, and other uses or easements which preclude the use of the land therein as part of the development project.

Projecting sign: See section 7-9-144.1.

Public agency: The United States, the State of California, the County of Orange, any city within said County, or any political subdivision or agency thereof.

Public safety area: A strip of land twenty (20) feet in width adjacent to and parallel with a street right-of-way.

Sec. 7-9-38. Definitions. (Q)

Quarrying: The process of removing or extracting stone, rock, aggregate, sand, gravel, earth, clay or similar materials from an open excavation but not including extraction by underground methods. A.k.a. surface mining.

Sec. 7-9-39. Definitions. (R)

Recreational vehicles: A motor home, travel trailer, truck or van camper, tent trailer, camping trailer or trailer-borne recreation equipment with or without motive power, for recreational, travel or emergency purposes.

Recycling center: A facility that accepts delivery or transfer of ownership of source separated materials for the purpose of recycling or diversion from disposal. Included are "drop-off" recycling centers, where no fee is paid, such as churches or other charitable groups, or "buy-back" centers, like those at supermarkets, where a fee is usually paid to the generator for the materials. These facilities do not require a State permit. (See also "transfer/materials recovery facility").

Residential, multifamily: See "dwelling, multifamily."

Residential, single-family: See "dwelling, single-family."

Rest home: See "convalescent home."

Retail: The selling of goods, wares or merchandise directly to the ultimate consumer.

Riding and hiking trails: A trail or way designed for and used by equestrians, pedestrians and cyclists using nonmotorized bicycles.

Right-of-way: An area or strip of land, either public or private, on which an irrevocable right of passage has been recorded for the use of vehicles or pedestrians or both.

Roadway: See "street."

Roof sign: See section 7-9-144.1.

Rooming house: See "boarding house."

Sec. 7-9-40. Definitions. (S)

Scenic highway: Any highway designated a scenic highway by an agency of the county, state or federal government.

Self-storage facility: See mini-storage facility.

Senior citizen: A person fifty-five (55) years of age or older. (Note: For the purposes of an Affordable/Senior Citizen Housing Incentive Use Permit, the definition of senior citizen is located in the Orange County Density Bonus Implementation Manual.)

Senior citizen housing: A residential development consisting of at least thirty-five (35) dwelling units which is developed for, or substantially rehabilitated or renovated for, senior citizens. (Note: For the purposes of an Affordable/Senior Citizen Housing Incentive Use Permit, the definition of senior citizen housing is located in the Orange County Density Bonus Implementation Manual.)

Service: An act, or any result of useful labor, which does not, in itself, produce a tangible commodity.

Service station: See "automobile service station."

Setback area/distance: The area/distance between the building line and the property line or, when abutting a street, the ultimate right-of-way line.

Shopping/office center: A commercial area, or group of commercial establishments planned, developed, managed and maintained as a unit, with common off-street parking provided to serve all uses on the property.

Sign: Any visual communication used to advertise, promote, command, or inform, including but not limited to words, symbols, and illustrations, together with all parts, materials, frame and background. See section 7-9-144.

Sign, outdoor advertising: See section 7-9-144.1.

Single-family dwelling/residence: See "dwelling, single-family."

Single room occupancy (SRO): A building with a common entrance containing a cluster of at least five (5) rental units which provide sleeping and living facilities for one or two persons where kitchen and/or bathroom facilities may be shared.

The units shall have a minimum of 100 net square feet of space for a single occupancy and 120 square feet for two person occupancy. The calculation for net floor space in the sleeping area includes built-in cabinets, sinks, and closets, but excludes toilet compartments. A unit larger than 225 sq. ft. shall be deemed an efficiency dwelling unit and not a Single Room Occupancy (SRO).

Site: See "building site."

Site coverage: See "building site coverage."

Site development permit: Also known as site plan. See section 7-9-150.1.

Stock cooperative: A corporation which is formed primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock or membership certificate in the corporation held by the person having such right of occupancy.

Street: A public or private vehicular right-of-way, other than an alley or driveway, including both local streets and arterial highways.

Street, multi-family: A driveway, easement, accessway or other private vehicular right-of-way to serve a unified multi-lot/multi-family project for which a discretionary permit per Section 7-9-150 has been approved and where residential setbacks, other than provided for in Sec. 7-9-145.3(c), are not required.

Structure: That which is erected or constructed having a fixed location and is more than thirty (30) inches above the finished grade. An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. A mobilehome, except when used as a temporary use with its weight resting at least partially upon its tires, is a structure for the purposes of this definition. (Note: For the coastal zone only, section 7-9-118 defines structure differently.)

Surface mining: See "quarrying."

Swimming pool: An artificial body of water having a depth in excess of eighteen (18) inches, designed, constructed and used for swimming, dipping or immersion purposes by men, women, or children.

Sec. 7-9-41. Definitions. (T)

Transfer/materials recovery facility: A permitted non-disposal solid waste facility that accepts solid wastes, temporarily stores, separates, converts, or otherwise processes more than 5% of the solid wastes received, and transfers the residual materials to a solid waste disposal, or transformation facility.

Transfer station: A permitted non-disposal solid waste facility that transfers solid waste directly from smaller to larger vehicles for transport to materials recovery facilities, landfills, or transformation facilities.

Transformation facility: A permitted facility that performs incineration, pyrolysis, distillation, gasification or biological conversion, other than composting, for recovery of energy from solid waste.

Travel direction sign: See section 7-9-144.1.

Sec. 7-9-42. Definitions. (U)

Ultimate right-of-way: The right-of-way shown as ultimate on an adopted precise plan of highway alignment, or the street rights-of-way shown within the boundary of a recorded tract map, a recorded parcel map or a recorded PC development plan. The latest adopted or recorded document in the above cases shall take precedence. If none of these exist, the ultimate right-of-way shall be considered the right-of-way required by the highway classification as shown on the Master Plan of Arterial Highways. In all other instances, the ultimate right-of-way shall be considered to be the existing right-of-way, in the case of a private street, and the existing right-of-way, but not less than sixty (60) feet, in the case of a public street.

Use: The purpose for which land or building is occupied, arranged, designed or intended, or for which either land or building is or may be occupied or maintained.

Use permit: Also known as conditional use permit. See section 7-9-150.1.

Sec. 7-9-43. Definitions. (V)

Vehicular accessway: A private, nonexclusive vehicular easement affording access to abutting properties.

Sec. 7-9-44. Definitions. (W)

Wall sign: See section 7-9-144.1.

Wing wall: An architectural feature in excess of six (6) feet in height which is a continuation of a building wall projecting beyond the exterior walls of a building.

Sec. 7-9-45. -- 7-9-47. Reserved.