

OC PLANNING REPORT

**DATE:** May 10, 2023

**TO:** Orange County Planning Commission

**FROM:** OC Development Services / Planning

**SUBJECT:** Public Hearing on Planning Application PA180034 for a Use Permit to establish planned (unit) development. VTTM 18119 is being processed concurrently and will be presented to the Subdivision Committee if the Planning Application is approved.

**PROPOSAL:** A request for a Use Permit to establish site-specific development standards development of a 37-unit planned development on 5.88 acres.

**ZONING:** A1 “General Agricultural” District

**GENERAL PLAN:** 1B “Suburban Residential” (0.5 – 18 DU/AC)

**LOCATION:** The Project is located at 11782 Simon Ranch Road, in the unincorporated North Tustin area, within the Third (3rd) Supervisorial District. (APN 104-321-01.)

**APPLICANT:** Ranch Hills Partners LP, Property owner  
Peter Zehnder, Applicant

**STAFF CONTACT:** Kevin Canning, Contract Planner  
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**RECOMMENDED ACTIONS**

OC Development Services recommends that the Planning Commission:

- a) Receive staff report and public testimony as appropriate;
- b) Find that Final Environmental Impact Report (EIR) No. 635 is adequate and satisfies the

requirements of the California Environmental Quality Act (CEQA), and certify Final EIR No. 635 and its Mitigation Monitoring and Reporting Program (MMRP);

- b) Find that the Project site's Zoning designation of A1 "General Agricultural" is inconsistent with its General Plan designation of "Suburban Residential", and that pursuant to applicable State law a Zone Change is not required;
- c) Find that the Project's proposed development plan is consistent with the applicable General Plan designation;
- d) Approve Planning Application PA180034 for a Use Permit to establish a Planned Development subject to the Findings and Conditions of Approval attached to this staff report.

## **PROPOSED PROJECT**

The applicant is proposing to develop the 5.88-acre Project site with a 37-unit planned development with a recreation center, several small pocket parks, and private interior streets. The planned units will consist of 34 single-family attached (2 units) dwellings structures and 3 detached single units. The proposed density will be 6.29 dwelling units per acre. The site is currently developed with a private tennis, pickleball and swim club with banquet and meeting room facilities, pro shop and management offices, parking lot and various landscaped areas.

The Project's two floor plans would provide 2 to 3 bedrooms and 3.5 bathrooms in each residential unit, with approximately 2,500 sf of living space (see Attachment 8). Homes would be one and two stories with a maximum height of 30 feet above the proposed pad elevation. Each home would have ground floor living areas with a full master suite on the ground level and the second floor devoted to a bonus room, bedroom, or home office. Each home would therefore allow for single floor living without the use of stairs to access the master bedrooms. Kitchens, dining, indoor and outdoor living areas would all be on the ground floors. Secondary bedrooms and/or a home office would also be located on the first floor. These features are intended to broaden the potential market to a variety of age groups, although the proposed community would not be age restricted.

The Project site is relatively level and has been previously graded to accommodate the Tustin Hills Racquet and Pickleball Club. The Project would require minimal grading across the entire Project site to accommodate the finish grade of the proposed residential units. Grading would be balanced onsite with an estimated total of 12,000 cubic yards (cy) of soil being moved within the Project site (12,000 cy of cut and 12,000 cy of fill). All construction staging and laydown areas would be located within the Project site. Common areas would be used for staging and laydown until such time as the final improvements are being implemented.

Project construction includes the demolition of all existing buildings and other structures within the Project site, which includes eight full sized tennis courts, 12 pickleball courts, a swimming pool with two small spas, a lawn/outdoor event area, and two single-story buildings with banquet spaces, meeting rooms, and administrative offices for a total of approximately 10,000 sf, and a paved parking area that can accommodate approximately 127 cars. A minimum of fifty percent of the Project's demolition debris would be recycled, reused, and/or salvaged in compliance with the

2019 California Green Building Standards Code. Where feasible, the Project would involve on-site material recycling (such as the reuse of parking lot pavement for on-site road base).

## **REQUIRED PERMITS**

The only required planning application is a Use Permit to establish a planned (unit) development that includes site-specific development standards for building setbacks, building heights and fence and wall heights. Due to the inconsistency between the General Plan land use designation and the zoning for the property (discussed in more detail below), which negates the property zoning designation, establishment of a planned development establishes the standards for the site consistent with the General Plan designation. An associated map, Vesting Tentative Tract Map 18119, will be considered by the Subdivision Committee following approval of the Use Permit. Note: The Orange County Zoning Code uses the terminology ‘planned (unit) development’ or ‘PD’ whereas many other jurisdictions utilize the full phrase and PUD as the acronym. These terms are synonymous, and planned development or PD will be used herein for consistency with our Zoning Code.

### Housing Accountability Act (Government Code Section 65589.5)

Government Code Section 65589.5 (Housing Accountability Act) amended state law to address the housing availability crises by establishing measures to promote and facilitate the development of housing. Pursuant to the Housing Accountability Act, Government Code section 65589.5(j)(4), a local approving authority may not require a zone change where the Project is consistent with objective general plan standards and criteria but the zoning for the Project site is inconsistent with the general plan. In such a case, the Project shall be reviewed using standards and criteria that are consistent with the Project’s General Plan designation.

Here, the site’s General Plan designation is ‘Suburban Residential’, which allows densities between 0.5 to 18.0 dwelling units per acre. The General Plan contains no other objective land use standards for this site. The project proposes 6.29 units per acre, and is therefore consistent with all applicable objective standards in the General Plan. The Zoning designation is A1 ‘General Agricultural’ which requires a minimum building site area of 4 acres, an equivalent density of 0.25 dwelling units per acre. Because of the inconsistency between the density allowed in the General Plan versus the Zoning designation, the County cannot require a zone change. Thus, the applicant brought the application under SB 330, which requires specific processing and approvals.

Planning Staff used development standards for a “Planned Development” (PD) to evaluate the Project. The PD standards are consistent with the Suburban Residential General Plan designation under the Zoning Code, which the County may use to apply objective standards pursuant to the Housing Accountability Act. Planned Developments are a permitted use within the surrounding E4 “Small Estates” County zoning district.

Applicants are seeking a Use Permit to establish a planned (unit) development to set site-specific development standards such as for building setback, building heights and fence and wall heights.

An associated map, Vesting Tentative Tract Map 18119, will be considered by the Subdivision Committee following approval of the Use Permit.

## **BACKGROUND AND PROJECT HISTORY**

The Project site is located at 11782 Simon Ranch Road, in the North Tustin area of unincorporated Orange County. The Tustin Hills Racquet and Pickleball Club currently occupies the approximate 5.88-acre Project site. The existing private club has operated since approximately 1959. The site is currently developed with eight full-sized tennis courts, 12 pickleball courts, a swimming pool with two small spas, a lawn/outdoor event area, and two single-story buildings with banquet and meeting rooms accommodating up to 330 individuals, and administrative offices, for a total of approximately 10,000 square feet. The facility is served by a paved parking area that can accommodate approximately 127 cars.

The tennis facility was originally approved as a private swim and tennis club in August 1957 and amended in April 1958. Structures and uses approved included eight tennis courts, putting green, two handball courts, two badminton courts, two swimming pools, a pro shop and a clubhouse with a restaurant and ballroom, cocktail lounge, locker rooms, clubrooms, children's nursery, receptionist office and manager's office. The facility was permitted through approval of a Use Variance (UV3793) to allow a use not otherwise allowed within the R4 Suburban Residential District.

The 1957 and 1958 approvals expired before the facility was built (the County approvals had a one-year validity), so the facility was approved again as Use Variance UV4146 in September 1958. The facility has been called the Red Hills Tennis Club and/or Tustin Hills Tennis Club since its opening in approximately 1959.

At the time of these original approvals, the surrounding area was mostly undeveloped, as evidenced by notations in the September 1958 staff summary that "Public notices were mailed to the three property owners within 300 feet of the premises."

Also, at the time of these approvals (1957-1958), the subject property and the surrounding area were zoned R4 Suburban Residential which allowed for a 7,200 square foot minimum lot size, and permitted one-, two- and multi-family unit residential uses on a single lot as long as there was a minimum of 3,000 square feet of lot area per family or unit.

In 1972, two additional tennis courts and a 10-foot high fence were approved as Use Permit UP3297). Later that year, a second application was approved that also proposed two additional tennis courts. An appeal was filed against the second approval (UP3356) in a letter signed by three abutting residents citing concerns with noise, traffic, incompatibility with the character of the (zoning) district and an unwarranted deterioration of the general welfare of the neighborhood. The appeal letter also questioned the legality of the continued operation of a public bar in a residential zoning district. The owner/applicant for the tennis club withdrew the appealed application (for two additional courts) and the appeal was moot.

By 1972, the subject property and surrounding area had been rezoned to E4-20,000 (Small Estates with a 20,000 square foot minimum lot area). The E4 zoning district allowed Commercial Recreation (outdoor only) uses. The other existing indoor uses were considered prior existing non-conforming uses and thus, were allowed to remain. The E4 zone also permitted Planned (Unit) Developments. At this point in time (1972), the staff report noted that only 26 property owners were within 300 feet of the property.

In 1974, the owner/applicant filed for a rezoning of the subject property from E4-20,000 to A1 General Agriculture. County records for this application are incomplete, but there appears to have been neighborhood opposition to the request. The file contained a letter from the tennis club owners to a committee of the Redhill Ridge Homeowners offering to record a deed restriction on the tennis club site in return for their support for the zone change and two additional tennis courts. The deed restriction offered to limit the uses of the subject site to a commercial or non-commercial private membership tennis club, or if not such a club, to such other uses as permitted in Tract 3883 (zoned E4-20000). In August 1974, the Board of Supervisors approved the zone change from E4-20,000 to A1, but nothing in the Board action mentions or acknowledges the deed covenant. This deed covenant has been cited by commenters opposed to the Project, and it is discussed in more detail below.

It should be noted here that the Board's 1974 action to rezone the property from E4 to A1 would appear to have been contrary to the County's General Plan. The property and general vicinity had a General Plan designation of Suburban Residential (permitting 0.5 to 18.0 DU/AC), which would be consistent with the E4 zoning, but not consistent with A1 zoning to which it was changed, with a minimum 4-acre lot size. The A1 zoning would be consistent with a General Plan designation of Rural Residential (0.025 to 0.5 DU/AC).



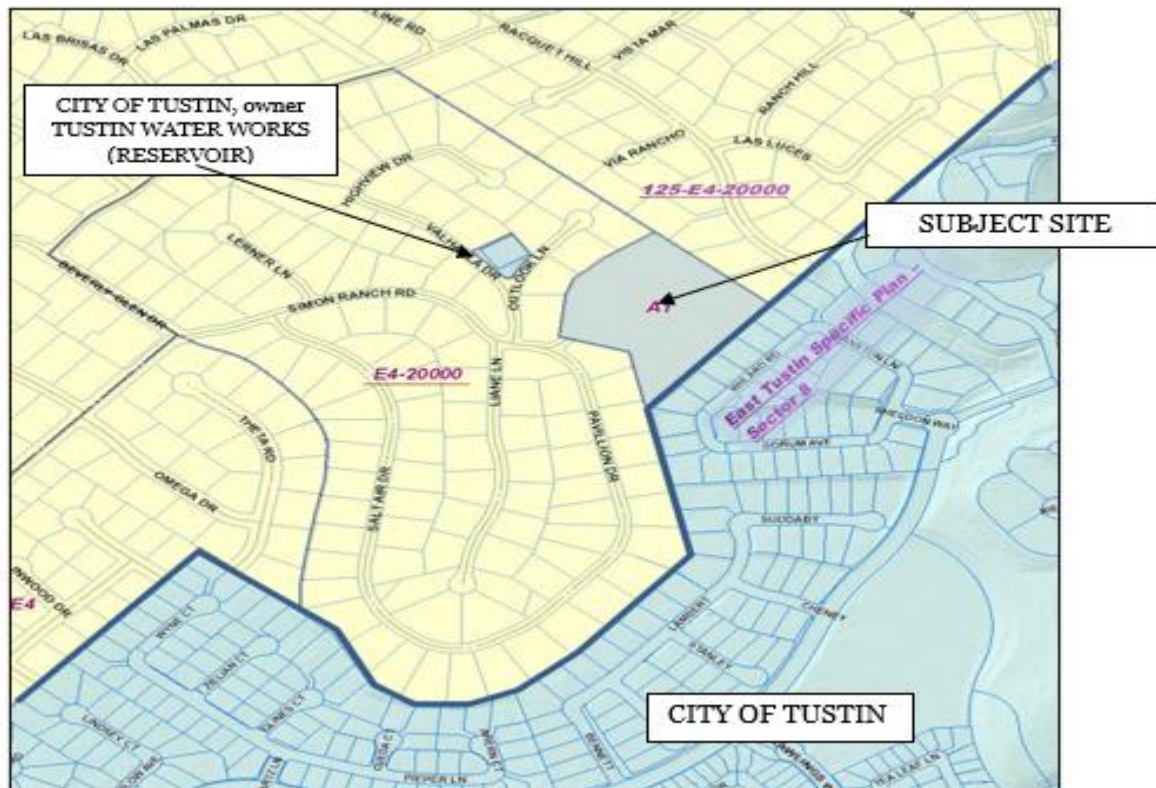
## SURROUNDING LAND USE

Single-family residential land uses surround the Project site in all directions. The rear yards of adjacent residences abut the Project site on all sides. The City of Tustin city limit is adjacent to the eastern Project site boundary. The County of Orange General Plan designates the Project site and vicinity as “Suburban Residential” (1B) which permits residential densities between 0.5 and 18.0 dwelling units per gross Project acre.

The Project site is zoned A1, “General Agricultural” which requires a minimum residential lot area of four acres. Zoning and existing land uses for other surrounding properties near the Project site are as follows:

Direction	Zoning	Existing Land Use
Subject Site	A1 General Agricultural	Tennis, pickleball and swim club
North	125-E4-20000 “Small Estates” 20,000 sf lot area min.	Single family homes
East/South	City of Tustin - East Tustin Specific Plan Sector 8 Low Density (4 du/ac, 10000+ sf lots)	Single family homes
West	E4-20000 “Small Estates” 20000 min lot area	Single family homes

## ZONING DESIGNATIONS



## DISCUSSION/ANALYSIS

### Planned (Unit) Development

The proposed Project will be developed as a planned (unit) development. Often referred to as a PUD, the Orange County Zoning Code uses PD. A PD is permitted in any single-family residential zoning district subject to the approval of the Planning Commission, including the adjacent E4 “Small Estates” zoning district.

The purpose of a PD "Planned Development" is to provide flexibility whereby land may be developed utilizing innovative site planning techniques (such as clustering of units and shared parking) to produce a development Project that will preserve and enhance community health, safety, and general welfare.

### PROPOSED SITE PLAN FOR PLANNED DEVELOPMENT



The applicable Zoning Code regulations are intended to produce planned development projects that assure adequate levels of open space, light, and air, and density of land uses, which provide for better use of common areas, open space, and off-street parking facilities. These regulations are intended to be utilized only for planned development Projects and shall not be utilized for

the establishment of individual structures unless they would become an integral part of an existing planned development.

Below is a table listing the site-specific development standards to be established for the proposed planned development. In instances where the Use Permit does not establish a standard, the applicable standard within the Zoning Code standard would prevail.

<b>PROJECT STANDARD</b>	<b>PROPOSED</b>
Building Site Area	5.88 acres (existing)
Number of single-family units	37 maximum
Maximum Building height	30'
Building Site Coverage	30%
Structural Front Setback	10' minimum
Structural Side Setback	5' min from property line 10' min between homes
Structural Rear Setback	15' minimum
Parking 2.5 spaces per unit (2 covered) plus 0.2 guest spaces per unit Totals 74 covered 19 uncovered 8 guest spaces 101 spaces total	74 covered spaces 74 uncovered spaces 21 guest spaces 169 spaces total
Garage setback	18' minimum
Walls	6' (typical)
Retaining walls	14' max (as shown on plan)
Patio covers	Min. 3' from property line

**REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

A copy of the planning application and proposed site plan were distributed for review and comment to County Divisions (the Building Official, Building/Grading Plan Check, Watersheds, Flood, and Traffic Engineering), OCFA, and the North Tustin Advisory Committee (NTAC). Staff has reviewed all departmental or public comments received, and where appropriate, has addressed the comments through recommended Conditions of Approval, which are provided as Attachment 2.

At least ten days prior to this public hearing, public notices were mailed to all owners of record within 300 feet of the subject property, a notice was posted in front of the Project site, and a notice was published in a newspaper of general circulation, as required by established public hearing posting procedures.



## North Tustin Advisory Committee (NTAC) Review Summary

NTAC reviewed the application for the proposed Project at their August 19, 2020, virtual meeting (due to Covid restrictions). Their meeting minutes are included as Attachment 4. At the time of the NTAC review, the Project application included a Zone Change from A1 “General Agriculture” to R2(5000) “Multifamily Dwelling” with a minimum of 5,000 square feet per unit. Since that date, the application has been revised to comply with the provisions of Government Code 65589, the Housing Accountability Act, thus eliminating the requirement for a Zone Change under State law. At that time, preliminary Project information had been posted on the County’s website, and the community was aware of the proposed Project.

The Project discussion began with a PowerPoint presentation by applicant Peter Zehnder. He explained that the club facility had, at several various times, been for sale prior to the time that he and his partners closed the sale of the property approximately 2 years earlier (2018).

### Applicant’s Comments to NTAC

The new partnership explored many possible new uses that would conform with the existing A1 “General Agriculture” zoning designation, including agriculture, outdoor recreation, open space, and low density residential (at 0.5 du/ac = 2 dwelling units). The Applicant further explained that they had conducted marketing studies that identified the opportunity for homes designed for existing North Tustin homeowners to target residents that wanted to downsize from their large homes on large lots but did not wish to leave the North Tustin community. The basic floor plan would be ground floor living areas with office/bedroom/bonus room on a partial second floor. The Applicant explained that this would be an ‘age-targeted’ product type but that sales would not be age restricted. (Staff Note: The second-floor building offsets from property lines - as compared to first floor - would vary from approximately 5 feet to approximately 21 feet depending upon location. Along the property line abutting the City of Tustin, the proposed residences will have a minimum property line setback of 19 feet to first floor walls, with second floors being further back depending upon final floor plan plottings.)

This product type was developed into the current plan of 17 attached units and three detached units with a recreation center, several small pocket parks, and private interior streets. The applicants chose to develop it with a condominium-type ownership that could manage and maintain front yards, common areas, the private streets, the recreation facility, pocket parks, and possibly the exteriors of the units. Mr. Zehnder explained that all on-site parking and traffic-generation assessments were being prepared assessing the Project as a typical single-family development, and not as an age-restricted development. He discussed how community comments he had received regarding the use of term ‘condominium’ (or ‘planned unit development’) seemed to have evoked visions of a much higher density Project than the 6.29 du/ac Project that they have proposed. Mr. Zehnder then presented slides of the Project site, site plan and architectural elevations.

### Public Comment at NTAC

The public comment period was opened, and OC Planning staff explained how speakers could remotely indicate a desire to speak. It was noted that the remote meeting had 99 public attendees and that 15 people indicated a desire to speak. Chairman Peter Schneider agreed to allow members from the Foothills Community Association (FCA) to speak first. Six FCA members spoke and a letter from FCA President Rick Nelson was submitted (attached to NTAC minutes). Another 14 speakers were in the queue before the Committee took a ten-minute break.

When the meeting reconvened, the Committee paused the public comment to ask Mr. Zehnder questions from the Committee members. Following Committee questions and responses from Mr. Zehnder, public comment continued. Chairman Schneider asked speakers to limit their comments to 1.5 minutes if possible. Another 11 speakers offered comments. None of the public commenters spoke in favor of the Project.

Comments made by both Committee members and the public are listed below, and reflect many similar comments submitted on the Draft EIR. Mr. Zehnder's responses to these comments, if not listed below, are addressed within the CEQA discussion regarding staff Response To Comments (RTC) within the CEQA discussion within this report.

### Summary of Public Comments to NTAC

- According to a letter submitted by the Foothill Community Association (FCA), over 1,000 people signed a petition opposing any rezoning or development of the Tustin Hills Racquet Club (THRC) property.
  - Staff Note: The rezoning is no longer requested or necessary due to the provisions of Government Code Section 65589
- Incompatibility of proposed R2 zoning with zoning of surrounding properties that require a 20,000 square foot minimum lot area, or a 10,000 square foot minimum in adjacent City of Tustin area.
- Challenging the assumption of the appropriateness of a senior oriented development; Prop 13 tax impacts, lack of 'senior friendly' environment in the area (buses, stores, restaurants, etc. within walking distance)
- Discussion of the 1974 deed restriction agreed to by then club owner, which created a benefit for owners who paid a premium to 20,000 sf lots and the 'open-area recreation facility'. This restriction was a binding agreement for the benefit of adjacent owners and not the club owner, and Mr. Zehnder and his partners should have recognized this. (NOTE: Also addressed below in *Response to EIR Comments Received*.)
- Questions regarding water, sewer and electrical connections and any required new easements.
  - Staff Note: The Project will include waterline improvements that will improve the water/fire flow of the larger neighborhood and is cooperating with the District for connections to a new off-site easement. These water improvements are more than those required by the Project itself. Sewer access would be extended and connected to main lines using existing

easement alignments. Electrical extensions and on-site distribution would be required to be undergrounded; details had not been worked out, but no new easements were anticipated.

- Concerns about traffic study analysis that Projected an overall reduction in average daily traffic from the site, belief that the Project would bring an increase in traffic, few sidewalks in the area, safety (addressed in RTC, Attachment 3b).

Following the close of the public comment, the Committee further discussed the Project and then voted unanimously to deny the zone change, use permit and vesting tentative tract map.

## **CEQA COMPLIANCE**

The Project's EIR was prepared to assess the potentially significant effects on the environment that could result from implementation of the Project. For a detailed discussion regarding potential significant impacts, please refer to Section 4.0, Environmental Analysis, of the Draft EIR (Attachments 3a).

For each of the required environmental topics (see Attachment 3a, DEIR Table 1-1), the potential impacts and level of significance were assessed. As a result, The Project EIR concludes that the Project has no significant effect on the environment.

It is noted that at the time of the Project's initial filing with the County in 2018, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared and circulated for public review and comment in May 2020. A total of 223 comments were received on the IS/MND during the public review period, including two comments from public agencies and the remaining from residents and other interested persons. Thereafter, the Applicant requested, and OC Development Services/Planning agreed, that an EIR be prepared for the Project. The original IS/MND was not scheduled for public hearing at the Planning Commission and therefore no action was taken on the IS/MND. The IS/MND was superseded by the preparation of the Draft EIR. Written comments received on the IS/MND were incorporated into the Draft EIR; however, they were not individually addressed in this Final EIR.

For the Project EIR, pursuant to CEQA Guidelines Section 15082, a Notice of Preparation (NOP) was released on June 17, 2021, and ended on July 19, 2021, beginning the mandatory minimum 30-day public scoping period for the Draft EIR to solicit guidance from Responsible and Trustee agencies as to the scope and content of the environmental information to be included in the Draft EIR. In addition, Interested Persons, Organizations, and Groups were also solicited. During the scoping period, the County received four public agency comment letters, one comment from a public utility, and one comment from a Native American Tribe. No scoping comments were received from any individual persons. The Draft EIR incorporated the comments received from persons and organizations in response to the NOP.

A Notice of Availability (NOA) of a Draft EIR was made available for public review and comment pursuant to CEQA Guidelines Section 15087. Copies of the Draft EIR and Appendices were available for an extended review period of 50 calendar days from Tuesday, May 10, 2022, to

Wednesday, June 29, 2022, online at the County’s Project webpage, four local libraries, the State Clearinghouse, and the County’s Planning offices. The NOA was posted on the Project site in three locations.

The County received 205 comment letters or emails on the Draft EIR, including three public agencies (Gabrieleno Band of Mission Indians-Kizh Nation, Orange County Fire Authority, and City of Tustin/Community Development Department) and 202 members of the public including interested persons and organizations.

All written comment letters and email comments received during the public review period by the County have been included and responded to in the Final EIR (Attachment 3c). Comments that raise significant environmental issues have been addressed in the Response To Comments (RTC) (Attachment 3c) portion of the proposed Final EIR. Comments that do not require a response include those that (1) do not address the adequacy or completeness of the Draft EIR; (2) do not raise substantive environmental/CEQA issues; (3) do not address the Project; or (4) request the incorporation of additional information not relevant to environmental issues.

*Summary of Responses to EIR Comments Received*

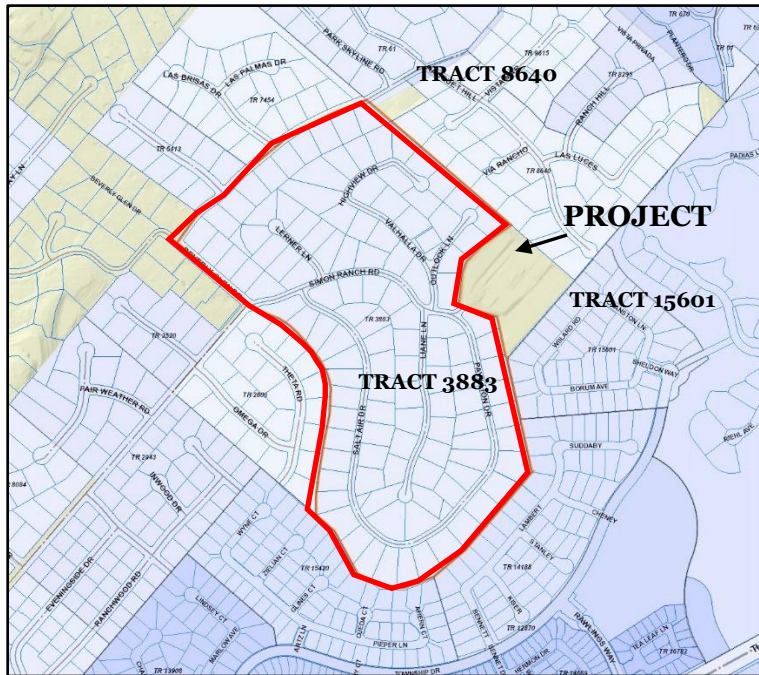
Provided below are some of the comments (paraphrased) that raise the most common issues expressed by the comments and the County’s responses. Comments that expressed common themes or concerns were grouped together for a single comprehensive response.

Deed Covenant Running with the Land Tract 3883 (Red Hill Ridge community):

Comment: On September 24, 1974, the prior owner of the Project site recorded a restrictive land-use covenant that restricts the use of the Project site (Attachment 5). Commenters stated that the 1974 restrictive covenant requires that land uses on the Project site be limited to either a commercial or non-commercial private membership tennis club, and in the event that the use shall be other than of a commercial or non-commercial private membership tennis club, such other uses shall conform to the uses permitted in Tract #3883. Comments stated that the Project violates the 1974 restrictive land-use covenant.

Response: The restrictive land-use covenant is a private restriction by and between the then-owner of the tennis club (and successive tennis club owners) and the homeowners of Tract #3883. The Project site is located outside the boundaries of Tract #3883. The County is not a party to this land-use covenant, and therefore cannot enforce the covenant. County documentation reveals that the covenant was offered by the tennis club owners in exchange for homeowner support of a Zone Change proposed for the tennis club property from E4-20,000 to A1. On August 7, 1974, the Board of Supervisors approved the change in zone, but did not include the deed covenant or any condition on the development related to the covenant in its action. Regardless, in compliance with the covenant, as a proposed residential planned development (PD), the use is consistent with the restrictions set forth in the August 22, 1962, the Declaration of Restrictions for Tract 3883. Tract 3883 is zoned E4-20000, a zone that permits planned developments (PDs) subject to the approval of a Use Permit by the Planning Commission.

### PROJECT and TRACT 3883 BOUNDARIES



#### Inconsistency with Adjacent Development in City of Tustin

Comment: The proposed Project is inconsistent with adjacent development in the City of Tustin.

Response: Along the common border with the Treviso neighborhood in the City of Tustin, the Project proposes eight paired (attached) single-family homes and one single-family detached home. The architectural design of the Project's eight paired homes is intended to appear as four single residences as shown in the exterior concept provided in the Draft EIR. The eight proposed paired homes adjoining the Treviso neighborhood would therefore have a similar visual impact as would four single-family homes. Similarly, the eight proposed paired homes would be located on an area of approximately 42,000 square feet, which equates to an average lot size of 10,500 square feet per paired structure, which is similar to the lot size within the Treviso neighborhood. Finally, the height of the proposed structures would be a maximum of two stories and a maximum height of 30 feet above the proposed pad elevations. which is similar to the two-story structures within the Treviso neighborhood of Tustin.

The Project proposes an overall density of 6.29 dwelling units per acre, which would be considered a Low-Density Residential Project under the City of Tustin's General Plan (City of Tustin 2018). This Low-Density Residential classification is the same density category as the Treviso neighborhood under the City's General Plan.

The proposed residences would be two stories; however, the second story elements would be limited in area to approximately 65 percent of the area of the first story, allowing the second stories to be stepped back and reducing the buildings' massing when viewed from the rear

property line. The second-floor building setback (as compared to first floor) would vary from approximately 5 feet to 21 feet in addition to the minimum required setback depending on location (see Attachment 8). Furthermore, no other County development adjacent to the Tustin Ranch/East Tustin Specific Plan area has single-story-only limitations, so the requested change to the Project to require single-story units would be unprecedented.

### Computer Generated Aerial of Project and Vicinity



### Typical Elevation of Attached Units



### Biological/Wildlife Impacts

Comment: Comments were received stating that wildlife currently found in the area, including coyotes, bobcats, racoons, opossums, hawks, falcons, owls, bats, parrots, swallows, rabbits, lizards, mice, and rats would be disturbed by the Project, and critiquing that the biological survey for the Project occurred on one day and was not longer.

Response: Section 4.3, Biological Resources, of the Draft EIR includes an analysis of the Project’s potential impacts to biological resources. In addition to the one-day site visit that was conducted by the biologist, additional secondary resources were utilized in the development of the Draft EIR’s biological resources analyses. As described under Threshold of Significance question (a) of Section 4.3.6 of the Draft EIR, no suitable habitat for any special status plant or wildlife species occurs on the Project site except for marginally suitable habitat for western yellow bat, a California Species of Special Concern. Development of the Project has the potential to impact the western yellow bat through removal and/or modification of habitat, thus resulting in a potentially significant impact. MM BIO-1 requires avoidance of tree removal during the bat maternity season as well as monitoring by a bat biologist during removal of palm trees. With implementation of MM BIO-1, impacts to western yellow bat would be reduced to less than significant; therefore, no impacts to any special status species would occur as a result of the Project. It is also noted that the existing Project 5.88-acre site is approximately 77% paved or has structures on it, and the landscapes areas are predominately manicured lawn areas, not a ‘natural,’ area conducive to promoting wildlife. Wildlife within the area would be just as likely to habitat/use the surrounding residential landscaped areas. Therefore, these comments do not present any significant new information on environmental impacts.

### Loss of Open Space and Recreational Facilities

Comment: Comments stated that the Draft EIR failed to fully consider the loss of the Tustin Hills Racquet and Pickleball Club, which is the last remaining parcel in the area that is zoned for Recreation/Open Space. Commenters also state that the North Tustin area of the County is far below the County of Orange guideline for “zoned” parkland of 2.5 acres/1,000 residents, and that the Project would further exacerbate this deficiency. Additional concerns were raised that the Draft EIR ignored the fact that the existing Tustin Hills Racquet and Pickleball Club is a recreational facility for the North Tustin area and beyond and that removing this facility will severely impact the community parks, in that groups will have to start using and driving to other locations to continue their recreational activities.

Response: As disclosed in the Draft EIR, the Tustin Hills Racquet and Pickleball Club would be closed as part of the Project, which would result in the loss of this private recreational facility. This would also intuitively lead to an increased demand for other private and public recreational facilities; however, it would be speculative to hypothesize on the exact future behaviors of existing club members. The Tustin Hills Racquet and Pickleball Club is a privately owned commercial facility. Therefore, although it currently serves as a recreational facility, it is not a public park, nor does it contain dedicated open space. The proposed Project will include an outdoor pool and deck

area as well as other open spaces, in addition to private yards that would be provided for each residential unit.

### Proximity to Wildland Fire Areas

Comment: Concerns were raised regarding location of the Project within a Very High Fire Hazard Zone (VHFHZ), adequate capabilities for evacuations, lack of a secondary access to the Project site, adequate width for emergency vehicles on the Project's interior streets, proposed housing construction materials, and related concerns.

Response: The proposed Project has been reviewed by the Orange County Fire Authority (OCFA) and found to be compliant with all applicable fire safety regulations, including access for in-tract emergency vehicle response capabilities. Per OCFA, the Project site is not within a VHFHZ area. Updated Fire Code requirements will likely result in the proposed residences being more fire safe than older surrounding homes. Under OCFA criteria, secondary access is not required until a given Project has 150 dwelling units.

### Traffic Impacts

Comment: Concerns were raised that the proposed Project would increase traffic within the area and that there are few sidewalks within the vicinity and a traffic increase would cause hazardous situations to pedestrians.

Response: Traffic impacts are assessed using several different methods, most commonly average daily traffic (ADT), peak hour volumes, intersection capacity analysis, and level of service. For the subject proposal, the assessment between existing and proposed for two very different types of traffic generation uses is not a direct comparison. The traffic generation characteristics of the tennis club, which also hosts business and social events and wedding/anniversary events in its banquet center, are very different than a single-family development. The Project's traffic analysis used a combination of reliable industry traffic generation factors as well as in-the-field traffic counts to establish baseline traffic and then to assess the baseline plus proposed Project counts.

Using ADT data, one arrival trip plus one departure trip equals two daily trips. The traffic study assessed ADT for the existing club operations as 349 trips per day, using both filed counts and Institute of Traffic Engineers (ITE) generation data. Because this assessment was conducted during the Covid, the club's banquet facility was closed, and its potential additional trips were not included in any of the traffic counts and thus the assessment of club traffic was less than one that had included banquet traffic.

The ADT for the proposed development, using ITE generation rates for a single-family home (not a seniors-only project), would be 277 ADT, or less than that for the existing club operations. With fewer daily trips, the proposed Project would have less potentially negative impact on pedestrians in the area. The traffic study also assessed existing plus Project traffic impacts on select intersections in the vicinity, both signalized and non-signalized and found no negative impacts to level of service.



A copy of all comments received and the responses to them are included in the proposed Final EIR (Attachment 3c)

## CONCLUSION

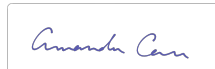
Staff has determined that the proposed Project complies with the requirements of Government Code Section 65589 in that the proposed Project is consistent with the applicable Suburban Residential General Plan designation and with the Planned Development standards of the County Zoning Code. Staff supports the proposal and recommends the approval of PA180034, a Use Permit to establish a planned development, subject to Findings and Conditions of Approval provided in Attachments 1 and 2, and adoption of Final EIR No. 635.

Submitted by:

Concurred by:



Justin Kirk, Planning Manager  
Planning, OC Development Services



Amanda Carr, Interim Deputy Director  
OC Public Works/Development Services

## ATTACHMENTS:

1. Recommended Findings
2. Recommended Conditions of Approval
3. CEQA Documents
  - a. Draft EIR No. 635
  - b. Draft EIR No. 635 Appendices A - N
  - c. Proposed FEIR No. 635 (with Comments and Response to Comments)
4. NTAC Minutes (with FCA letter attached)
5. Cover letter and Deed Covenant running with the Land
6. Project (Planned Development Plan)
7. Typical Elevations
8. Floor Plans
9. VTTM 18119 (for information only, not part of this application)

## APPEAL PROCEDURE:

Any interested person may appeal the decision of the Planning Commission on this permit to the Orange County Board of Supervisors within 15 calendar days of the decision upon submittal of required documents and a filing deposit of \$500 filed at the County Service Center, 601 N Ross St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to OC Development Services / Planning Division.