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**ITEM #1**

**SUBDIVISION COMMITTEE PRELIMINARY REPORT**

**DATE:** July 19, 2023

**TO:** OC Subdivision Committee

**FROM:** OC Development Services / Planning

**SUBJECT:** Vesting Tentative Tract Map 18119 for a 37-unit Planned Development

**PROPOSAL:** A proposed map for condominium purposes to facilitate the development of a 37-unit Planned (Unit) Development with the creation of five lots for residential uses, two lots for communal or recreational uses and three lots for the internal private streets. This map is associated with Planning Application PA180034 which has not yet received final approval.

**ZONING:** A1 "General Agricultural" District

**GENERAL PLAN:** 1B Suburban Residential

**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.)

**OWNER /SUBDIVIDER:** Ranch Hills Partners LP, Property owner  
Peter Zehnder, Applicant

**STAFF CONTACT:** Kevin Canning, Contract Planner  
Phone: (714) 667-8847  
Email: [Kevin.Canning@ocpw.ocgov.com](mailto:Kevin.Canning@ocpw.ocgov.com)

**RECOMMENDED ACTION(S):**

OC Development Services recommends that the Subdivision Committee:

1. Receive staff report and public testimony as appropriate;
2. 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);
3. Approve VTTM18119, subject to the attached Findings and Conditions of Approval.

NOTE: Per State Law, for any improvements required prior to the recordation of a final map, the developer may instead enter into an agreement with the County of Orange guaranteeing all required improvements. Said agreement shall be accompanied by financial security.

**BACKGROUND AND EXISTING CONDITIONS:**

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 project is being processed under the State’s Housing Accountability Act. 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 concurrently seeking a Use Permit (PA180034) to establish a planned (unit) development to set site-specific development standards such as for building setback, building heights and fence and wall heights. This application was approved by the Planning Commission on May 10, 2023. That approval was appealed to the Board of Supervisors. It is anticipated that the Board will hear the appeal in August of this year. It is staff’s intent to include the subject map with the appeal of the Planning Application and have the Board act on the combined applications. The State Map Act does allow the conditional approval of tentative maps pending a final resolution on underlying zoning issues. Should the subject map be approved but the zoning-related entitlement sought with PA180034 be denied, any approval of the subject map would be rendered moot and void.

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.

**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

**DISCUSSION/ANALYSIS:**

Estimated Earthwork

It is estimated that grading of the project site for this development will balance on-site at approximately 12,000 cubic yards. The proposed grading on this map has been addressed per CEQA document FEIR 635.

Drainage:

The applicant has submitted a Conceptual Water Quality Management Plan which has been reviewed and found acceptable subject to minor revisions. A Final WQMP will be required prior to the issuance of grading permits.

Recreation and Open Space:

The proposed map is not required to provide any improvements or dedications associated with the County Master Plan of Regional Recreation Facilities; Master Plan of Regional Riding and Hiking Trails; Resources Element (Open Space Component); or the County Bikeway Plan. The developer will be required to pay in-lieu local park fees prior to the issuance of building permits. The project will also include on-site private recreational facilities for its future occupants.

Public Services & Utilities

- Schools - This property is within the boundaries of the Tustin Unified School District. The developer is subject to the provisions of Assembly Bill AB 2926, or other mitigating measures

designed to provide for school facilities and/or funding, such as community facilities districts.

- Water/Sewer - This project is within the boundaries of the Tustin Water Department. The Department stated in their Preliminary Water Letter that adequate water can be provided to the project. The project is also within the boundaries of the Orange County Sanitation District. The District stated in their Preliminary Sewer Letter that adequate capacity can be provided to serve the project for sewage disposal.
- Fire Protection and Safety – Orange County Fire Authority (OCFA) has stated in their review of FEIR No. 635 that existing and proposed fire protection services are capable of providing an adequate level of fire protection services to this development.

#### Traffic/Circulation

- Scenic Highway Corridors – There are no Scenic Highways applicable to this map.
- Access/Highways/Streets/Roads - Access to the site is provided by proposed Simon Ranch Road. Internal tract access will be provided by a system of private streets.
- Major Thoroughfare and Bridge Fee Program - This project lies within the area of benefit of the Foothill/Eastern Transportation Corridor. The developer is required to pay Foothill/Eastern Major Thoroughfare and Bridge fees in accordance with the adopted program.

#### Fire Master Plan

The Orange County Fire Authority (OCFA) requested as a condition of approval to PA180034 that a Fire Master Plan prior to issuance of a grading permit. That condition of approval is replicated here.

#### **DEVIATION REQUEST:**

The applicant has requested a deviation from County Standard Plan 1112 to allow the use of a knuckle design similar to the design of the Subdivision Committee-approved Ladera Alternative Development Standard (ADS). The applicant's letter of request/justification (Attachment 2) notes the differences that where the Ladera ADS is based upon a street 36 feet wide with parking on both sides, in this requested modified application the street is 28 feet wide with parking on one side only. The proposed knuckle has the same inside radius as the Ladera Standard but, due to the narrower roadway, a smaller outside radius. The developer requests that they be allowed to include the modified knuckle with reduced outer curb radius for the following reasons:

- The condition only occurs in one location.
- There is no through traffic in the subdivision.
- There are only 30 units beyond this knuckle which corresponds to approximately 300 average daily trips.
- Parking is restricted to designated locations along the private roadway and will be prohibited within the arc of the curve.
- Each unit has 2 covered parking spaces and room for 2 additional parked cars in the driveway in addition to the designated parking spaces along the roadway. The project proposes 169 parking spaces when only 101 spaces are required, for a ratio of 4.6 spaces per home.

Staff supports the request and recommends Committee approval.

**REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

Copies of the tentative map application submittal package were distributed for review and comment to County staff. Through a collaborative effort with County staff, the applicant adequately addressed all comments. As of the writing of this staff report, no further comments have been received from any County divisions.

A Notice of Public Meeting was mailed to all property owners of record within 300 feet of the subject site on July 7, 2023. Additionally, notices were posted at the site, and a notice was published in a newspaper of general circulation, as required by established public hearing posting procedures. No public comments have been received to date.

**CEQA COMPLIANCE:**

At their hearing of May 10, the Planning Commission considered the Project’s Final EIR and voted to adopt the document, as well as approve the Planning Application. The approval of the Planning Application has been appealed to the Board of Supervisors. In order to allow the Subdivision Committee to fully consider the environmental document, staff provides below the full discussion provided to the Planning Commission.

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.

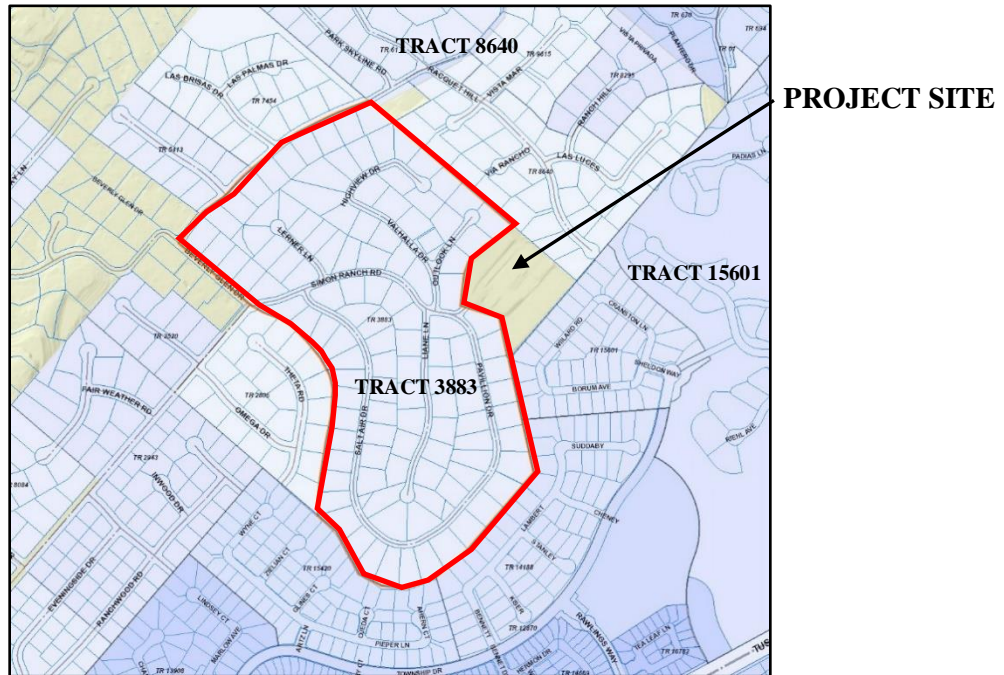
Summary of Responses to EIR Comments Received

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:**

Based upon the review of the subject submittal, staff supports approval of the applicant’s proposed Vesting Tentative Tract Map 18119 pursuant to the Orange County Subdivision Code, Orange County Codified Ordinances (OCCO), Subarticle 5 (Processing Procedures for Tentative Maps).

Submitted by:

*KCanning*

Kevin Canning, Contract Planner  
Planning, OC Development Services

 y:

Justin Kirk, Deputy Director  
OC Public Works/Development Services

**CERTIFICATION:**

I hereby certify that the Tentative Tract Map 18119 was approved by the Orange County Subdivision Committee on July 19, 2023, per the findings in Appendix A and the conditions in Appendix B.

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Lily Sandberg,  
Subdivision Committee Chairperson

**APPENDICES:**

- A. Recommended Findings
- B. Recommended Conditions of Approval

**ATTACHMENTS:**

- 1. VTTM18199 map exhibit
- 2. Deviation Request Letter
- 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. PA180034 (Planned Development Plan)

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Subdivision Committee on this application to the Orange County Planning Commission within 10 calendar days of the decision upon submittal of required documents and a filing fee of \$500.00 filed at 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 in written correspondence delivered to OC Development Services.