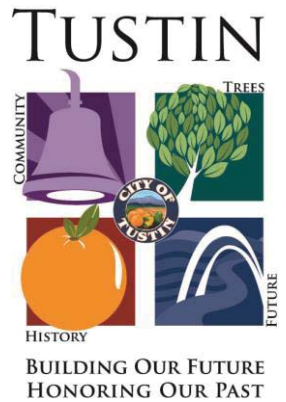


Community Development Department



May 21, 2020

Mr. Minh Thai
Executive Director
City of Santa Ana
Planning and Building Agency
PO BOX 1988 (M-20)
Santa Ana, CA 92702

SUBJECT: FINAL ENVIRONMENTAL IMPACT REPORT AND RESPONSES TO COMMENTS FOR THE BOWERY MIXED-USE PROJECT IN THE CITY OF SANTA ANA

Dear Mr. Thai:

Thank you for this opportunity to relay our significant ongoing concerns regarding the potential impacts to the City of Tustin from The Bowery Mixed-Use Project proposed at the southwesterly corner of Red Hill Avenue and Warner Avenue, which is directly adjacent to the City of Tustin and the Tustin Legacy master planned community.

The proposed project consists of the development of a 14.58-acre site with 1,150 multiple family residences within five-story to six-story buildings, wrapped parking structures, and 80,000 square feet of retail and restaurant commercial space. Also proposed is approximately 174,555 square feet of open space within courtyards, common areas, roof decks, perimeter plazas, and other open space areas. The project requires a proposed General Plan Amendment from Professional and Administrative Office to a mixed-use designation and a Zone Change from Light Industrial to Specific Development.

In a letter dated February 5, 2020 (Attachment A), the City of Tustin provided comments to the City of Santa Ana on the Draft Environmental Impact Report (DEIR) for the Bowery Mixed-Use Project. On April 27, 2020, the City of Santa Ana released the Final EIR and Responses to Comments on the DEIR for the Project, which was received by the City of Tustin Community Development Department on May 7, 2020. In response to our request for a continuance and to the concerns raised by others, the Santa Ana Planning Commission continued the hearing to May 26, 2020.

City of Tustin staff has reviewed the Final EIR and the responses to our comments contained therein (Attachment B), and believe that none of the City's significant comments or concerns regarding traffic, cumulative impacts, or impacts to Tustin parks that were identified in the February 5, 2020 letter has been adequately addressed or mitigated in the FEIR. Therefore, the City of Tustin requests that the Planning Commission continue the May 26, 2020 public hearing and not make a recommendation to the Santa Ana City Council on this project until our concerns have been addressed and mitigated.

Bowery Mixed-Use Project
May 21, 2020
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The City of Tustin has the following ongoing concerns which were not adequately addressed in the DEIR or the FEIR.

1. The City of Santa Ana is continuing to take a noncomprehensive approach with new development proposed along the Red Hill Avenue corridor. The Bowery is the second significant mixed-use project to be considered recently in the area and prior to the completion of the Santa Ana General Plan Update, which is currently underway and contemplates land use intensifications in several areas of Santa Ana. This project sits squarely within one of the focus areas for the City's General Plan Update, an update that is already in the planning stages and thus, should be analyzed in the cumulative impacts analysis. The cumulative impacts of these large-scale projects need to be addressed comprehensively so that they can be properly identified and mitigated or avoided. Instead, the FEIR improperly defers the cumulative impacts analysis to some time after this project is considered for approval. Further, the consideration and adoption of multiple project-specific General Plan Amendments on a frequent basis is discouraged by State law and prohibited more than four (4) times per year for general law cities (such as the City of Tustin.) The City of Santa Ana has routinely adopted site-specific General Plan Amendments to accommodate higher density development in recent years throughout the City, prior to completing its comprehensive General Plan Update, and this is contrary to sound planning principles.
2. Walkways and paseos, unusable perimeter landscape areas, private open space such as balconies, and other passive open space areas are being credited toward The Bowery project's minimum park land requirement. These areas are not equivalent to usable park land that usually accommodates sports fields and larger recreational spaces that are in high use and demand throughout Orange County. It is interesting to note that at least one (1) of the Santa Ana Planning Commissioners also expressed a concern at the May 11, 2020 public hearing regarding walkways being counted as park space or open space.
3. The FEIR does not include mitigation measures to address the impacts to parks in Tustin. Instead, the FEIR claims that impacts are not significant and that sports league park usage fees fund maintenance and improvements. Mitigation to fund park maintenance and improvements in Tustin should be required of The Bowery project due to its proximity to Tustin parks. Alternatively, a park should be included on or near The Bowery site, and/or the project density should be reduced. The Final EIR acknowledges that parks in Santa Ana and Tustin would generally be accessed by vehicle and that the parks are beyond a 12-minute walking distance. This acknowledgement supports the need to require a new park facility on, or adjacent to, The Bowery site.
4. The City of Tustin continues to be concerned about the use of discounts to reduce project trip generation and is reviewing the Final Traffic Impact Analysis traffic dated April 14, 2020 that was included in the Final EIR to determine other specific outstanding concerns and potential impacts to Tustin. Potential traffic impacts have been grossly underestimated.
5. The traffic analysis is flawed because it does not use existing conditions as the baseline. The traffic analysis projects existing traffic impacts based on a trip generation model for industrial uses as if the site was being fully utilized, which has not been the case since at least 2017. That in turn inflates the appearance of existing traffic and makes the increase in traffic caused by the project appear smaller than it actually will be. The use of the incorrect baseline analysis affects both VMT and LOS analyses.

Bowery Mixed Use Project

May 21, 2020

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6. The airplane noise analysis bases its impacts on where the project is located with respect to JWA's noise contours and there does not appear to have been any actual noise readings taken on site. An adequate noise evaluation would include actual noise readings at the project site rather than an extremely broad criteria such as an airport's regional noise contour. The limited noise readings that are referenced in the EIR appear to be the background noise, i.e., vehicular traffic and sources other than the noise most likely to irritate residents – aircraft landing at, and departing from, the airport. Noise readings should be taken to determine actual existing noise conditions to determine whether they fall within a level that is acceptable for residential development and/or one which requires additional noise attenuation.
7. The FEIR appears to ignore the fact that the project is a residential use proposed in the middle of an industrial and office/professional area. The FEIR concludes that the residents would have convenient access to walking, biking and existing transit and this would reduce vehicle trips, for instance. However, there is nothing about the setting of this project that supports a conclusion that people will be walking or biking to work, given it is bounded either by industrial uses or major arterials.
8. The reduced project alternative is environmentally superior, but is dismissed on inadequate grounds.

Thank you again for the opportunity to express our ongoing concerns regarding the proposed project. The City of Tustin would appreciate an additional continuance by the Santa Ana Planning Commission, and City staff is available to discuss our concerns so that they can be addressed prior to a decision by the Santa Ana Planning Commission or City Council.

If you have any questions regarding the City's concerns, I can be reached at (714) 573-3031 or ebinsack@tustinca.org.

Sincerely,

Elizabeth A. Binsack

Elizabeth A. Binsack
Community Development Director

Attachments: A - Letter dated February 5, 2020
B - Responses to City of Tustin Comments

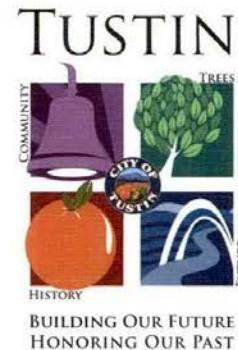
cc: Ali Pezeshkpour, Senior Planner, Santa Ana Planning and Building Agency
Jerry Guevara, Assistant Planner I, Santa Ana Planning and Building Agency
Matthew S. West, City Manager
Nicole Bernard, Assistant City Manager
David Kendig, City Attorney
Douglas S. Stack, Public Works Director
Chad Clanton, Parks and Recreation Director
Ken Nishikawa, Deputy Director of Public Works/Engineering
Chris Koster, Deputy Director of Economic Development
Justina Willkom, Assistant Director – Planning
Krys Saldivar, Public Works Manager
Scott Reekstin, Principal Planner

LETTER A8 City of Tustin (5 pages)

Community Development Department

February 5, 2020

Mr. Minh Thai
Executive Director
City of Santa Ana
Planning and Building Agency
PO BOX 1988 (M-20)
Santa Ana, CA 92702



SUBJECT: REVIEW OF DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE BOWERY MIXED USE PROJECT IN THE CITY OF SANTA ANA

Dear Mr. Thai:

Thank you for the opportunity to provide comments on the Draft Environmental Impact Report (DEIR) for The Bowery Mixed Use Project proposed at the southwesterly corner of Warner Avenue and Red Hill Avenue in the City of Santa Ana. According to the DEIR, the proposed project consists of the development of a 14.58-acre site with 1,150 multiple family residences within five-story to six-story buildings, wrapped parking structures, and 80,000 square feet of retail and restaurant commercial space. Also proposed is approximately 174,555 square feet of open space within courtyards, common areas, roof decks, perimeter plazas, and other open space areas. Recreation amenities for residents would include four (4) pool and spa areas, fitness areas, and community rooms. The project includes a proposed General Plan Amendment from Professional and Administrative Office to a mixed-use designation and a Zone Change from Light Industrial to Specific Development.

The City of Tustin offers the following comments at this time:

1. The City of Tustin is concerned with the significant changes in land uses (i.e., from commercial and industrial buildings to residential mixed use) along Red Hill Avenue, Warner Avenue, and Dyer Road in Santa Ana that are proposed by The Bowery project or have occurred recently with the approval and construction of The Heritage project at 2001 East Dyer Road. The City of Santa Ana has already demonstrated that these significant use intensifications will likely continue, as evidenced by proposed land use changes that are already being contemplated through the public outreach efforts for Santa Ana's next comprehensive General Plan Update. These land use changes could result in significant modifications to the anticipated traffic and park impacts and planned mitigations. While individually each project may cause relatively modest changes in traffic patterns or impacts to parks, the cumulative impacts are likely to be substantial. Therefore, there should be some overall projections of the anticipated changes in land uses, so the cumulative impacts related to traffic and parks and the associated mitigation can be documented. The proposed Santa Ana General Plan Update or a focused General Plan Amendment for the Red Hill Avenue corridor should be completed before the proposed project is considered so that cumulative impacts are properly analyzed and mitigated.

Mr. Jerry Guevara
The Bowery Project DEIR
February 5, 2020
Page 2

2. The City of Santa Ana Municipal Code will require the project to pay park acquisition and development fees or dedicate land for park and recreational purposes. According to the DEIR, approximately 174,555 square feet of open space is proposed. However, this area includes private open space and perimeter open space and is not equivalent to park land provided. In any event, the project should be required to provide land for park and recreational purposes to meet the City of Santa Ana's minimum standard of "two (2) acres of property devoted to parks and recreational purposes for each thousand (1,000) persons residing within the City of Santa Ana." If on-site parkland is not required for the proposed project, residents of the project may be unable to find adequate parks in Santa Ana and may negatively impact parks and overburden parkland facilities in adjacent jurisdictions, including Tustin. These impacts must be mitigated. An analysis of the proposed project's compliance with the City of Santa Ana's park standards should focus on the potential to physically deteriorate existing and future recreational facilities in the City of Tustin, as the nearest existing and planned large scale recreational facilities are located in the City of Tustin. 2
3. According to Table 5.13-1 on page 5.13-2 of the DEIR, with one exception, the nearest City of Santa Ana parks are approximately two (2) to three (3) miles from the project site. As a comparison, the DEIR should analyze the distances from other similar existing City of Santa Ana residential neighborhoods to their nearest community parks. In addition, Table 5.13-2 on pages 5.13-3 and 5.13-4 of the DEIR, which lists City of Tustin and City of Irvine parks within the vicinity of the project site, should be modified to also include Ron Foell (Greenwood) Park. 3
4. It is stated on page 5.13-7 of the DEIR that based "on the existing amount of park and recreation facilities in the vicinity of the Project site, the recreation facilities that would be provided as part of the Project, and the number of residents at full capacity of the proposed Project, the Project is not anticipated to increase the use of existing parks and recreation facilities such that substantial physical deterioration of the facility would occur or be accelerated." However, this statement is not supported by any studies in the DEIR, which should analyze the actual anticipated usage of existing and proposed parks in the City of Tustin, especially those that will offer sports-oriented recreational facilities and playing fields that will not be provided as part of The Bowery Mixed Use Project. The proposed Veterans Sports Park at Tustin Legacy, for example, will be three times larger and about half the distance from the Project site than the closest park in Santa Ana and will offer new, state of art facilities that will be attractive to park users. The analysis in the DEIR should consider the quality, amenities, and attractiveness of nearby parks when estimating park usage. 4
5. The DEIR notes that any park fees collected for the Project would be expended for the acquisition, construction, and renovation of park and recreation facilities in Santa Ana. Therefore, it should also be noted in the DEIR that the collected park fees would not directly benefit any park facilities in Tustin. The statement in the DEIR that "by payment of the required park fees, the Project would provide funding to offset any increased usage at other park and recreation facilities within Santa Ana. Overall, the proposed Project would not result in substantial physical deterioration of park and recreation facilities, and impacts would be less than significant." is misleading because it only applies to parks in Santa Ana and should not be used to reach the conclusion regarding deterioration of parks in Tustin. 5

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 The Bowery Project DEIR
 February 5, 2020
 Page 3

- 6. It is incorrectly stated on page 5.13-5 of the DEIR that 5,136.35 acres of parkland will be provided per Project resident at full occupancy.

6
- 7. Table 5.13-3 appears to be missing a column for average travel times between 13 and 20 minutes.

7
- 8. The project consists of 1,150 multi-family units and 80,000 square feet (SF) of commercial uses broken down into 18,000 SF of retail and 62,000 SF of quality, casual sit-down, fast food with and without drive-through and coffee/donut shop types of restaurant uses. The project trip generation is 1,012 AM, 1,315 PM and 16,785 average daily trips (ADT). The use of discounts to reduce project trip generation, such as internal and pass-by trips, results in a projected reduction of project trips as great as 42% in the PM peak hour. The reduced project trip generation with these discounts is 691 AM, 762 PM and 12,872 ADT. The use of these trip discounts results in reduced anticipated off-site impacts. The City of Tustin recommends that the worst-case scenario be presented rather than the best-case scenario. It should be noted that the analysis for The Heritage Project at 2001 East Dyer Road did not factor in pass-by trips to discount project trips.

8
- 9. The Industrial Park trip generation for the existing land use is higher than the trip generation based on the Institute of Transportation Engineers (ITE) industrial park classification (i.e., per thousand square feet (TSF): .32 and .08 for AM in and out and PM in and out and 3.37 for ADT). The use of the higher trip generation for existing uses results in a reduced net trip generation change when compared to the proposed project, which would not be the worst-case scenario. Again, a worst-case scenario should be used when projecting trip generation for the proposed project.

9
- 10. A queuing analysis should be provided for the left-turn into Driveway 1 at Warner Avenue to determine if the forecasted 290 vehicles in the PM peak hour can be accommodated in the proposed left-turn pocket and not have a negative impact on through traffic.

10
- 11. Due to the high inbound southbound peak hour volume of 265 vehicles into Driveway 3 on Red Hill Avenue, the City of Tustin recommends a dedicated right-turn lane to separate the right-turns from through traffic in the #3 lane where speeds are 50 mph. The right-turn pocket length should be based on Synchro.

11
- 12. At Red Hill Avenue and Warner Avenue, the northbound left-turn volume in the PM peak hour increases from 578 to 860 with the project. Please demonstrate that the left-turn pocket length for northbound Red Hill Avenue can accommodate the additional 282 vehicles.

12
- 13. 2040 PM Peak Hour Mitigation: A right-turn overlap implies that there is a right-turn lane. Will the project construct one and operate it with a right-turn overlap? To remain eligible and qualify for Measure M funding, the City of Tustin does not support the conversion of the #3 through lane into a right-turn lane which would result in a downgrade of Red Hill Avenue. Should an alternative mitigation be selected, the City of Tustin's preference would be the addition of a dedicated right-turn lane on eastbound Warner Avenue to serve the high right-turn volume in the AM Peak Hour (i.e., 346 vehicles).

13

Mr. Jerry Guevara
 The Bowery Project DEIR
 February 5, 2020
 Page 4

- 14. Tustin Ranch Road and Warner Avenue North: For City of Tustin locations where the intersection capacity utilization (ICU) is greater than the acceptable level of service (i.e., LOS E or ICU is greater than .90), mitigation of the project contribution is required to bring the intersection back to no-project conditions or better if the project contribution is greater than .02 or greater at non-Congestion Management Program (CMP) locations. Therefore, this intersection is not considered adversely impacted by the proposed project. The DEIR indicates that the intersection is adversely impacted and should be revised. | 14
- 15. Project feature of a new signal at Driveway 1/Warner Avenue intersection: Due to its proximity to the Red Hill Avenue and Warner Avenue signalized intersection maintained by the City of Tustin, it is expected that the proposed new signal at Driveway 1/Warner Avenue be also maintained by the City of Tustin. The Project shall be required to collaborate with the City of Tustin in its design and construction. | 15
- 16. Future Project of a Class II Bicycle Facility on Warner Avenue: The proposed project shall be required to collaborate on the proposed joint Santa Ana/Tustin project to add a Class II Bike Lane on Warner Avenue on the northern boundary of the Project, with the City of Santa Ana as the lead. | 16
- 17. The through traffic volumes on Warner Avenue west of Red Hill Avenue decrease significantly to/from the Red Hill Avenue and Warner Avenue intersection, which may underestimate the project impact at the proposed signalized project driveway on Warner Avenue. Please provide an explanation of the decreased through traffic volumes. | 17
- 18. In Tables 8 and 12, please correct the level of service (LOS) for Intersection 22 – Red Hill Avenue at Edinger Avenue to LOS D in the PM peak hour. | 18

Thank you again for the opportunity to provide comments on the proposed project. The City of Tustin would appreciate receiving early responses to our comments as well as a copy of the Final EIR when it becomes available and all future public hearing notices with respect to this project. Please provide all future CEQA notices regarding this project to the undersigned pursuant to Public Resources Code Section 21092.2. | 19

If you have any questions regarding the City's comments, please call Scott Reekstin, Principal Planner, at (714) 573-3016 or Krys Saldivar, Public Works Manager, at (714) 573-3172.

Sincerely,



Elizabeth A. Binsack
 Community Development Director

Mr. Jerry Guevara
The Bowery Project DEIR
February 5, 2020
Page 5

cc: Jerry Guevara, Assistant Planner I, Santa Ana Planning and Building Agency
Matthew S. West, City Manager
Nicole Bernard, Assistant City Manager
David Kendig, City Attorney
Douglas S. Stack, Public Works Director
Chad Clanton, Parks and Recreation Director
Ken Nishikawa, Deputy Director of Public Works/Engineering
Chris Koster, Deputy Director of Economic Development
Justina Willkom, Assistant Director – Planning
Krys Saldivar, Public Works Manager
Scott Reekstin, Principal Planner

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Letter A8: City of Tustin

Comment 1: This comment describes the proposed Project and states that the City is concerned with the significant changes in land uses (i.e., from commercial and industrial buildings to residential mixed use) along Red Hill Avenue, Warner Avenue, and Dyer Road that are proposed by the Project and have occurred recently with the approval and construction of The Heritage project at 2001 East Dyer Road. The comment also states that the City of Santa Ana has already demonstrated that land use intensifications will likely continue, as evidenced by proposed land use changes in the Santa Ana General Plan Update, and while individually each project may cause relatively modest changes in traffic patterns or impacts to parks, the cumulative impacts are likely to be substantial. Therefore, the comment states that there should be some overall projections of the anticipated changes in land uses, so the cumulative impacts related to traffic and parks and the associated mitigation can be documented. The comment also states that the Santa Ana General Plan Update or a focused General Plan Amendment for the Red Hill Avenue corridor should be completed before the proposed Project is considered so that cumulative impacts are properly analyzed and mitigated.

Response 1: This comment provides concerns related to overall growth from land use intensifications and related cumulative impacts. Cumulative impacts are evaluated throughout Chapter 5 of the Draft EIR pursuant to the requirements of CEQA. The EIR is a “Project” EIR. As described in CEQA Guidelines Section 15161, a “Project” EIR should focus primarily on the changes in the environment that would result from the development project. A project EIR’s evaluation of cumulative impacts may be based on a list of past, present, and probable future projects producing related impacts (CEQA Guidelines Section 15130(b)(1)(A)). “Probable future projects” include those for which an actual development application has been filed and for which actual environmental review is underway (*San Franciscans for Reasonable Growth v. City & County of San Francisco* (1984) 151 Cal.App.3d 61, 74). The City of Santa Ana sets the date of the project’s Notice of Preparation (NOP) as the reasonable cutoff date for determining what projects have environmental review underway and should be included in the cumulative impacts analysis (See *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1128 [reasonable to set a project’s application date as the cutoff]). Cumulative CEQA review for future projects that submitted applications after publication of the NOP for the proposed Project would include the proposed Project in their cumulative analyses, as appropriate. In addition, CEQA Guidelines Section 15130(b)(1) states that it is appropriate for cumulative analysis to utilize projections contained in an adopted local, regional or statewide plan, related planning document, or regionally accepted criteria thresholds; or a reasonable combination of the two.

For example, pursuant to CEQA, the cumulative noise analyses in the Draft EIR is based on identification of the closest project on the list of known projects and whether if it within hearing distance of the project site; whereas the cumulative analyses of air quality emissions are based on emissions thresholds identified by the South Coast Air Quality Management District (SCAQMD). The cumulative population and household analyses, and related growth impacts (such as park and recreation) is based upon a combination of the Southern California of Governments (SCAG) growth projections and the list of known cumulative projects within the Santa Ana, Irvine, and Tustin, and Newport Beach area. Similarly, cumulative traffic analyses are based on the growth projections from the Orange County Transportation Analysis Model (OCTAM) and the number of vehicular trips from the list of cumulative projects within the traffic study area that is provided in the Draft EIR. Based on these growth projections, the Draft EIR includes mitigation measures to reduce cumulative impacts. The cumulative analyses differ with each environmental topic because the geographic scope and other parameters of each cumulative analysis discussion can vary, and mitigation is incorporated as needed, as described for each environmental topical section in the Draft EIR. Thus, based on the CEQA requirements for a “project” EIR, the Draft EIR has properly analyzed and mitigated cumulative impacts.

However, the City is currently also working through preparation of an EIR for the General Plan Update. The NOP for the EIR for the General Plan has been released for a 30-day public review from February 26, 2020 to March 27, 2020 and identifies the anticipated growth throughout the City, as broken down into Focus Areas and Specific Plan areas. In addition to the project level CEQA required cumulative analysis that was prepared by the Draft EIR, the General Plan Update EIR will include evaluation of the anticipated changes in land uses and growth throughout the City, including those in the vicinity of the Project site, and provide an appropriate cumulative analysis, with mitigation, as needed.

Comment 2: This comment states that the open space proposed by the Project this area includes private open space and perimeter open space and is not equivalent to park land provided, and the Project should be required to provide land for park and recreational purposes to meet the City of Santa Ana's minimum standard of 2 acres of property devoted to parks and recreational purposes for each thousand persons residing within the City of Santa Ana. The comment also states that if on-site parkland is not required for the proposed Project parkland facilities in Tustin may be impacted and must be mitigated. The comment states that the analysis of the Project's compliance with the City's park standards should focus on the potential to physically deteriorate existing and future recreational facilities in the City of Tustin, as the nearest existing and planned large scale recreational facilities are located in the City of Tustin.

Response 2: As detailed in Section 3.0, *Project Description*, the proposed Project includes 174,555 square feet of exterior open space recreation area and approximately 8,008 square feet of interior amenities to total 183,363 square feet of recreational and open space onsite. Each of the four residential buildings would have a recreational open space area that would include a pool, spa/hot tub, outdoor kitchen, seating areas, fitness center, and club room. These onsite amenities are anticipated to meet many of the park and recreation needs of Project residents. Based on a standard of 2 acres of public park and/or recreational space per 1,000 residents (Municipal Code Section 35-108), the proposed Project would require 4.2 acres of parkland to serve the new residents; and the Project includes a total of 4.2 acres (183,363 square feet) of park and recreation area. Therefore, the Project would include the Municipal Code required park and/or recreational space. In addition, the 81.88 acres of Santa Ana parkland within 3-miles of the Project site provides a variety of facilities that include sports fields, exercise equipment, picnic areas, and playgrounds to serve the park and recreational needs of the Project residents and employees.

Page 5.13-7 of the Draft EIR states that based on the California State Parks³ information for the Southern California Region, the anticipated number of Project residents at full occupancy (2,081 residents), the distance and type of recreational facilities near the Project site, it is anticipated that the Project would generate 348 additional park users two or more times per week, 287 additional park users about once per week, 429 additional park users once or twice per month, 508 additional park users several times a year, and 314 additional park users once or twice a year. The California State Parks information also states that users spent an average of 30 minutes per visit. This level of use would average approximately sixteen 30-minute users per week per acre of Santa Ana parkland within 3 miles of the Project site. Including the City of Tustin and Irvine parkland within 3 miles of the Project site (totaling approximately 243.38 acres), the level of use would average approximately five 30-minute users per week per acre of parkland. In addition, use of sports fields by approximately 14 percent of adults and 33.1 percent of those under 18 years old that utilize park and recreation facilities (per California State Parks data) is largely used by organized sports leagues that pay fees to the City in which they are in for use of the facilities, which is used to fund maintenance and improvements related to use of the facilities. Based on this level of use and sport league fees associated with sports field/court use, the Project is not anticipated to increase the use of existing and

³ Draft EIR Section 5.13, Parks and Recreation, and California State Parks, Survey on Public Opinions and Attitudes on Outdoor Recreation in California, January 2014 (California State Parks 2014). Accessed: <https://www.parks.ca.gov/pages/795/files/2012%20spoa.pdf>

future parks and recreation facilities, including those in the City of Tustin, such that substantial physical deterioration of any facility would occur or be accelerated.

Comment 3: This comment states that according to Table 5.13-1 on page 5.13-2 of the Draft EIR, with one exception, the nearest City of Santa Ana parks are approximately two to three miles from the Project site. The comment states that as a comparison, the Draft EIR should analyze the distances from other similar existing City of Santa Ana residential neighborhoods to their nearest community parks. The comment also states that Table 5.13-2 on pages 5.13-3 and 5.13-4 of the DEIR, which lists City of Tustin and City of Irvine parks within the vicinity of the project site, should be modified to also include Ron Foell (Greenwood) Park.

Response 3: As described in Response 1, the EIR is a “Project” EIR. As described in CEQA Guidelines Section 15161, a “Project” EIR should focus primarily on the changes in the environment that would result from the development project. The location of other City residential neighborhoods and park locations is not an impact related to the proposed Project. However, as detailed in Table 5.13-1 in Section 5.13, *Parks and Recreation of the Draft EIR*, and described in the previous response, the City of Santa Ana has 11 existing parks that provide 81.88 acres of parkland within 3 miles of the Project site. The Draft EIR Table 5.13-3 shows that over 37 percent of people regularly drive within 10 minutes to reach typical outdoor recreation uses; 20.8 percent drive between 11-20 minutes; and another 31.3 percent drive between 20 and 60 minutes. Also, 79.3 percent walk 12 minutes or less to outdoor recreation. All of the 81.88 acres of Santa Ana parkland are within a 10-minute driving distance of the Project site and all of the parkland within both Santa Ana and Tustin are beyond the 12-minute walking distance. Thus, both parkland within Santa Ana and Tustin from residents at the Project site would be generally accessed by vehicle. Moreover, per the California State Parks data, the existing parkland within 3 miles of the Project site is within the geographical area that most park visitors utilize.

In addition, pursuant to this comment, Table 5.13-2 of the DEIR, was modified to include Ron Foell (Greenwood) Park, as provided below and in Chapter 3, *Revisions to the Draft EIR*.

<u>Ron Foell (Greenwood) Park, Windrow Rd</u>	<u>Playground, Amphitheater, Basketball Court, 2 Bocce Ball courts, 1.4 miles of Walking Trails, Picnic Pavilions</u>	<u>5 acres</u>	<u>1.9 miles</u>	<u>Driving: 4 minutes</u> <u>Walking: 39 minutes</u>
Total of Tustin Parkland Within 3 Miles of the Project Site		92.9 97.9 acres		

Comment 4: This comment asserts that the EIR determination that parks would be less than significantly impacted is not supported by any studies and that the EIR should analyze the actual anticipated usage of existing and proposed parks in the City of Tustin, especially those that offer sports-oriented recreational facilities. The comment also states that the proposed Veterans Sports Park at Tustin Legacy would be larger and about half the distance from the Project site than the closest park in Santa Ana and will offer new, state of art facilities that will be attractive to park users. The comment further states that the EIR should consider the quality, amenities, and attractiveness of nearby parks when estimating park usage.

Response 4: As described in Responses 2 and 3 previously, based on the California State Parks information the Project would average approximately five 30-minute users per week per acre of parkland within 3 miles of the Project site (including those in the City of Tustin). Regarding City of Santa Ana sports-oriented recreational facilities, of the 10 Santa Ana parks listed in Table 5.13-1 of the Draft EIR, that are 3-miles from the Project site, 6 provide sports-oriented recreational facilities, that include: baseball fields, basketball courts, multi-purpose fields, handball courts, swimming pool, tennis courts, and volleyball courts. The closest City of Santa Ana park with sports-oriented recreational facilities is Delhi Park, which is 10.4 acres and located 1.4 miles from the Project site.

As described previously, sports fields are used by approximately 14 percent of the adults and 33.1 percent of those under 18 years old that utilize park and recreation facilities (per California State Parks data). The use of the sports-oriented recreational facilities is largely by organized sports leagues that pay fees to the City for use of the facilities, which is used to fund maintenance and improvements related to use of the facilities. Although the proposed Veterans Sports Park at Tustin Legacy, which is 31.5 acres and 0.9 mile from the Project site would offer new amenities that would be attractive to Project site residents, the anticipated usage of the facility based on the data from the California State Parks indicates that the potential deterioration of the facility from use by Project residents would be less than significant.

Comment 5: This comment states that the park fees collected by the Project would not directly benefit any park facilities in the City of Tustin. The comment also states that the payment of fees to offset park usage would only apply to parks in Santa Ana and should not be used to reach the conclusion regarding deterioration of parks in Tustin.

Response 5: Although the Draft EIR states on page 5.13-7 that the payment of fees would provide funding for park and recreation facility improvements, the statement is not the basis for the less than significant determination. The basis for the less than significant determination is described previously in Response 2. As described previously, and detailed on page 5.13-7 of the Draft EIR, based on the data from the California State Parks, the existing amount of park and recreation facilities in the vicinity of the Project site, the amount and quality of recreation facilities that would be provided as part of the Project, and the number of residents at full capacity of the proposed Project, the Project is not anticipated to increase the use of existing parks and recreation facilities, including those within the City of Tustin, such that substantial physical deterioration of the facility would occur or be accelerated.

Comment 6: This comment states that it is incorrectly stated on page 5.13-5 of the DEIR that 5,136.35 acres of parkland will be provided per Project resident at full occupancy.

Response 6: The last sentence on page 5.13-5 of the Draft EIR contains a typographical error, referring to acres instead of square feet, and has been modified as provided below and in Chapter 3, *Revisions to the Draft EIR*. In addition, the existing parkland information in the second to last sentence has been updated to reflect the additional park information provided previously in Comment 3. Thus, the last two sentences on page 5.13-5 have been revised as provided below.

In addition, there are ~~92.9~~ 97.9 acres of parkland within the City of Tustin and 63.6 acres of parkland within the City of Irvine Park facilities (listed in Table 5.13-2) that are also within 3 miles of the Project site and are likely (due to location) to be used by residents of the proposed Project. This equals approximately ~~245.38~~ 243.38 acres of existing parkland within three miles of the site, which equates to ~~5,136.35 acres~~ 5,094.49 square feet of parkland per Project resident at full occupancy.

Comment 7: This comment states that Table 5.13-3 appears to be missing a column for average travel times between 13 and 20 minutes.

Response 7: Table 5.13-3 includes a typographical error. The fourth column was to provide average travel times between 11 and 20 minutes and has been modified as provided below and in Chapter 3, *Revisions to the Draft EIR*.

Table 5.13-3: Average Travel Time in Southern California to Outdoor Recreation Areas

Mode	<5 min	6-10 min	11-12 20 min	21-60 min	>60 min
Driving	20.1%	17.2%	20.8%	31.3%	10.6%
Walking	27.5%	20.3%	31.5%	18.9%	1.8%

Source: California State Parks, 2014.

Comment 8: This comment identifies the Project trip generation as identified in the Draft EIR and states that the use of trip discounts results in reduced anticipated off-site impacts. The City of Tustin recommends that the worst-case scenario be presented rather than the best-case scenario. It should be noted that the analysis for The Heritage Project at 2001 East Dyer Road did not factor in pass-by trips to discount project trips.

Response 8: The application of pass-by and internal trip capture reductions provide a realistic estimate of Project trips that reflects a reasonable estimate of the operation of the mixed-use Project that would provide residences, retail and restaurant uses, and employment; and is located on a site that is geographically in between homes and business, and lends itself to by-pass trips. Neither CEQA, nor City practice, requires the Project to evaluate an unrealistic worst-case scenario. It is reasonable and supported by published data to anticipate that there will be pass-by trips and internal capture, which is the goal of mixed-use development. All pass-by rates and internal capture percentages were referenced by widely used and accepted rates from the Institute of Transportation Engineers (ITE). The City notes that The Heritage project did not include pass-by trips in their trip generation analysis. However, The Heritage proposed a different mix of land uses and did not include coffee shop and fast-food uses, as proposed by the proposed Project. The Heritage did include reductions for internal trip capture.

Comment 9: This comment states that the Industrial Park trip generation for the existing land use is higher than the trip generation based on the Institute of Transportation Engineers (ITE) industrial park classification (i.e., per thousand square feet (TSF): 0.32 and 0.08 for AM in and out and PM in and out and 3.37 for ADT). The use of the higher trip generation for existing uses results in a reduced net trip generation change when compared to the proposed project, which would not be the worst-case scenario. The comment states that a worst-case scenario should be used when projecting trip generation for the proposed Project.

Response 9: The Industrial Park trip rate used for this study came from the ITE Trip Generation Handbook 10th Edition. To accurately represent project trip generation, truck trips were calculated and a PCE factor was added to truck trips. Because the previous land use would generate more truck trips than the proposed land use, this is an appropriate method to represent the actual impact of the existing land uses on the adjacent roadways and intersections.

Comment 10: This comment states that a queuing analysis should be provided for the left-turn into Driveway 1 at Warner Avenue to determine if the forecasted 290 vehicles in the PM peak hour can be accommodated in the proposed left-turn pocket and not have a negative impact on through traffic.

Response 10: As a project design feature and condition of approval, the project applicant will implement the median modifications on Warner Avenue. A queuing analysis was prepared using Synchro for the northbound left-turn queue at Red Hill Ave/Warner Ave and the westbound left-turn lane at the project driveway. The table in this response provides the calculated queues. At the intersection of Red Hill Avenue/Warner Avenue, the northbound left-turn lane would accommodate the expected queue in all scenarios. At the project driveway, the worst-case left-turn queue is approximately 179 feet during the PM peak hour. The final design of the left-turn lane has not been completed, however, to accommodate the forecast queue, a minimum of 180 feet of storage plus a 60-foot transition would be provided (240 feet total). The westbound left-turn pocket on Warner just east of the project driveway would be removed to accommodate the required left-turn lane at the project driveway. This modification would change access to the Warner Corporate Park site located on the north side of Warner Avenue. Currently, there are two driveways to the Warner Corporate Park, a right-in/right-out only driveway at the location of the proposed project driveway (western driveway) and a full-access driveway approximately 270 feet to the east of the project driveway (eastern driveway). The proposed turn lane modification would revise the eastern driveway to Warner Corporate Park to right-in/right-out only and a full-access signalized driveway would be provided at the western driveway. As shown in the table below, the Project queuing would be adequately accommodated.

	Red Hill Ave/Warner Ave	Driveway 1/Warner Ave
	NBL Queue	WBL Queue
Available Storage	395 Feet	670* Feet (approx. 270 Feet to first intersecting driveway).
Existing Plus Project		
Queue Length	157/388	104/179
Opening Year Plus Project		
Queue Length	152/232	122/172
2040 Plus Project		
Queue Length	145/373	155/155
*Space between conflicting intersections due to final median design not known yet. Queue length reported in feet for the AM/PM peak periods		

Comment 11: This comment states that due to the high inbound southbound peak hour volume of 265 vehicles into Driveway 3 on Red Hill Avenue, the City of Tustin recommends a dedicated right-turn lane to separate the right-turns from through traffic in the #3 lane where speeds are 50 mph. The comment states that the right-turn pocket length should be based on Synchro.

Response 11: A right-turn lane is not proposed at the driveway, nor has been recommended by the City of Santa Ana. The comment notes that during the PM peak hour, approximately 265 trips are expected to turn right into the Project. However, during this time the southbound through traffic is only forecast to be 770 trips in the 2040 baseline scenario. There are three southbound lanes at the project driveway with a total hourly capacity of 5,100, which corresponds to LOS A on southbound Red Hill Avenue adjacent to the Project. Southbound through vehicles would be able to utilize the #1 and #2 lane for through traffic if right-turning vehicles significantly impede traffic in the #3 lane. Additionally, there are no right-turn lanes along Red Hill Avenue between Barranca Parkway/Dyer Road and Edinger Avenue, yet there are business parks with driveways on Red Hill Avenue on the west side of the roadway. According to SWITRS data, no collisions have been reported in the last three years at any driveway on Red Hill Avenue.

Comment 12: This comment states that at Red Hill Avenue and Warner Avenue, the northbound left-turn volume in the PM peak hour increases from 578 to 860 feet with the Project. The comment requests demonstration that the left-turn pocket length for northbound Red Hill Avenue can accommodate the additional 282 vehicles.

Response 12: A queuing analysis was prepared using Synchro for the northbound left-turn lane at the Red Hill Avenue/Warner Avenue intersection (queue sheets attached). The results show that the projected queue can be adequately contained in the northbound left turn storage.

Comment 13: This comment states that for the 2040 PM Peak Hour mitigation includes a right-turn overlap, which implies that there is a right-turn lane. The comment asks if the Project would construct a right turn and operate it with a right-turn overlap and states that to remain eligible and qualify for Measure M funding, the City of Tustin does not support the conversion of the #3 through lane into a right-turn lane which would result in a downgrade of Red Hill Avenue. The comment further states that should an alternative mitigation be selected, the City of Tustin's preference would be the addition of a dedicated right-turn lane on eastbound Warner Avenue to serve the high right-turn volume in the AM Peak Hour (i.e.,346 vehicles).

Response 13: The comment is correct that the mitigation measure is in error and can not be implemented

without construction of a right-turn lane. However, the mix of retail and restaurant types of uses included in the Project has been modified, as shown below and listed in Chapter 3, *Revisions to the Draft EIR*. The proposed 80,000 square feet of commercial space would consist of the following uses:

- Retail Shopping Center: ~~18,000~~ 31,000 square feet
- Fast Casual Restaurant: ~~5,000~~ 3,500 square feet
- Quality Restaurant: ~~25,000~~ 20,000 square feet
- High-Turnover Sit-Down Restaurant: ~~25,000~~ 20,000 square feet
- Fast Food Restaurant: ~~5,000~~ 3,500 square feet
- Coffee/Donut Shop: 2,000 square feet

The resulting trip generation of the Project would be lower; and as detailed in the Final TIA, included as Appendix A of this Final EIR. Due to the lower trip generation, the Project would no longer result in significant impact at the intersection of Red Hill Avenue/Warner Avenue in the 2040 PM Peak Hour condition, and mitigation measures are not required.

Comment 14: This comment refers to Tustin Ranch Road and Warner Avenue North and states that for City of Tustin locations where the intersection capacity utilization (ICU) is greater than the acceptable level of service (i.e., LOS E or ICU is greater than 0.90), mitigation of the project contribution is required to bring the intersection back to no-project conditions or better if the project contribution is greater than 0.02 or greater at non-Congestion Management Program (CMP) locations. Therefore, this intersection is not considered adversely impacted by the proposed Project. The comment states that Draft EIR indicates that the intersection is adversely impacted and should be revised.

Response 14: The methodology section in the TIA has been modified to accurately reflect the thresholds. The impact and mitigation measure for Intersection 47, Tustin Ranch Road and Warner Avenue North, were removed. The Final TIA is included as Appendix A of this Final EIR.

Comment 15: This comment refers to the proposed a new signal at Driveway 1/Warner Avenue intersection, and states that due to its proximity to the Red Hill Avenue and Warner Avenue signalized intersection maintained by the City of Tustin it is expected that the proposed new signal at Driveway 1/Warner Avenue be also maintained by the City of Tustin. The comment also states that the Project shall be required to collaborate with the City of Tustin in its design and construction.

Response 15: Language was added to the Final TIA to indicate that the design and construction of the signal will be coordinated with the City of Tustin. The Final TIA is included as Appendix A of this Final EIR.

Comment 16: This comment refers to a Class II Bicycle Facility on Warner Avenue and states that the proposed Project shall be required to collaborate on the proposed joint Santa Ana/Tustin project to add a Class II Bike Lane on Warner Avenue on the northern boundary of the Project, with the City of Santa Ana as the lead.

Response 16: Language was added in Table 4. Study Area Roadway Characteristics to indicate planned Class II Bike Lanes along Warner Avenue. According to the City of Santa Ana, the Project would maintain the existing southern curb lines on Warner Avenue. The Bowery Project's street improvements will coordinate with the bike lane project to ensure that the bikeway project is not precluded. The Final TIA is included as Appendix A of this Final EIR.

Comment 17: This comment states that the through traffic volumes on Warner Avenue west of Red Hill Avenue decrease significantly to/from the Red Hill Avenue and Warner Avenue intersection, which may underestimate the Project impact at the proposed signalized Project driveway on Warner Avenue. The comment requests an explanation of the decreased through traffic volumes.

Response 17: The through volumes on Warner Avenue have been corrected and the Project driveways were re-evaluated with the higher volumes, as shown in the Final TIA, included as Appendix A. Both driveways would operate with satisfactory LOS D or better with the corrected volumes.

Comment 18: This comment refers to Traffic Impact Analysis Tables 8 and 12, and states that the Level of Service (LOS) for Intersection 22, Red Hill Avenue at Edinger Avenue needs to be corrected to LOS D in the PM peak hour.

Response 18: The LOS tables have been modified to correctly indicated that 0.90 indicates LOS D. This is shown in the Final TIA, included as Appendix A.

Comment 19: This comment states that the City of Tustin would receiving early responses to our comments as well as a copy of the Final EIR when it becomes available and all future public hearing notices with respect to the Project pursuant to Public Resources Code Section 21092.2.

Response 19: This comment does not provide any concerns or questions regarding the adequacy of the Draft EIR. The City of Tustin will remain on the mailing list for the Project and will receive notification of availability of the Final EIR, in addition to all other public notices.