



September 15, 2021

**Via Email**

City of Santa Ana Planning Commission  
20 Civic Center Plaza  
Santa Ana, CA 92701  
c/o Commission Secretary Sarah Bernal  
[SBernal@santa-ana.org](mailto:SBernal@santa-ana.org).

Re: Santa Ana General Plan Update Open Space Element

Dear Commissioners:

Rise Up Willowick appreciates the opportunity to comment on the City of Santa Ana's August 2021 draft General Plan Update ("the Update"). A memo to the Planning Commission on the Update's Open Space Element is attached as Exhibit A.<sup>1</sup> We previously submitted comments on an earlier draft of the Update in an October 6, 2020 letter to City planning staff, attached as Exhibit B, and a November 9, 2020 letter to the Planning Commission, attached as Exhibit C. Those earlier comments remain relevant to the draft Update and are hereby incorporated by reference.

The policies and implementation actions in the Update's Open Space Element seek to avoid loss of parkland and create new public parkland, prioritizing currently underserved areas and requiring private developments to create public open space. We commend the City for revising these measures in response to public comments received on the previous draft Update. However, the Open Space Element still falls short in several respects.

Most importantly, the City's standard of two acres of parks per 1,000 residents is not sufficient to meet the needs of City residents and is much less than the ratio of parkland to residents in other comparable jurisdictions. The City should increase its park standard from two to three acres of parkland per 1,000 residents. The City does not meet its current, low standard, and under the Update the total "parkland deficiency" is projected to increase further, from 118.14 acres to 299.48 acres at build-out unless the City develops new parks. RDPEIR at 5.15-28. In

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<sup>1</sup> These comments do not discuss the adequacy of the Update's accompanying Recirculated Draft Program Environmental Impact Report ("RDPEIR") under the California Environmental Quality Act, which is addressed in a separate letter to City planning staff submitted on behalf of Rise Up Willowick by Shute, Mihaly & Weinberger LLP.

order to address this parkland deficiency and meet the needs of City residents, the City needs more ambitious policies to facilitate parkland creation.

The City should increase the Open Space Element's park standard to a ratio of three acres per 1,000 residents, and should amend the Municipal Code to reflect this standard. In addition, as outlined in the attached memo, we urge the City to revise the Open Space Element to:

- (1) define the terms "parks," "parkland," "open space," "park deficient area" and "environmental justice area,"
- (2) apply the "no net loss" policy to open space as well as to parkland and strengthen provisions on replacement of lost open space,
- (3) increase parkland dedication requirements for new development projects in order to meet the City's enhanced park standard,
- (4) extend parkland dedication requirements to a broader range of market-rate development projects,
- (5) require that parkland created by dedication be located within a half-mile walking distance of the associated development, and
- (6) include more specific incentive mechanisms to create new parkland, especially within park deficient and environmental justice areas.

The attached memo suggests language for General Plan policies and implementation actions that would address each of these issues. We respectfully request that the City revise the Open Space Element to reflect these proposals. Thank you for your consideration.

Very truly yours,

Rise Up Willowick

A handwritten signature in black ink, appearing to read 'Cynthia Guerra', is written over a light gray rectangular background.

Cynthia Guerra

List of Exhibits:

Exhibit A: Rise Up Willowick, Comments to City of Santa Ana Planning Commission re: Proposed Changes to Open Space Element of City of Santa Ana General Plan Update, September 15, 2021.

Exhibit B: Letter from Rise Up Willowick to Verny Carvajal re: Comments on Santa Ana General Plan Update DPEIR, October 6, 2020.

Exhibit C: Letter from Rise Up Willowick to the City of Santa Ana Planning Commission re: Santa Ana General Plan Update EIR, November 9, 2020.

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# **EXHIBIT A**



TO: City of Santa Ana Planning Commission

FROM: Rise Up Willowick

DATE: September 15, 2021

RE: Proposed Changes to Open Space Element of City of Santa Ana General Plan Update

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Rise Up Willowick proposes the following changes and additions to the Open Space Element of the City of Santa Ana’s August 2021 draft General Plan Update.

**1. Definitions of Key Terms**

The Open Space Element lacks definitions for key terms used in several policies and implementation actions involving parks and open space. These definitions are needed to clarify the scope and effects of those policies and actions. We propose modifying the Open Space Element to define “parks” and “parkland” with reference to the Municipal Code’s existing definition of “parks”:

As used in the Open Space Element, “parks” and “parkland” have the same meaning as “parks” as defined in Municipal Code Section 31-1 (4).

We propose modifying the Open Space Element to define “open space” as follows:

As used in the Open Space Element, “open space” means “any publicly-accessible parcel or area of land or water, whether publicly or privately-owned, that is reserved for the purpose of preserving natural resources, for the protection of valuable environmental features, or for providing outdoor recreation or education.”

We propose amending the Municipal Code to include this definition of “open space,” which is not currently defined in the code.

We propose modifying the Open Space Element to define “park deficient area” as follows:

As used in the Open Space Element, “park deficient area” means “a geographic area which is located more than 0.25 miles from the nearest public park of 5 acres or less and more than 0.5 miles from the nearest public park larger than 5 acres as measured along the shortest available pedestrian route.”

This is a modified version of the definition used in the August 2021 Recirculated Draft Program Environmental Impact Report (RDPEIR) for the General Plan Update. RDPEIR at 5.15-12, 5.15-13.<sup>1</sup>

We propose modifying the Open Space Element to define “environmental justice area” as follows:

As used in the Open Space Element, “environmental justice area” means “a disadvantaged community as defined by Government Code Section 65302(h)(4)(A), i.e. a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation, or an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code.”

This definition of “environmental justice area” is consistent with the RDPEIR, which references SB 1000’s definition of “disadvantaged community.” Gov. Code § 65302(h)(4)(A); RDPEIR at 4.15-4.16, 5.15-12, 5.15-15. The California Environmental Protection Agency has identified 23 census tracts in Santa Ana as environmental justice communities because they have received a California Communities Environmental Health Screening (CalEnviroScreen) composite score greater than 75 percent. RDPEIR at 2-19, 4-15.

## **2. Proposed Addition of “No Net Loss of Open Space” Policy in General Plan Update**

We propose the addition of a “no net loss of open space” policy in the Open Space Element:

Policy OS-1.14: No Net Loss of Open Space. There shall be no net loss of Open Space in the city, excluding any acreage of a golf course that is redeveloped solely for 100% below-market rate housing. Any Open Space lost due to development shall be replaced at a ratio of at least 1:1.

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<sup>1</sup> The RDPEIR maps park deficient areas using aerial linear distances to the closest park, rather than actual on-the-ground walking distances, which are typically longer due to a lack of direct routes. We propose using on-the-ground walking distances.

Although the Open Space Element already includes a “no net loss of parkland” implementation action (discussed below), the “no net loss” concept is so important and fundamental that it should be articulated as a policy as well. Moreover, given the shortage of both parks and open space in the City, this policy should apply to all open space, not merely to parkland. The City already has a “parkland deficiency” of 118.14 acres, which is expected to increase to 299.48 acres under the Update unless new parks are built. RDPEIR at 5.15-28. Non-park open space provides an important supplemental recreational resource, and can potentially be developed into parkland in the future. The City cannot afford to lose any of its existing parkland or open space acreage.

### **3. Proposed Changes to the Update’s “No Net Loss” Implementation Action**

The draft Open Space Element currently includes this provision:

Implementation Action [OS-]1.4: No-net-loss of parkland. Establish land use provisions in the Municipal Code that prevent a net loss of public parkland in the city. Require at least a 1:1 replacement if there is any loss of public parkland due to public or private development.

City of Santa Ana Draft General Plan Update, Open Space Element, at 16. The City proposes to enact the no-net-loss ordinance in 2022; the City’s Parks, Recreation and Community Services Agency (PRCSA) would be responsible.

We commend the City for including this “no net loss” implementation action in the Update. However, as explained above, this provision should apply to all open space, not only to parkland. The implementation action should specify that net loss of open space will be avoided by prohibiting development that causes such a net loss. Moreover, the provision should clarify that replacement parks and open space must be located within 0.5 miles of the lost parks and open space, to ensure that the replacements serve the same communities. Finally, the implementation action should require that development of replacement parks and open space occur before the closure of the lost parks or open space. This will ensure that there is not a lag or “gap” in time where communities lose park or open space access if the replacement process is delayed.

We propose modifying Open Space Element Implementation Action OS-1.4 to read as follows:

Implementation Action OS-1.4: No Net Loss of ~~parkland~~ Open Space. Establish land use provisions in the Municipal Code that ~~prevent~~ prohibit development that causes a net loss of ~~public parkland~~ Open Space in the city, including City parks as well as other public and private land designated as Open Space under the General Plan or the zoning code, but excluding any acreage of a golf course that is

redeveloped solely for 100% below-market rate housing. Require that any loss of Open Space be replaced at a ratio of at least a 1:1 replacement if there is any loss of public parkland due to public or private development., that loss of public parks be replaced by new public parks, and that replacement Open Space (including public parks) be located within 0.5 miles walking distance from the lost Open Space. Require that a plan for replacement, including specific location of replacement land, be approved before or as part of approval of any project that would change the use of existing parks or Open Space. Require that development of replacement parks or Open Space occur prior to the closure or redevelopment of the lost parks or Open Space.

#### 4. **Proposed Changes to the Open Space Element’s “Park Standard”**

The draft Open Space Element currently includes this “park standard” policy:

Policy OS-1.3: Park Standard. Establish and maintain public open space and recreation requirements for new residential and nonresidential development to provide sufficient opportunities for Santa Ana residents and visitors. Strive to attain a minimum of two acres of park land per 1,000 residents in the City.

City of Santa Ana Draft General Plan Update, Open Space Element, at 5. This parkland-to-resident standard is already reflected in Municipal Code Section 35-108(a), which provides that “[d]evelopment of parks within the city will require the construction of park and recreation facilities sufficient to provide two (2) acres of such facilities per one thousand (1,000) population in the city.”

The August 2021 RDPEIR for the General Plan Update acknowledges that the City currently does not meet this per-resident standard, and under the Update the total “parkland deficiency” is projected to increase further, from 118.14 acres to 299.48 acres at build-out unless additional parks are provided. RDPEIR at 5.15-28.

The City’s standard of two acres of parks per 1,000 residents is not sufficient to meet the needs of City residents and is much less than the ratio of parkland to residents in other jurisdictions. According to the National Recreation and Park Association, the typical jurisdiction has a median of 9.9 of acres of parkland for every 1,000 residents, while jurisdictions of more than 250,000 people (like Santa Ana) have a median of 10.9 acres of parkland per 1,000 residents.<sup>2</sup> Nationally, the bottom quartile of jurisdictions over 250,000 people have a median of 5.3 acres of parkland per 1,000 residents.

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<sup>2</sup> National Recreation and Park Association, NRPA Agency Performance Review 8 (2020), <https://www.nrpa.org/siteassets/nrpa-agency-performance-review.pdf>



The City's parkland standard is also less than the standard set out in the Quimby Act, Government Code section 66477, which allows cities to require that subdivisions dedicate parkland sufficient to provide up to three acres of park area per 1,000 subdivision residents.

Moreover, Policy OS-1.3 has been weakened from the version included in the 2020 draft Update. While the previous draft policy called for the City to "achieve" a park ratio of two acres per 1,000 people (2020 Draft Open Space Element at 5; Final Environmental Impact Report at 2-17), the new draft merely says the City will "strive to attain" that standard. Open Space Element at 5. Given the importance of addressing the City's park deficiency, the policy's language should be mandatory.

We therefore propose revising Policy OS-1.3 to read as follows:

Policy OS-1.3: Park Standard. Establish and maintain public open space and recreation requirements for new residential and nonresidential development to provide sufficient opportunities for Santa Ana residents and visitors. ~~Strive to attain~~ The City shall achieve a minimum citywide park ratio of two-three acres of park land per 1,000 residents in the City. For new residential development in Focus Areas, the City shall prioritize the creation and dedication of new public parkland over the collection of impact fees.

We also propose that the Update include an additional implementation action calling for the City to amend the Municipal Code to reflect this standard:

Implementation Action OS-1.16. Park Standard. Amend Municipal Code Chapter 35, Article IV to require that the City achieve a minimum citywide park ratio of three acres per 1,000 residents.

## **5. Proposed Changes to the Open Space Element's Policies on Parkland Creation and Distribution**

The Open Space Element currently includes the following policies relating to parkland creation and distribution:

Policy OS-1.4. Park Distribution. Ensure the City residents have access to public or private parks, recreation facilities, or trails within a 10 minute walking and biking distance of home. Prioritize park provision, programs, and partnerships in park deficient an[d] environmental justice areas.

RDPEIR at 5.15-20.<sup>3</sup>

Policy OS-1.8. Land Acquisition and Equitable Distribution. Explore options for the acquisition of available lands for parks, open space, greenways and trail corridors, with priority given to sites that are within park deficient or environmental justice areas.

Open Space Element at 6.

Rise Up Willowick supports the Policy's stated goal of more equitable park distribution in park deficient and environmental justice areas. We commend the City for including Policy OS-1.4 and Policy OS-1.8. However, Policy OS-1.4 should use a 0.5 mile walking distance to measure park proximity, a more objective metric than a 10-minute walking distance, which varies depending on a pedestrian's physical capabilities. Policy OS-1.8 should direct the City to acquire new parkland, not merely to "explore options" for doing so.

We propose strengthening and clarifying these policies as follows:

Policy OS-1.4. Park Distribution. Ensure ~~the~~that all City residents have access to public ~~or private~~ parks, recreation facilities, ~~or and~~ trails within a ~~10-minute~~0.5 mile walking ~~and biking~~ distance of ~~home~~their homes. Prioritize park provision, programs, and partnerships in park deficient and environmental justice areas.

Policy OS-1.8. Land Acquisition and Equitable Distribution. ~~Explore options for the acquisition of~~Acquire available lands for parks, open space, greenways and trail corridors, with priority given to sites that are within park deficient ~~or and~~ environmental justice areas.

The Open Space Element includes the following provision regarding park-deficient areas:

Policy OS-1.10. Creative Solutions for Deficiencies. Develop creative and flexible solutions to provide greenspace and recreation activities in neighborhoods where

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<sup>3</sup> There is an error in the draft General Plan Update, which replaces Policy OS-1.4 with language identical to Policy OS-1.5 ("Provide a mix of community, neighborhood, and special use parks, along with greenway corridors, natural areas, and landscape areas, to meet community needs for greenspace, recreation space, social space, and trail connectivity"), thus repeating the same policy twice. We assume that the version of Policy OS-1.4 provided in the RDPEIR (quoted above) contains the correct language.

traditional parks are not feasible. Encourage public, private, and commercial recreational facilities in areas that are park deficient.

#### Open Space Element at 6.

While we support the use of “creative solutions” to address park deficiencies, Policy OS-1.10 requires clarification. We are concerned by the suggestion that there are neighborhoods where “traditional parks are not feasible.” The City’s long term goal should be to provide public parkland in all park-deficient areas. Moreover, this policy should be revised to make clear that while private or commercial recreational facilities can be a valuable community resource, they are never a substitute for public parkland. The City should not abandon efforts to create public parks in park-deficient areas merely because those areas contain private or commercial recreational facilities. Such private facilities do not always serve the communities in which they are located and do not provide the spectrum of activities that public parks do. For example, some private recreational facilities (such as golf courses) can exclude lower-income people, and thus could fail to serve residents in surrounding neighborhoods.

We propose modifying Policy OS-1.10 as follows:

Policy OS-1.10. Creative Solutions for Deficiencies. Develop creative and flexible solutions to provide greenspace and recreation activities in park-deficient neighborhoods where traditional parks are not feasible. Prioritize public parks and recreational facilities in park-deficient areas. Encourage ~~public, private, and commercial recreational facilities in areas that are park deficient.~~ that are open to the public, are physically accessible and affordable to residents of surrounding neighborhoods, and serve community needs.

The Open Space Element also includes the following implementation action regarding new parkland:

Implementation Action 1.10: New parkland. Coordinate with property owners to explore options to provide public access and programming in park deficient areas, including options to acquire land through purchase, land dedication, easements, and land leases that would allow for permanent or temporary use of land for recreational opportunities.

#### Open Space Element at 17.

Like Policy OS-1.8, Implementation Action 1.10 should direct the City to acquire new parkland. It should prioritize creation of new permanent public parkland. Other temporary mechanisms can be a helpful supplement. However, these mechanisms will not provide the same level of permanent public benefits or allow the same range of public

uses. They are therefore not a substitute for permanent public parkland. The City should not rely on privately-owned open space to increase recreational opportunities in park-deficient areas.

We propose revising this provision as follows:

Implementation Action 1.10: New parkland. Create new public parkland in park-deficient areas via purchase or land dedication. In addition, coordinate with property owners to explore options to provide public access and programming on privately-owned open space in park deficient areas, including options to acquire land through purchase, land dedication, and obtain easements, and or land leases that would allow for permanent or temporary public use of land such open space for recreational opportunities.

## **6. Proposed Changes to the Open Space Element's Policy on New Development**

The Open Space Element currently includes the following policy on new development:

Policy OS-1.9: New Development. Ensure all new development effectively integrates parks, open space, and pedestrian and multi-modal travelways to promote a quality living environment. For new development within park deficient and environmental justice areas, prioritize the creation and dedication of new public parkland over the collection of impact fees.

Open Space Element at 6.

We propose revising this policy to clarify that new developments must create public parkland via the mechanisms described in Implementation Actions OS-1.6 and OS-1.7 in order to meet the citywide park standard set in Policy OS-1.3:

Policy OS-1.9: New Development. Require that Ensure all new development effectively integrates parks, open space, and provide adequate parks and open space, including via parkland dedication or development fees, in order to meet the City's park standard. Ensure that new development includes pedestrian and multi-modal travelways to promote a quality living environment. For new development within park deficient and environmental justice areas, prioritize the creation and dedication of new public parkland over the collection of impact fees.

## **7. Proposed Changes to the Open Space Element's Development Fee Requirements**

The draft Open Space Element currently includes the following provision:

Implementation Action [OS-]1.6. Development fees. Evaluate the fees required by the City's Acquisition and Development Ordinance and adjust them to better reflect current costs and needs. Update requirements regarding where fees are spent.

Open Space Element at 16. The City proposes to implement the action in 2022.

Implementation Action 1.6 has been modified from the version in the previous 2020 draft Update, and is now much less specific than before. That earlier version (previously Implementation Action 1.8) called for the City to

[c]onsider updating the City's Acquisition and Development Ordinance to better reflect current costs and needs by increasing the parkland dedication requirement, and require that fees collected in place of parkland dedication for specific development projects be utilized to acquire, expand, or improve facilities within the same quadrant or geographic subarea (as defined in the Parks Master Plan) as the project for which the fee was collected.

2020 Draft Open Space Element at 15. The more specific language in the earlier version of the implementation action should be retained in order to strengthen the City's development fee program. In particular, development fees should be used to provide new parkland in the same neighborhood impacted by the development. That geographic limitation should be based on walking distance from the development project (the same approach used for the park dedication requirements in Implementation Action OS-1.7), rather than "quadrant or geographic subarea."

We propose revising Implementation Action OS-1.6 as follows:

Implementation Action OS-1.6. Development fees. Update the City's Acquisition and Development Ordinance and adjust them to better reflect current costs and needs. Update to increase the parkland dedication requirements regarding where fees are spent for new development projects consistent with the dedication requirements specified in Implementation Action OS-1.7. Require that fees collected in place of parkland dedication for specific development projects be utilized to acquire, expand, or improve facilities within 0.5 miles walking distance from the project for which the fee was collected.

## **8. Proposed Changes to the Open Space Element's Parkland Dedication Requirement**

The Open Space Element currently includes the following provision:

Implementation Action [OS-]1.7. Public parkland requirements for larger residential projects. Update the Residential Development Fee Ordinance for Larger Residential Projects to require public parkland within a 10-minute walking distance of the new residential projects. Consider allowing developers a reduction in on-site open space by giving credits for park development or the provision of private park land. Incentivize the creation of public parks that exceed City requirements, especially within park deficient and environmental justice areas. Establish incentives for coordination between two or more residential projects (of any size) to create larger and/or more centralized public park space, such as exploring housing density bonus options for the provision of open space as a public benefit and leverage Residential Development fee to partner with developers to create public open space.

Open Space Element at 17. The City proposes to implement the action in 2022.

Implementation Action 1.7 has been modified extensively from the version included in the previous 2020 draft Update, with many of the specifics have been deleted. The earlier version (formerly Implementation Action 1.15) provided:

Implementation Action 1.15. Public parkland requirements for larger residential projects. Amend the Residential Development Fee in the Municipal Code (Chapter 35, Article IV) to reflect requirements for Larger Residential Projects (100+ units, residential only or mixed-use) to facilitate the creation two acres of new public parkland within a 10-minute walking radius of the new residential project. Establish provisions that allow the Larger Residential Projects to reduce all onsite private and common open space requirements by 50 percent if new public parkland is provided within a 10 minute walking radius and by 80 percent if the new public parkland is immediately adjacent to or on the residential project property. Work with property owners and new development projects within the Focus Areas to identify options (e.g., 100 percent reduction of onsite private and public open space requirements) that would incentivize the creation of public park areas that are more than the minimum and/or if a location can expand park access for an adjoining underserved neighborhood and/or environmental justice area. Establish incentives for coordination between two or more residential projects (of any size) to create larger and/or more centralized public park space.

2020 Draft Open Space Element at 16. The new draft weakens the Update by replacing much of the action's detail with general statements. The more detailed version should be restored, with further changes as outlined below.

The Santa Ana Municipal Code already requires that subdivision map approvals for residential subdivisions of more than 50 parcels dedicate parkland sufficient to

provide two acres of park area per 1,000 people residing in the subdivision. The Quimby Act, Government Code section 66477, authorizes more than that, allowing cities to require that subdivisions dedicate parkland sufficient to provide up to three acres of park area per 1,000 subdivision residents.

We propose modifying Implementation Action OS-1.7 to use all the authority the Quimby Act gives the City. It should require that subdivision dedications of parkland be sufficient to achieve a standard of three acres of parkland per 1,000 residents. In addition, we suggest modifying Action OS-1.7 to require that new  $\geq 80\%$  market-rate, non-subdivision developments of 100 or more units dedicate three acres of new public parkland, and that  $\geq 80\%$  market-rate non-subdivision developments of 50 to 99 units dedicate two acres of public parkland. These changes will help to address the City's parkland deficit, meet the General Plan's parkland standard, and promote equitable park access.

We also suggest changing the limit on the location of dedicated parkland from a "10-minute walking radius" of the development, a subjective measure that varies depending on a pedestrian's physical capabilities, to a 0.5-mile walking radius, a more objective metric. The revised Implementation Action would read as follows:

Implementation Action OS-1.7. Public parklands requirements for larger residential projects. Update the Residential Development Fee Ordinance for Larger Residential Projects to require public parkland within a 10-minute walking distance of the new residential projects. Amend Municipal Code Chapter 34, Article VIII to require that subdivision map approvals for residential subdivisions of more than 50 parcels dedicate parkland sufficient to provide three acres of park area per 1,000 people residing in the subdivision, consistent with Policy OS-1.3. Amend Municipal Code Chapter 35, Article IV to require that projects including 100+ residential units that are 80 percent market-rate or more and do not require a subdivision dedicate three acres of new public parkland concurrent with the completion of and within a 0.5-mile walking radius of the new residential project, and to require non-subdivision projects of 50 to 99 residential units that are 80 percent market-rate or more to dedicate two acres of public parkland concurrent with the completion of and within a 0.5 mile walking radius of the project. Consider allowing developers a reduction in on-site open space by giving credits for park development or the provision of private park land. Establish provisions that allow these projects to reduce all onsite private and common open space requirements by 50 percent if new public parkland is provided within a 0.5-mile walking radius and by 80 percent if the new public parkland is immediately adjacent to or on the residential project property. To the greatest extent possible, parkland created via this dedication process shall be located in park-deficient neighborhoods and environmental justice areas. Incentivize the creation of public

parks that exceed City requirements, especially within park deficient and environmental justice areas. Establish incentives for coordination between two or more residential project (of any size) to create larger and/or more centralized public park space, such as a housing density bonus for the provision of open space as a public benefit and leveraging of Residential Development fees to partner with developers to create public open space.

#### **9. Clarification of the Open Space Element’s Incentives for Parkland Creation**

The new draft Open Space Element deletes an implementation action included in the previous 2020 draft (Implementation Action OS-1.16), which indicated that the City should “[d]evelop an incentives program that encourages private development and public agencies to provide park and recreation facilities beyond the minimum requirements.”

Similarly, Implementation Action OS-1.7 now calls for the City to “[i]ncentivize the creation of public parks that exceed City requirements, especially within park deficient and environmental justice areas” and to “[e]stablish incentives for coordination between two or more residential projects (of any size) to create larger and/or more centralized public park space, such as exploring housing density bonus options for the provision of open space as a public benefit and leverag[ing] Residential Development fee[s] to partner with developers to create public open space.” The Open Space Element should describe these incentives in greater detail.

As suggested by Action OS-1.7, the City could provide a density bonus to development projects that exceed public parkland dedication requirements. This would be similar to the density bonuses provided to projects containing below-market-rate units under Government Code section 65915 (codified in Santa Ana Municipal Code Chapter 41, Article XVI.I). The density bonus could be provided on a sliding scale: development projects which exceed minimum parkland dedication by a greater amount would receive a larger bonus. The size of the maximum density bonus for additional parkland dedication should be no greater than the 25% maximum density bonus for below-market-rate units under the City’s existing density bonus ordinance. Santa Ana Municipal Code § 41-1604(a). However, development projects which include below-market-rate units *and* dedicate more parkland than required should be eligible to receive *both* the parkland density bonus and the affordable housing density bonus. Use of one bonus should not preclude or limit the use of the other.

In the previous draft of the Open Space Element, Implementation Action 1.15 suggested a “100 percent reduction of onsite private and public open space requirements” if a development dedicates public park areas that exceed the minimum dedication requirement. 2020 Draft Open Space Element at 16. The City should consider a revised version of this incentive: reductions of onsite open space should reflect the amount by



which parkland dedication exceeds minimum requirements. For example, a development would receive a 90% reduction in the onsite open space requirement if it dedicates 0.5 acres more than the required amount of parkland and a 100% reduction if it dedicates 1 acre more parkland than required.

#### **10. Proposed Changes to the Open Space Element's Funding Policies**

The Open Space Element currently includes the following policy:

Policy OS-1.11: Funding Sources: Explore and pursue all available funding, including nontraditional funding sources, for park acquisition, facility development, programming, and maintenance of existing and new parks. Set aside park funding to have monies on hand to acquire and develop parkland when opportunities arise and to leverage grant options.

Open Space Element at 6.

We commend the City's commitment to pursue all available funding sources for parks. Given the current park deficiency in the City, the City should set an explicit goal to obtain enough funding for new park development to meet a park standard of three acres per 1,000 residents (see proposed changes to Policy OS-1.3 above). We propose modifying Policy OS-1.11 as follows:

Policy OS-1.11: Funding Sources: Explore and pursue all available funding, including nontraditional funding sources, for park acquisition, facility development, programming, and maintenance of existing and new parks, in order to increase park investment per resident and meet the City's Park Standard of three acres per 1,000 residents (Policy OS-1.3). Set aside park funding to have monies on hand to acquire and develop parkland when opportunities arise and to leverage grant options.

In addition, the City should aim to increase per-resident investment in parks, including maintenance and improvement of existing parks as well as new park development. We propose the addition of an "increased per-resident parks investment" policy in the Open Space Element:

Policy OS-1.15: Park Investment Per Resident. Increase per-resident investment in park maintenance and upgrades in order to ensure equitable access to well-maintained neighborhood parks for all City residents, and increase per-resident investment on new park acquisition and development to a level sufficient to achieve the City's Park Standard of three acres per 1,000 residents (Policy OS-1.3).

Memo to City of Santa Ana Planning Commission  
September 15, 2021  
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## **EXHIBIT B**

October 6, 2020

Verny Carvajal  
Principal Planner  
City of Santa Ana Planning and Building  
Agency  
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vcarvajal@santa-ana.org

Re: Comments on Santa Ana General Plan Update DPEIR,  
Clearinghouse No. 2020020987

Dear Mr. Carvajal:

On behalf of Rise Up Willowick, I write to provide comments on the proposed Santa Ana General Plan Update (“the Update”) and its accompanying Draft Program Environmental Impact Report (“the DPEIR”). The Update will guide the development of Santa Ana, including the Willowick Golf Course site, for many years, and the California Environmental Quality Act (“CEQA”), Public Resources Code § 21000 et seq., requires that the DPEIR thoroughly assess the Update and its environmental impacts. As set forth in the following comments, we urge the City to (1) continue to designate the Willowick site as open space, (2) provide for more affordable housing under the Update and avoid undermining the Housing Element and the City’s Housing Opportunity Ordinance (the “HOO”), and (3) revise the DPEIR to fully analyze the Update’s environmental impacts, especially those related to displacement and environmental justice.

**I. The bulk of the Willowick site should continue to be designated as open space.**

The Willowick Golf Course site lies within the West Santa Ana Boulevard Focus Area, one of the focus areas slated for new development under the Update. DPEIR at 4-6. The Willowick site is currently designated as open space, and the Update proposes to maintain that designation. DPEIR at D-6 to D-8. Rise Up Willowick supports this designation until and unless there is a proposal for developing part of the site with affordable housing. The Trust for Public Land, the California Coastal Conservancy, and

Clifford Beers Housing have submitted a proposal to the City of Garden Grove pursuant to the Surplus Land Act, Government Code sections 54220 et seq., to develop the majority of the site into a community park, with affordable housing on the remainder. *See* Willowick Community Park Proposal, attached as Exhibit A. This public green space will further the goals and policies of the General Plan's Open Space Element, which call for the preservation of existing open space areas and the creation of new public parks. DPEIR at 5.15-13, 5.15-14 (Open Space Element, Goals 1-3).

Designation of the majority of the Willowick site as public open space will help meet the growing demand for parks in the City. The Update's proposed increase in residential density in many areas of the City would lead to increased demand for parks and open space. DPEIR at 5.15-15, 5.15-17. The DPEIR projects that the proposed land use changes would result in construction of an estimated 36,261 dwelling units across the City (DPEIR at H-b-5), and a population increase of 96,855 people (DPEIR at 5.15-16). However, park acreage under the Update would increase by only 1.84 acres. *Id.*

Open Space Element Policy 1.3 calls for the City to achieve a minimum park standard of two acres of parkland per 1,000 residents. The City currently does not meet this per-resident standard, and under the Update the shortfall is projected to increase further: the total "parkland deficiency" would increase from 107.56 acres to 299.48 acres at build-out unless additional parks are provided. DPEIR at 5.15-16. The DPEIR calculates that the City currently has 561.94 acres of parkland, but it includes other kinds of open space in this total, such as sports facilities and school recreational facilities. DPEIR at 5.15-10. Although the DPEIR does not fully explain the basis for this parkland calculation, it appears that it may inappropriately count golf courses and cemeteries towards the parkland total. Golf courses, including the Willowick golf course, are classified as "open space." DPEIR at 5.15-10. A golf course, only usable by a small segment of the population and even then for a fee, is not the kind of public space that meets the community's needs. Cemeteries are also classified as "open space," although they are not available for recreational uses. DPEIR at 3-15. Thus, if the DPEIR counts these areas as parkland, the current park deficit is actually greater than the City claims.

Despite the admitted deficit, the DPEIR concludes that the Update will have less than significant impacts related to park demand. DPEIR at 5.15-15 to 5.15-17 (Impact 5.15-1). It reasons that "[p]rovision of parks under implementation of the GPU, which will occur over time, is expected to keep pace with the increase in population growth related to the plan and would not result in a significant impact." *Id.* at 5.15-16. The DPEIR assumes that the City will develop significantly more open space than the 1.84 acres of future parks designated in the Update, funded via in-lieu impact fees collected

from private developers, among other sources. *Id.* However, the DPEIR fails to provide any evidence that funding will be sufficient to reduce the City's parkland deficiency such that impacts would be less than significant. The DPEIR also asserts that the City's park shortage would be reduced by "private parks and recreational facilities owned and maintained by homeowner associations." *Id.* The DPEIR fails to note that many private recreational facilities, like rooftop parks, are not open to the public and will do nothing to improve park access for most of the City, especially lower-income residents. The DPEIR's unsupported conclusions and its failure to identify mitigation measures are invalid under CEQA.

In order to achieve the City's park standard and accommodate the needs of tens of thousands of new City residents, additional park space is urgently needed, and the 102-acre Willowick site can help meet this need. The Willowick Community Park proposal calls for 90 acres to be set aside for public parkland, with the remaining 12 acres to be developed as affordable housing. *See Willowick Community Park Proposal at 17, 30.* In addition to serving growing citywide demand for parks, real recreational open space at the Willowick site will also help meet the existing needs of nearby residents who currently lack adequate access to green spaces in their neighborhoods. There are an estimated 8,500 people living within a 10-minute walk of the Willowick site who currently lack access to a nearby public park. *See Willowick Community Park Proposal at 26.*

Preserving most of the Willowick site as open space will also help to mitigate environmental impacts associated with other aspects of the Update. The DPEIR indicates that the proposed increases in intensity of development and population growth under the Update are projected to generate significant impacts on air quality and greenhouse gas emissions. DPEIR at 1-13, 1-25 (Table 1-4). Urban green spaces improve air quality and mitigate climate change, as trees remove air pollutants and greenhouse gases from the air. *See David J. Nowak and Gordon M. Heisler, National Recreation and Parks Association, Air Quality Effects of Urban Trees and Parks (2010), attached as Exhibit B; Erica Gies, The Trust for Public Land, The Health Benefits of Parks (2006), attached as Exhibit C, at 13.* Thus, maintaining Willowick as green space can mitigate air quality and climate impacts.

Willowick's role in air quality mitigation is especially important because neighborhoods adjacent to the site have high levels of certain air pollutants, including PM

2.5.<sup>1</sup> Urban green spaces like Willowick also help mitigate the urban heat island effect, significantly reducing temperatures in surrounding neighborhoods. *See* The Trust for Public Land, *The Heat Is On* (2020), attached as Exhibit D.

Open space at the Willowick site may also help mitigate impacts on water quality and hydrology resulting from the Update, such as stormwater runoff impacts associated with new development. The DPEIR concludes that the Update's water quality and hydrology impacts would be less than significant and that no mitigation is needed. DPEIR at 5.9-29, 5.9-32. However, this conclusion improperly relies on asserted compliance with applicable state, regional, and local regulatory requirements. DPEIR at 5.9-30 to 5.9-32. Regulatory compliance does not determine the significance of impacts and cannot be used to bypass the City's obligation to analyze and mitigate those impacts. *See Californians for Alternatives to Toxics v. Department of Food & Agriculture* (2005) 136 Cal.App.4th 1, 15-17; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1108-09.

## **II. The Update does not provide for sufficient affordable housing and would undermine the City's Housing Opportunity Ordinance.**

Santa Ana faces a growing shortage of affordable housing, especially of deeply affordable units. Since 2014, the City's below market rate housing construction has been heavily skewed towards above-moderate income units, which have far outnumbered production of low and very-low income units. City of Santa Ana, Request for Council Action: General Plan Housing Element Annual Progress Report (March 17, 2020), attached as Exhibit E, at 3. The City's estimated Regional Housing Needs Assessment allocation for the 2021-2029 planning period is 3,086 housing units, including 360 low-income and 583 very-low-income units. DPEIR at 5-13-13; Southern California Association of Governments, Precertified Local Housing Data for the City of Santa Ana (August 2020), attached as Exhibit F, at 18. The DPEIR acknowledges that the Update "would directly induce substantial unplanned population growth" as well as employment growth, a significant impact which would further increase housing demand. DPEIR at 5.13-12 to 5.13-14 (Impact 5.13-1). The Willowick Community Park Proposal would help to address the City's affordable housing shortage, as it calls for 12 acres of the

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<sup>1</sup> Several census tracts adjacent to or near the Willowick site are designated as disadvantaged communities that experience a high pollution burden, including high concentrations of PM 2.5 and high occurrences of asthma and cardiovascular diseases. *See* CalEnviroScreen 3.0, <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.

Willowick site to be developed into approximately 270 affordable housing units. *See Willowick Community Park Proposal at 30.*

The Willowick development by itself would not be sufficient to meet the City's affordable housing needs—the Update must provide for increased affordable housing development citywide. However, the Update fails to provide for sufficient housing at the affordability levels the City needs, and its upzonings would instead undermine the effectiveness of the city's Housing Opportunity Ordinance. The Update would increase residential density limits in many areas of Santa Ana. It would modify land use designations in five Focus Areas (South Main Street Focus Area, Grand Avenue & 17th Street, West Santa Ana Boulevard, 55 Freeway & Dyer Road, and South Bristol Street), re-designating portions of those areas for more intensive development and increasing the allowable dwellings per acre and floor-area ratio for residential construction in those areas. DPEIR at 1-6, 1-7, H-a-7. The Update would also add a “Corridor Residential” land use designation, which would allow higher density residential development in additional areas. DPEIR at 3-52. These upzonings will facilitate increased housing construction, but would also undermine the HOO's inclusionary housing requirements.

The HOO requires developers to construct affordable units or pay a fee when the number of residential units in a new development exceeds the density permitted by applicable zoning. Santa Ana Muni. Code § 41-1902. Development projects are not subject to the HOO's inclusionary requirements if they do not exceed established density limits under the zoning for the site. *Id.*

Because the Update would increase density limits in many areas of the City and allow more by-right development, fewer developments will need to seek City approval for additional density. In many, if not most, cases the HOO's inclusionary requirements will be triggered less often. As a result, the HOO will apply to fewer projects. Developers will build fewer affordable units and pay less into the City's inclusionary housing fund. By reducing the effectiveness of the HOO, the Update would also undermine General Plan Housing Element Policy 2.6, which provides that “pursuant to the Housing Opportunity Ordinance,” the City must “require eligible rental and ownership housing projects to include at least 15 percent of the housing units as affordable for lower and moderate-income households.” DPEIR at 5.10-17.

The Update will thus create an internal inconsistency within the General Plan, as the increased by-right densities will impede achievement of the Housing Element's goal. To avoid this illegal inconsistency, the City must, within or simultaneous with the Update, revise the HOO to ensure sufficient affordable housing production. Gov. Code §



65300.5 (requiring “internally consistent” General Plan); *Sierra Club v. Kern County Board of Supervisors* (1981) 126 Cal.App.3d 698, 704. Such revisions could provide that the HOO continues to apply to projects above the pre-Update density, even if that density is allowed by right under the Update. Alternatively, the City could increase the ordinance’s inclusionary requirements, so that sufficient affordable housing is built even if the HOO applies to fewer projects.

The Update’s upzoning and its obstruction of the HOO will combine to displace present community members. Much of the housing development in the upzoned areas is likely to consist of market-rate housing unaffordable to lower-income residents. This is likely to increase prices of existing lower-cost housing in the surrounding neighborhoods. Rising rents and costs of living will displace people, potentially necessitating housing construction elsewhere. As the DPEIR acknowledges, such construction is potentially a significant environmental impact under CEQA. DPEIR at 5.13-10; 14 Cal. Code Regs. Appendix G, § XIV(b).

The DPEIR, however, reasons that the proposed Update “would provide more housing opportunities than currently exist” and concludes that “implementation of the [Update] would not displace people and/or housing,” leading to “no impact.” DPEIR at 5.13-14 (Impact 5.13-2). This analysis fails to take any account of the mismatch between the affordability of housing under the Update and the means of the City’s present residents. The DPEIR must reconsider its analysis of these impacts in light of the Update’s failure to provide sufficient affordable housing.

### **III. The DPEIR does not sufficiently analyze the Update’s environmental justice impacts.**

The DPEIR also fails to adequately consider the Update’s environmental justice impacts. S.B. 1000 requires local governments to include an environmental justice element in their general plan (or integrate environmental justice goals and policies into other elements). Gov. Code § 65302(h). This discussion must identify “disadvantaged communities” in the jurisdiction and identify ways to reduce health risks and other impacts on those communities, as well as improvements and programs that address their needs. *Id.* Government Code section 65302(h)(1)(A) requires general plans to “[i]dentify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.” The Update does not include a stand-alone environmental justice element, instead asserting that environmental justice

issues will be incorporated throughout the Update. DPEIR at 3-17. The Update includes several draft goals and policies which refer to equity and environmental justice (*See* DPEIR at B-a-2, B-a-5, B-a-19, B-a-20, B-a-25, B-a-39, B-a-41, B-a-43, B-a-44).

Despite the Update's inclusion of these policies, the DPEIR makes no attempt to analyze the Update's environmental justice impacts on disadvantaged communities. CEQA requires an evaluation of the Update's significant environmental effects and consistency with applicable General Plan policies. 14 Cal. Code Regs §§15126.2(a), 15125(d). The Update includes goals and policies that seek to promote environmental justice by addressing air pollution, hazardous waste exposure, and other impacts on disadvantaged communities. *See, e.g.*, DPEIR at B-a-25 (Policy CN-1.5; air pollution and environmental justice), B-a-39 (Policy S-2.6; hazardous materials and environmental justice), B-a-43 (Policy LU-3.9; polluting land uses and environmental justice). The DPEIR should consider whether other aspects of the Update would have significant environmental impacts on disadvantaged communities,<sup>2</sup> and whether those elements would impede the Update's environmental justice goals and policies, creating an internal inconsistency within the General Plan. *See* Gov. Code § 65300.5 (requiring "internally consistent" General Plan); *Sierra Club v. Kern County Board of Supervisors* (1981) 126 Cal.App.3d 698, 704. The DPEIR should comprehensively analyze environmental justice impacts, including air quality and pollution exposure in disadvantaged communities as well as access to public facilities such as parks and access to healthy food.

As part of its environmental justice analysis, the DPEIR should consider whether the Update may result in conflicts between industrial or commercial uses and proposed housing in corridors that the Update has designated for upzoning. It should particularly analyze any resulting impacts on disadvantaged communities. For example, air pollutant emissions from light industrial uses may affect air quality in the areas designated for increased residential density, potentially increasing residents' exposure to air pollution. Notably, four of the five "focus areas" designated for residential upzoning under the Update also include land designated for industrial uses. DPEIR at 1-6. This would potentially cause an disproportionate adverse impact on disadvantaged communities. Moreover, the effect of the Update policies promoting such development would cause harms contrary to Update policies on environmental justice- an internal inconsistency.

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<sup>2</sup> The CEQA guidelines make clear that "economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment" and that "[i]f the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant." 14 Cal. Code Regs. § 15064(e); *see also id.* §15382.

Similarly, the Update proposes a new “Industrial/Flex” land use designation in these areas, which will promote “large-scale office industrial flex spaces, multi-level corporate offices, and research and development uses.” DPEIR at 3-18. The DPEIR must consider the potential impacts of these newly-designated industrial areas on existing residents in nearby housing.

#### **IV. Conclusion**

As currently proposed, the Update does not provide for sufficient open space or affordable housing, and would undermine the City’s Housing Opportunity Ordinance. As set forth above, Rise Up Willowick urges the City to (1) continue to designate the Willowick site as open space until and unless there is a proposal for developing part of it with affordable housing, (2) provide for more affordable housing in order to avoid undermining the HOO and causing an internal inconsistency within the General Plan, and (3) revise the DPEIR to fully analyze the Update’s impacts on displacement and environmental justice. Rise Up Willowick respectfully requests that the City revise the Update to address these issues, revise the DPEIR, and recirculate both for public comment.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Gabriel M.B. Ross

#### List of Exhibits:

Exhibit A: Trust for Public Land, Coastal Conservancy, and Clifford Beers Housing, Willowick Community Park Proposal (August 2020)

Exhibit B: David J. Nowak and Gordon M. Heisler, National Recreation and Parks Association, Air Quality Effects of Urban Trees and Parks (2010)

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Exhibit C: Erica Gies, The Trust for Public Land, The Health Benefits of Parks (2006)

Exhibit D: The Trust for Public Land, The Heat Is On (2020)

Exhibit E: City of Santa Ana, Request for Council Action: General Plan Housing Element Annual Progress Report (March 17, 2020)

Exhibit F: Southern California Association of Governments, Precertified Local Housing Data for the City of Santa Ana (August 2020)

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## **EXHIBIT C**

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November 9, 2020

**Via Email**

City of Santa Ana Planning Commission  
20 Civic Center Plaza  
Santa Ana, CA 92701  
c/o Commission Secretary Sarah Bernal  
[SBernal@santa-ana.org](mailto:SBernal@santa-ana.org).

Re: Santa Ana General Plan Update EIR, Clearinghouse No. 2020020987

Dear Chair McLoughlin and Commissioners:

On behalf of Rise Up Willowick, I write to comment on the proposed Santa Ana General Plan Update (“the Update”) and its accompanying Environmental Impact Report (“EIR”).

In the Final EIR the City has proposed changes and additions to the Update’s Open Space Element that seek to create new parkland and avoid loss of parkland. We commend the City for including these measures in response to feedback received on the Draft EIR. However, these General Plan measures are insufficient: they do not fully explain how increased creation of parkland will work, and are ambiguous as to what lands are included in a proposed prohibition on net loss of parkland. Moreover, the Open Space Element calls for several Municipal Code amendments to put these General Plan polices into effect, but would defer them until 2022. This will create a period of uncertainty until the measures are fully implemented. We urge the City to revise the Open Space Element to clarify these ambiguities, and to defer the Update so that it can be adopted concurrently with these code amendments. Moreover, the City should defer the Update so that it can be aligned with the City’s new Housing Element and code amendments to strengthen the City’s Housing Opportunity Ordinance (HOO).

The revised Open Space Element Policy 1.3 indicates that the City should “prioritize the creation and dedication of new public parkland over the collection of impact fees” for new residential development in Focus Areas. Rise Up Willowick

supports the prioritization of parkland dedication over parkland impact fee collection. However, the Open Space Element does not fully explain how prioritization would occur for projects of fewer than 100 residential units. Implementation Action OS-1.16 indicates that the City should “[d]evelop an incentives program that encourages private development and public agencies to provide park and recreation facilities beyond the minimum requirements.” Rise Up Willowick supports the creation of such incentives. However, the Open Space Element does not explain how the incentives program might operate or provide criteria to guide its implementation. The Open Space Element should be revised to further clarify these measures.

Implementation Action OS-1.6 calls for the City to “[e]stablish land use provisions in the Municipal Code that prevent a net loss of parkland in the city” and “[r]equire at least a 1:1 replacement if there is any loss of public parkland due to development.” We support the City’s adoption of a “no net loss of parkland” requirement in the Municipal Code. However, we urge the City to clearly define what constitutes “parkland” for purposes of this requirement. The “no net loss of parkland” requirement should not impede the redevelopment of golf courses to include a mix of public parkland and affordable housing. As outlined in our October 6 letter to the City, The Trust for Public Land, the California Coastal Conservancy, and Clifford Beers Housing have submitted a proposal to the City of Garden Grove to develop most of the Willowick Golf Course site into a public park and to construct affordable housing on the remainder. The “no net loss of parkland” policy should not create barriers to projects such as the Willowick proposal that would create affordable housing and other community benefits in addition to public parkland.

Implementation Action OS-1.15<sup>1</sup> calls for the City to “[a]mend the Residential Development Fee in the Municipal Code (Chapter 35, Article IV) to reflect requirements for Larger Residential Projects (100+ units, residential only or mixed-use) to provide two acres of new public parkland concurrent with the completion of and within a 10-minute walking radius of the new residential project.” It also calls for the City to work with “new development projects within the Focus Areas” to encourage developers to provide more parkland than the Code requires. Similarly, Implementation Action OS-1.8 calls for the City to update the Acquisition and Development Ordinance to increase dedication and fee requirements and ensure that parkland is acquired near projects creating demand. Rise Up Willowick supports these changes, and urges the City to ensure

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<sup>1</sup> The City’s responses to comments in the Final EIR label this action as OS-1.14, but the Open Space Element of the revised Update identifies this action as OS-1.15.

their effectiveness by applying these parkland dedication requirements to all new market-rate projects, including those smaller than 100 units.

Most importantly, we urge the City to take up these Code revisions now. Implementation Actions OS-1.6 and OS-1.15 both defer the amendments until 2022, two years after the City's planned Update adoption. By deferring implementation for two years, the City would create an extended period of legal uncertainty for developers, City residents and other stakeholders. During this period, the "no net loss of parkland" and expanded parkland dedication requirements for large developments would constitute City policy but would not yet be reflected in the Municipal Code. Projects will need to be consistent with the General Plan policies, but without Code revisions, developers will not know how to comply.

The General Plan serves as a "constitution" for the regulation of future development in the City. *DeVita v County of Napa* (1995) 9 Cal.4th 763, 772. The City's land use regulations must be consistent with the General Plan. *Leshner Communications, Inc. v City of Walnut Creek* (1990) 52 Cal.3d 531, 544. To avoid an extended period of inconsistency between the General Plan and the Code and the resultant uncertainty, the City should adopt the Update concurrently with the Municipal Code amendments implementing Actions OS-1.6 and OS-1.15. The City should not take action on the Update until those code amendments are also ready for adoption.

By adopting the Update on a rushed timeline, the City also risks creating unintended consequences inconsistent with the City's affordable housing goals. In our October 6, 2020 letter to the City, which is hereby incorporated by reference, we urged the City to provide for more affordable housing under the Update and avoid undermining the Housing Element and the City's HOO. As we explained in that letter, the Update would cause substantial population growth, but fails to provide for sufficient deeply affordable housing, increasing the risk of displacement. Moreover, the Update's upzonings would reduce the HOO's effectiveness because the HOO's inclusionary requirements would apply to fewer projects. The Update would therefore impede General Plan Housing Element Policy 2.6, which calls for the inclusion of affordable units in new residential developments via the HOO. The City should avoid this inconsistency by deferring the Update until next year so that it can be adopted concurrently with the City's new Housing Element, and should simultaneously amend the HOO to ensure sufficient affordable housing production, as discussed in our October 6 letter.



In closing, we urge the City to revise the Update to (1) further elaborate on how the City proposes to incentivize increased creation of new parkland, (2) clarify what open spaces are covered by the “no net loss of parkland” policy, (3) extend the enhanced parkland dedication requirements to new market-rate residential developments smaller than 100 units, and (4) postpone the Update until it can be adopted concurrently with the corresponding changes to the Municipal Code and aligned with the City’s new Housing Element. The Planning Commission should not recommend adoption of the Update until these issues have been addressed.

Very truly yours,

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