## 2.5 Land Use and Planning

Several commenters expressed concerns related to land uses and planning issues. The majority of these concerns related to the following items:

- 2. Concerns with potential analysis of conditionally permitted uses.
- 3. Concerns with potential spot zoning for the project site.

Section 5.10, Land Use and Planning describes potential impacts to land use and planning, which may result from the construction and operation of the proposed project. This section of the Draft EIR also identifies mitigation measures to reduce any potentially significant land use and planning impacts and describes the residual impact, if any, after imposition of the mitigation. The analysis used the following thresholds of significance consistent with Appendix G of the State CEQA Guidelines:

**Threshold LUP-A** Would the project physically divide an established community?

**Threshold LUP-B** 

Would the project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

**Threshold LUP-C** 

Would the project conflict with any applicable habitat conservation plan or natural community conservation plan?

# 2.5.1 Conflict with Applicable Plans, Policies, or Regulations

Commenters expressed concern that the proposed project would conflict with applicable plans, policies, or regulation. Section 5.10, *Land Use and Planning* of the Draft EIR addressed potential impacts to land use and planning, which may result from the construction and operation of the proposed project. This section also identified mitigation measures to reduce any potentially significant land use and planning impacts and described the residual impact, if any, after imposition of the mitigation. The Draft EIR found:

1. The proposed project would have a less than significant impact related to conflicting with General Plan policies and goals, and no mitigation measures would be required. (Page 5.10-14, Draft EIR);

- 2. With the inclusion of the text amendment to the OS-P, the proposed project would be consistent with the proposed General Plan designation. Therefore, the proposed project would have a less than significant impact and no mitigation measures would be required. (Page 5.10-15, Draft EIR);
- 3. With the City's approval of the amendments to the OPA Plan and the EO General Plan and the approval of the Rio Santiago Specific Plan, a less than significant impact would occur and no mitigation measures would be required. (Page 5.10-16, Draft EIR);
- 4. The proposed project would have a less than significant impact relating to conflicting with applicable land use plans, policies, and regulations and no mitigation measures would be required. (Page 5.10-105, Draft EIR); and,
- 5. The proposed project would have a less than significant impact relating to conflicting with a conservation plan and no mitigation measures would be required (Page 5.10-107, Draft EIR).

The Draft EIR found that, "The proposed project would have a less than significant impact relating to conflicting with applicable land use plans, policies, and regulations and no mitigation measures would be required." (Page 5.10-105, Draft EIR).

Table 2.5-1, Summary of Applicable Plans, Policies, or Regulations identifies each plan, policy, or regulation; indicates if it is applicable to the proposed project; and, provides a discussion of the issue/Draft EIR analysis.

Table 2.5-1: Summary of Applicable Plans, Policies, or Regulations

Plan, Policy, or	Status	Discussion/Draft EIR Analysis
Regulation State		
Regional Transportation	Applicable	The Draft EIR indicates that the Regional Transportation Plan (RTP) serves as both the Federal and State
Plan		required regional long-range transportation plan for the Southern California Association of Governments
		(SCAG) region through the year 2015 and is the guide for developing the Regional Transportation
		Improvement Program (RTIP). The RTIP links the goal of sustaining mobility with the goals of fostering
		economic development, enhancing the environment, reducing energy consumption, promoting transportation
		friendly development patterns, and encouraging fair and equitable access to residents affected by socio-
		economic geographic, and commercial limitations. (Page 5.10-4, Draft EIR)
		The development of the proposed project would not conflict with the policies of the RTP. Therefore, no
		significant impact would occur and no mitigation measures would be required. (Page 5.10-97, Draft EIR)
Regional South Coast Air	Applicable	The Draft EIR indicates that the South Coast Air Quality Management District (SCAQMD) develops rules
Quality Management		and regulations, establishes permitting requirements for stationary sources, inspects emission sources, and
District Air Quality		enforces such measures through educational programs or fines, when necessary. SCAQMD is directly
Management Plan		responsible for reducing emissions from stationary, mobile, and indirect sources. It has responded to this
		requirement by preparing a sequence of AQMPs. (Page 5.3-10, Draft EIR)
		The Draft EIR indicates that although SCAQMD is responsible for regional air quality planning efforts, it
		does not have the authority to directly regulate air quality issues associated with plans and new development
		projects throughout SCAB. Instead, this is controlled through local jurisdictions in accordance to the
		California Environmental Quality Act (CEQA). (Page 5.3-11, Draft EIR)
		The Draft EIR indicates that the Southern California Association of Governments (SCAG) is the regional
		planning agency for Los Angeles, Orange, Ventura, Riverside, San Bernardino and Imperial Counties, and
		addresses regional issues relating to transportation, the economy, community development and the
		environment. SCAG is the Federally designated Metropolitan Planning Organization (MPO) for the majority
		of the Southern California region and is the largest MPO in the nation. With respect to air quality planning,

Table 2.5-1: Summary of Applicable Plans, Policies, or Regulations

Plan, Policy, or Regulation	Status	Discussion/Draft EIR Analysis
		SCAG has prepared the RTP and Regional Transportation Improvement Plan (RTIP), which addresses
		regional development and growth forecasts. These plans form the basis for the land use and transportation
		components of the AQMP, which are utilized in the preparation of air quality forecasts and in the consistency
		analysis included in the AQMP. The RTP, RTIP, and AQMP are based on projections originating within the
		City and County General Plans. (Page 5.3-11, Draft EIR)
		The Draft EIR indicates that the with the inclusion of Mitigation Measures AQ-1 through AQ-19, the project
		impacts would be reduced; however, there would remain a significant unavoidable impact related to
		conflicting with the SCAQMD AQMP from regional NOx emissions during the grading phase. (Page 5.3-20,
		Draft EIR)
		With the inclusion of Mitigation Measures AQ-1 through AQ-19, the project impacts would be reduced
		related to violating any air quality standard or contributing substantially to an existing or projected air quality
		violation. However, there would remain a significant unavoidable impact related to violating air quality
		standards from regional NOx emissions during the grading phase. (Page 5.3-33, Draft EIR)
		The Draft EIR indicates that the with the inclusion of Mitigation Measures AQ-1 through AQ-4, the project
		impact would be reduced related to Threshold AQ-C, with the exception that there would remain a significant
		unavoidable impact related to short-term regional construction-related cumulative impacts. (Page 5.3-34,
		Draft EIR) Therefore, the proposed project would result in an inconsistency with the AQMP during the
		short-term construction period. (Page 5.10-96, Draft EIR).
Southern California	Applicable	The Draft EIR indicates that Southern California Association of Government's (SCAG's) responsibility is
Association of		preparation of the Regional Comprehensive Plan (RCP) in conjunction with its constituent members and
Governments Regional		other regional planning agencies. The RCP provides a general view of the plans of the various regional
Comprehensive Plan		agencies that affect local governments and responds to the significant issues facing Southern California,
_		including growth management. The RCP is intended to serve as a framework for decision-making with
		respect to the growth and changes that can be anticipated by the year 2015 and beyond. In addition, the RCP

Table 2.5-1: Summary of Applicable Plans, Policies, or Regulations

Plan, Policy, or Regulation	Status	Discussion/Draft EIR Analysis	
Trogulation		proposes a strategy for voluntary use by local governments, which will assist them in addressing issues	
		related to future growth and in assessing the potential impacts of proposed development projects within the	
		context of the region. Fourteen sub-regions, including Orange County, have been recognized as partners in	
		the preparation of the RCP and have submitted input to ensure that the RCP reflects local concerns, which	
		form the basis for the region's planning process.	
		The RCP includes five core chapters (Growth Management, Regional Mobility, Air Quality, Water Quality,	
		and Hazardous Waste Management) which respond directly to the Federal and State requirements placed on	
		SCAG and form the basis for certification of local plans. Ancillary chapters within the RCP (Economy,	
		Housing, Human Resources, and Services, Management) reflect other regional plans, but do not contain	
		actions or policies required of local governments.	
		The purpose of the Growth Management Chapter is to present forecasts which establish the socio-economic	
		parameters for the development of the Regional Mobility and Air Quality Chapters of the RCP and to address	
		issues related to growth and land consumption by encouraging local land use actions which would ultimately	
		lead to the development of an urban form that would help minimize development costs, save natural	
		resources, and enhance the quality of life in the region. (Page 5.10-4 & 5, Draft EIR)	
		The Draft EIR found that the proposed project is consistent with the SCAG Compass Growth Visioning	
		applicable principles and policies. Therefore, implementation of the proposed project would not result in	
		significant land use impacts related to relevant SCAG principles and policies and no mitigation measures	
		would be required. (Page 5.10-97, Draft EIR)	
Natural Communities	Applicable	The Draft EIR indicates that the project site is located within the boundaries of the Orange County Central	
Conservation Plan (NCCP)		and Coastal Subregion NCCP/HCP. The proposed project would be required to be developed consistent with	
and Habitat Conservation		all applicable provisions of the NCCP/HCP as implemented in PDF LUP-6 and in Section 5.4, Biological	
Plan-County of Orange		Resources, Project Design Features.	
Central and Coastal Sub			

Table 2.5-1: Summary of Applicable Plans, Policies, or Regulations

Plan, Policy, or Regulation	Status	Discussion/Draft EIR Analysis
Region		Based on information provided in Technical Appendix C, <i>Biological Resource Assessment</i> of this Draft EIR, there are areas within the project site that deserve conservation planning consideration due to their significant habitat value, restoration potential, and importance to the assemblage of a regional preserve system.  The Draft EIR indicates that survey efforts were directed within all areas of the project site that could contain protected resources and resources that are important for the preserve assembly. These include Santiago Creek and its associated riparian habitat, and upland areas north of Santiago Creek that contain marginal Coastal Sage Scrub habitat. Surveys concluded that other than previously noted above, no other portions of the project site contain any resources protected under the Orange County Central and Coastal subregion NCCP/HCP, including any special status species, natural communities, or wetlands identified for conservation. Therefore, the proposed project would have a less than significant impact and no mitigation measures would be required. (Page 5.10-107, Draft EIR)
Local		
City General Plan	Applicable	Although the proposed project is inconsistent with the existing City General Plan land use designation for the project site, it would be in substantial compliance with the Land Use Element Goals and Polices after the proposed General Plan Amendment.  In the Draft EIR, Table 5.10-2, <i>Project Consistency with the City of Orange General Plan</i> , provides a comparison of the proposed project with each goal and policy of the General Plan. Based on Table 5.10-2, <i>Project Consistency with the City of Orange General Plan</i> , and PDF LUP-4, the Draft EIR found that the proposed project is consistent with the City's General Plan applicable policies and goals. Therefore, the proposed project would have a less than significant impact related to conflicting with General Plan policies and goals, and no mitigation measures would be required.
		The Draft EIR found that with the inclusion of the text amendment to the OS-P, the proposed project would be consistent with the General Plan designation. Therefore, the proposed project would have a less than

Table 2.5-1: Summary of Applicable Plans, Policies, or Regulations

Plan, Policy, or Regulation	Status	Discussion/Draft EIR Analysis
		significant impact and no mitigation measures would be required. (Page 5.10-105, Draft EIR)
City Plan for Recreational	Applicable	The Draft EIR found that the proposed project would be consistent with the City General Plan Circulation
Trail and Bikeways -		Element as shown in Table 5.10-2, Project Consistency with the City of Orange General Plan, Circulation
General Plan Circulation		and Mobility Element (pages 5.10-27 through 5.10-33, Draft EIR)
Element		
City Master Plan for	Applicable	The Draft EIR found that the proposed project would be consistent with City General Plan Natural Resources
Recreational Trails -		Element, Open Space Resources and Comprehensive Trails Network components as shown in Table 5.10-2,
General Plan Open Space		Project Consistency with the City of Orange General Plan, Open Space Element (pages 5.10-37 through
Element		5.10-38 and pages 5.10-44 through 5.10-45, Draft EIR)
1975 East Orange (EO)	Applicable	The Draft EIR found that with the removal of the proposed project area from the OPA Plan and the EO
General Plan		General Plan, all land use allocations, improvements, development standards, lines for the proposed project
		would be under one specific plan (the Rio Santiago Specific Plan) as implemented in PDF LUP-4. With the
		implementation of PDF LUP-4, the proposed project would amend the City's General Plan by removing the
		project site from the East Orange (EO) General Plan and the Orange Park Acres Plan.
		The Draft EIR found that the proposed project would establish new designations for the project site on the
		City's General Plan. These changes eliminate potential conflicts with any applicable land use plan, policy, or
		regulation. Therefore, with the City's approval of the amendments to the OPA Plan and the EO General Plan
		and the approval of the Rio Santiago Specific Plan, a less than significant impact would occur and no mitigation measures would be required.
Orange Park Acres (OPA)	Applicable	The Draft EIR found that with the removal of the proposed project area from the OPA Plan and the EO
Plan		General Plan, all land use allocations, improvements, development standards, lines for the proposed project
		would be under one specific plan (the Rio Santiago Specific Plan) as implemented in PDF LUP-4. With the
		implementation of PDF LUP-4, the proposed project would amend the City's General Plan by removing the

Table 2.5-1: Summary of Applicable Plans, Policies, or Regulations

Plan, Policy, or Regulation	Status	Discussion/Draft EIR Analysis
		project site from the East Orange (EO) General Plan and the Orange Park Acres Plan.
		The Draft EIR found that the proposed project would establish new designations for the project site on the
		City's General Plan. These changes eliminate potential conflicts with any applicable land use plan, policy, or
		regulation. Therefore, with the City's approval of the amendments to the OPA Plan and the EO General Plan
		and the approval of the Rio Santiago Specific Plan, a less than significant impact would occur and no
		mitigation measures would be required.
City of Orange Zoning	Applicable	The proposed project proposes to change the existing zoning district classification. With the implementation
Designations		of PDF LUP-4, the proposed project would amend the City's General Plan and change project site zoning
		designations to eliminate potential conflicts with any applicable land use plan, policy, or regulation adopted
		for the purpose of avoiding or mitigating an environmental effect.
		The Draft EIR found that with the approval of the change in zoning classification, the proposed project would
		be consistent with the City's Zoning Code. Therefore, a less than significant impact would occur and no
		mitigation measures are required.
City of Orange Affordable	Applicable	The City of Orange Affordable Housing Plan provides that the project applicant participate in discussions
Housing Plan		with City Staff to evaluate the feasibility of providing affordable units.
		The Draft EIR found that the project applicant is not required to incorporate affordable housing in the
		proposed project (refer to Section 5.14, Population and Housing of this document for a discussion on
		affordable housing). Therefore, the proposed project would not result in an impact related to the City's
		Affordable Housing Plan and no mitigation measures are required.
		Additionally, at this time nothing prevents Planning Areas C & D from having affordable components. City
		Staff will require a pro-forma or a form of justification mutually acceptable between both parties at time of
		future applications.

Table 2.5-1: Summary of Applicable Plans, Policies, or Regulations

Plan, Policy, or Regulation	Status	Discussion/Draft EIR Analysis
City of Orange Tree	Applicable	The Draft EIR states that the City's Tree Preservation Ordinance (OMC Chapter 12.32 Tree Preservation
Preservation Ordinance		Section 12.32.110 Subdivisions) requires a 1:1 replacement ratio for the approval of a Tree Removal Permit.
		The Draft EIR states that the project applicant will comply with the City's 1:1 tree replacement requirement
		or what the approval would dictate. As indicated in PDF LUP-5 and Mitigation Measure BIO-5, the
		proposed project will replace all trees on the project site that are removed with a 1:1 ratio. As a result, the
		proposed project would not result in a conflict with the City of Orange Tree Preservation Ordinance.
		Therefore, a less than significant impact would occur and no mitigation measures are required.
Santa Ana River, Santiago	Applicable	City Council actions related to the Santa Ana River/Santiago Creek Greenbelt Plan (SARSCGP) have been
Creek Greenbelt Plan		reviewed. Based on this review, it has been determined that the SARSCGP was not adopted by the City.
(SARSCGP)		However, the OPA Plan incorporated certain portions of the County adopted SARSCGBP within the
		Santiago Creek to the north and east of the OPA Plan study area. See Page 118 of the OPA Plan. (City
		Resolution No. 3915 adopted December 26, 1973).
		Because the OPA Plan was adopted as part of the City General Plan Land Use Element, certain Santiago
		Creek portions of the SARSCGP are a part of the City General Plan. The Draft EIR found that the proposed
		project would have a less than significant impact related to conflicting with General Plan policies and goals,
		and no mitigation measures would be required. (Page 5.10-10, Draft EIR) Additionally, the Draft EIR found
		that with the City's approval of the amendments to the OPA Plan and the EO General Plan and the approval
		of the Rio Santiago Specific Plan, a less than significant impact would occur and no mitigation measures
		would be required. (Page 5.10-16, Draft EIR)
Santa Ana River/Santiago	Not	City Council actions related to the Santa Ana River/Santiago Creek Greenbelt Implementation Plan
Creek Greenbelt	Applicable.	(SARSCGIP) have been reviewed. The SARSCGIP was accepted by the City Council on May 18, 1976.
Implementation Plan		The City did not adopt the SARSCGIP. However, the City Council Minutes (May 18, 1976) indicated that
		the City approved the implementation of certain project projects identified in the SARSCGIP. Based on this

Table 2.5-1: Summary of Applicable Plans, Policies, or Regulations

Plan, Policy, or Regulation	Status	Discussion/Draft EIR Analysis
(SARSCGIP)		review, it has been determined that the SARSCGIP was not adopted by the City. While the SARSCGIP has been utilized as a reference, it is not a City adopted public policy related to the project site.
Santiago Creek Vision Plan (SCVP)	Not Applicable.	The plan (SCVP) is not City adopted public policy related to the project site.

Source: Vista Community Planners (VISTA).

As noted above, several commenters expressed concern that the proposed project would conflict with applicable plans, policies, or regulations. The Draft EIR states that, "The proposed project would have a less than significant impact relating to conflicting with applicable land use plans, policies, and regulations and no mitigation measures would be required." (Page 5.10-105, Draft EIR) Even given this clear determination, several commenters have expressed concern with the proposed projects consistency with other plans and programs (i.e., Santiago Creek Greenbelt Vision Plan, Santiago Creek Vision Plan, Santa Ana River/Santiago Creek Greenbelt Implementation Plan, etc.). As indicated in Table 2.5-1, Summary of Applicable Plans, Policies, or Regulations, these plans are not applicable to the project site. However, commenters have expressed a concern that the proposed project is not consistent with the "spirit" or "intent" of these plans or programs, even though they are not applicable to the project site. Therefore, the following discussion is provided to further clarify.

### City's 2010 General Plan

Several commenters expressed concern that the proposed project would conflict with the Land Use Element related to Open Space Ridgeline citing page LU-23, Goal 6.0 Policy 6.4, and Goal 7.0 Policy 7.1 provided below:

Page	General Plan Statement	Response
LU-23	The Open Space Ridgeline designation is designed to preserve visually significant ridgelines and steep hillsides. The City has adopted a hillside grading policy that prohibits development of grading on ridgelines with this designated land use. (City General Plan Page LU-23)	The project site is not designated as an Open Space Ridgeline.

The Draft EIR evaluates the consistency of the proposed project related to ridgeline views in Section 5.10, Land Use and Planning in Table 5.10-2, Project Consistency with the City of Orange General Plan. Additionally, the Draft EIR evaluates project impacts related to scenic vistas in Section 5.1, Aesthetics subsection Scenic Vistas. Please refer to Master Response 2.10, Aesthetic related to aesthetics issues. As noted in the Draft EIR in Table 5.10-2, Project Consistency with the City of Orange General Plan the following goals and policies are addressed.

Pages 5.10-24 and 5.10-45 of the Draft EIR have been clarified as noted below:

	Goal/Objectives/Policy	Project Consistency
Goal 6.0:	Advance development activity that is muthe community.	itually beneficial to both the environment and
Policy 6.4:	Create and maintain open space resources that provide recreational opportunities, protect hillside vistas and ridgelines, and conserve natural resources.	The project retains the Santiago Creek in its existing condition as natural open space, greenway and wildlife corridor to preserve the Creek's riparian habitat (Policies 6.4 and 6.7).  The proposed project may not be consistent with certain portions of this specific policy. However because Santiago Creek is being retained in its existing condition, the possible inconsistency does not rise to the level of a significant impact. Therefore, the project is consistent with the overall City General Plan.
Goal 7.0:	Protect significant view corridors, open environment.	en space, and ridgelines within the urban
Policy 7.1:	Preserve the scenic nature of significant ridgelines visible throughout the community.	The Draft EIR indicated that Policy 7.1 was not applicable to the project site. It could be considered that significant ridgelines are visible throughout the community. Therefore, it is noted that the proposed project while not consistent with portions of this specific policy could be found consistent with the overall City General Plan.

Related to Policy 6.4 and Policy 7.1 above the proposed project would impact certain portions of views of distant hillsides from East Santiago Canyon Road. Please see Draft EIR Figure 5.1-11, *View Analysis H*. Although the intent of the policy is to prevent physical grading and development on ridgelines, portions of views of ridgelines may be affected. As a result, the proposed project may present a possible inconsistency with portions of these specific policies. Because the policy is intended to preserve significant ridgelines from development and because only portions of view of ridgelines may be affected, the possible inconsistency does not create a significant impact and the proposed project could be found consistent with the overall City General Plan. The proposed project provides for the continuation of portions of the existing distant hillside views from East Santiago Canyon Road. This is accomplished via

building height limits, setbacks, park and open space areas, and building separations. Therefore, no further discussion is warranted related to this issue.

Several commenters expressed concern that the proposed project would conflict with the Natural Resources Element related to Open Space Resources citing page NR-9 and NR-10 provided below:

Open space lands may be set aside for many purposes, including the provision or preservation of: (1) parks for recreation or wildlife habitat preservation; (2) water resources for groundwater recharge and support of plant and animal habitat; (3) environmental hazard zones for the protection of public safety; and, (4) prominent geologic features and scenic resources for the visual enhancement of the urban environment.

As shown in Figure NR-1, Orange's planning area includes approximately 7,400 acres of open space, which is about one-third of the planning area's total land area. Open spaces include lands used as City or County parks, ridgelines, and areas designated as Open Space on the Land Use Policy Map. The greatest concentration of open space within the planning area is in the Cleveland National Forest, a portion of which is located within the City's Sphere of Influence. This open space includes several hundred acres in the Peralta Hills area and several hundred acres in the hills south and east of Orange Park Acres, consisting of Santiago Oaks Regional Park, Irvine Regional Park, and Peters Canyon Regional Park. An additional 15,800 acres of open space lies within the City's Sphere of Influence, east of the planning area.

The open space areas also include a portion of the 37,000-acre reserve area established by the Central and Coastal Orange County Natural Communities Conservation Plan/Habitat Conservation Plan (NCCP/HCP). This area encompasses portions of Santiago Hills II and East Orange. Additionally, the Irvine Ranch Land Reserve affects the pattern of developable and undevelopable land in the eastern portion of the planning area. The reserve stretches from Weir Canyon near State Route (SR) 91 at the north end of Irvine Ranch, connects with the Cleveland National Forest along the northeast border of the ranch, continues south to include large regional open space systems in the northern and southern hillsides of the City of Irvine, and extends to the Laguna Coast Wilderness Park and Crystal Cove State Park near Laguna Beach. Santa Ana River/Santiago Creek Greenbelt Plan The Santiago Creek Greenbelt Vision Plan (SCVP) indicates that the first known public planning effort for Santiago Creek was included as part of a larger Santa Ana River plan, in March, 1971. The Santa Ana River/Santiago Creek Greenbelt Plan (SARSCGP) assessed the Santa Ana River and Santiago Creek, as a "link in the tri-county coast-to-crest greenbelt." The SARSCGP reviewed the natural resources and made proposals in four geographic segments and provided recommendations for implementation. Santiago Creek was evaluated as one of the four segments.

Conserving current open spaces and creating new open spaces are important concerns. As development pressure increases in the hillside areas east of the City, one key to preserving the quality of life for Orange residents lies in providing open spaces that preserve scenic vistas, provide habitat for wildlife, and maintain the ecological balance of the area. Additionally,

because most of Orange's open spaces are located adjacent to the many reservoirs and creeks located within the City, opportunity exists to improve water quality in the region by enhancing and adding open spaces around these reservoirs and creeks.

To increase the amount of open space within the City, Orange will work with large landowners to secure open space dedications where feasible. The City will also work with land trusts and nonprofit agencies to secure grant funds for acquisition and conservation of open space areas. Where appropriate, this process may include the use of conservation easements, which are voluntary agreements that allow landowners to limit the type or amount of development on their property while retaining private ownership of the land. The easement is signed by the landowner, who is the easement donor, and by a government agency or non-profit organization, which is the party receiving the easement. The landowner continues to privately own and manage the land, and may receive tax advantages for having donated the conservation easement. The government or nonprofit accepts the easement with the understanding that it must enforce the terms of the easement in perpetuity. After the easement is signed, it is recorded with the County Clerk and applies to all future owners of the land. (City General Plan Page NR-9 & 10)

Figure NR-1, *Open Space Resources* in the City's General Plan clearly depicts a portion of the project site as Open Space. Additionally, this figure shows Santiago Creek in blue. No changes to this section of the City's 2010 General Plan are required. As noted in the Draft EIR, the proposed project would modify the 2010 City General Plan text and graphics. The modifications would include changing the site from Resource Area (RA) to Low Density Residential (LDR 2.1-6 Du/Ac), Medium Density Residential (MDR 15-24 Du/Ac), Open Space Park (OS-P) and Open Space (OS); and, from Low Density Residential (LDR 2.1-6 Du/Ac) to Open Space (OS). The proposed amendment is depicted in Figure 3-7, *Existing and Proposed General Plan Designations*. With the inclusion of the changes noted above and implementation of PDF LUP-4, the proposed project would be consistent with the General Plan. Therefore, the proposed project would have a less than significant impact and no mitigation measures would be required.

Several commenters expressed concern that the proposed project would conflict with the Natural Resources Element related to Visual and Aesthetic Resources citing page NR-35 provided below:

Preservation of ridgelines and steep hillsides is an important objective for the City, for both aesthetic and public safety reasons. To that end, Orange has adopted a hillside grading policy that prohibits grading on ridgelines designated Open Space Ridgeline on the Land Use Policy Map. Wherever hillside grading occurs, the policy requires that graded slopes must be contoured and extensively landscaped with native vegetation or other compatible plant materials.

The largely undeveloped Santiago Hills II and East Orange portions of the planning area have many scenic resources that include Irvine Lake, grassy valleys, rugged hillsides, rock outcroppings, and winding canyons. People traveling along Santiago Canyon Road have spectacular views of these abundant scenic resources. These views should be protected while still allowing development to occur. As identified on Figure NR-4, the City will work to designate

Santiago Canyon Road as a City Scenic Highway, and will develop standards for appropriate treatment of the roadway and its surroundings. (City General Plan Page NR-35)

The project site is not designated as a ridgeline or steep hillside. Therefore, no further discussion is warranted related to this issue. The proposed project as directed by this section of the City General Plan "...would protect views while still allowing development to occur." However, the Draft EIR indicates that with the inclusion of Mitigation Measures AES-1 through AES-3, the project impacts would be reduced; however, a significant unavoidable impact related to scenic views in the short-term Planning Area A (Impact AES-1) and Planning Area D (AES-2) and long-term to Planning Areas B,C, and D (Impact AES-3) would occur. Refer to Master Response 2.2, *Aesthetics* for additional information.

### Santa Ana River/Santiago Creek Greenbelt Plan

The Santiago Creek Greenbelt Vision Plan (SCVP) indicates that the first known public planning effort for Santiago Creek was included as part of a larger Santa Ana River plan, in March, 1971. The Santa Ana River/Santiago Creek Greenbelt Plan (SARSCGP) assessed the Santa Ana River and Santiago Creek, as a "link in the tri-county coast-to-crest greenbelt." The SARSCGP reviewed the natural resources and made proposals in four geographic segments and provided recommendations for implementation. Santiago Creek was evaluated as one of the four segments.

The SARSCGP's recommendations for Santiago Creek included:

- Study flood control needs and for feasibility of rehabilitating gravel pits as retention basins and regional parks, thereby alleviating future needs to line the Creek with concrete to protect adjacent housing;
- Preserve agriculture;
- Develop, enlarge or connect small parks along the Creek;
- Link the Creek with residential communities by acquiring the abandoned Southern Pacific Railroad "Tustin Branch" for trail use;
- Extend a trail along the Creek, connecting parks; and,
- Preserve and protect hill settings.

The Santiago Creek Greenbelt Vision Plan (SCVP) indicates that trails were regarded as the single most important objective of the 1971 corridor plan.

City Council actions related to the *Santa Ana River/Santiago Creek Greenbelt Plan* (SARSCGP) have been reviewed. Based on this review, it has been determined that the SARSCGP was not adopted by the City. At the request of the Orange County Board of Supervisors, the City joined the program providing one-member from the City Council to represent the City on the Greenbelt Organization Committee; one City Staff member to be a rotating member of the Greenbelt Program Plan Committee; and appointment five citizens to the Orange Greenbelt plan committee. Please refer to City Council minutes April 15, 1972. However, the OPA Plan incorporated certain portions of the SARSCGP and the OPA Plan was

adopted as part of the Land Use Element of the City General Plan. (City Resolution No. 3915 adopted December 26, 1973) as follows:

### ORANGE COUNTY GENERAL PLANNING PROGRAM

Within the Orange County General Planning Program elements have been adopted and have application to this study:

1. The 1983 Orange County Land Use Element has been adopted and supersedes the Orange Community General Plan and the Tustin Area General Plan (see Exhibit 4t21 [1983 Land Use Element]). Not shown on the exhibit is the incorporation of the Santa Ana River - Santiago Creek Greenbelt Plan. These plans have been used for reference in this planning study. The Orange Park Acres Specific Plan will be proposed as an amendment to the 1983 Land Use Element. (Page 77 of the *OPA Plan*)

#### POLICIES FOR ORANGE PARK ACRES

... 10. Preserve Santiago Creek as a balanced ecological system and riparian area, maintaining the diversity of plant and vertebrate species while allowing for light recreational use such as equestrian and hiking trails. Specifically support: the Santiago Creek Greenbelt Proposal by the County of Orange (Page 101 of the *OPA Plan*)

The Orange Park Acres Specific Plan proposes the incorporation of that portion of the County adopted Santa Ana River - Santiago, Creek Greenbelt Plan within the Santiago Creek to the north and east of this study area. This covers approximately 450 acres of the study area. (Page 118 of the *OPA Plan*)

The Plan proposes the incorporation of presently proposed trails within the, Master Plan of Riding and Hiking Trails for Orange County, the Proposed Orange County Skeletal Bicycle Plan and the Santiago Creek Project Priority Map. The Plan also depicts the proposed local routes to form the main trail system for Orange Park Acres to link to these routes. (See Exhibit # 33 (Parks, Trails & Open Spaces) of specific note is the incorporation, of Handy Creek as a trail link. It is recommended that it be acquired to provide for trails and drainage. (Page 118 of the *OPA Plan*)

Technical Appendix P, East Orange General Plan and Orange Park Acres Plan Amendments has been revised on page 118 of the OPA Plan to include statistical revisions. The Draft EIR found that the proposed project would have a less than significant impact related to conflicting with General Plan policies and goals, and no mitigation measures would be required. Because the OPA Plan is part of the City General Plan, certain portions of the SARSCGP are a part of the City General Plan. (Page 5.10-10, Draft EIR) The proposed project would amend the City's General Plan and remove the project site from the OPA Plan area. The Draft EIR found that with the City's approval of the amendments to the OPA Plan and the EO General Plan and the approval of the Rio Santiago Specific Plan, a less than significant impact would occur and no mitigation measures would be required. (Page 5.10-16, Draft EIR)

### Santa Ana River/Santiago Creek Greenbelt Implementation Plan

The Santa Ana River/Santiago Creek Greenbelt Implementation Plan (SARSCGIP) was a status report. The Santiago Creek Vision Plan (SCVP) states that, "This document served as a thorough overview and update of prior planning efforts, using Orange County's corridor plan of 1971 as a benchmark, while incorporating known flood protection proposals and other regional projects of interest, such as water supply and waste treatment (Wells 1976: 2–10)."

The Santiago Creek Vision Plan (SCVP) further states that,

By 1973, "a multi-jurisdictional, separate public agency," or joint powers authority, was formed to coordinate project implementation within Orange County: the Greenbelt Commission. The commission was comprised of three members of the County Board of Supervisors and Orange County Flood Control District, two directors of Orange County Water District, and council members from each of eight cities located within the watershed, based upon acreage in the planning area: Anaheim (two representatives), Huntington Beach (two), Newport Beach (one), Orange (four), Santa Ana (two), Villa Park (three) and Yorba Linda (two). Twenty-six citizens were appointed as members of Santiago Creek Greenbelt Committees that worked to coordinate planning on a local level. The Board of Supervisors folded the greenway plan into the County's open space element of its General Plan (Ibid.: 11–15 and 18, citing Resolution No. 74-1151).

The group focus was limited to a reach of Santiago Creek that came to be known as "Lower Santiago Creek," extending from Villa Park Dam to the Santa Ana River confluence. The corridor was "arbitrarily defined" as three miles of land centered on the creek. In what may be described as a project vision, the implementation plan states that the corridor: ...should be viewed as a linear greenbelt, linking park nodes and significant open spaces by a bicycle, equestrian and hiking trail system. The river look and atmosphere should be saved or restored as appropriate, with an emphasis on trees, informal space, and quiet contrast to the surrounding urban texture and "busyness." The demands for open space and recreation should be balanced according to the potential of the corridor, i.e., some areas of intensive use, some of natural preserve, [others] in-between (Ibid.: 13). Goals expressed for Santiago Creek at this time (1976) included studying the creek's adequacy for ongoing flood protection, considering the feasibility of converting sand and gravel pits as retention basins and new parks, extending and linking the existing smaller parks located along the creek, developing a continuous recreation trail and preserving or protecting natural lands on nearby hillsides.

The Greenbelt Commission's implementation plan defined a range of recreational uses and facilities that could comprise a greenway, including: bicycle and equestrian facilities; state, regional, natural, community, neighborhood and miniature parks; trail rest stops, park and ride facilities, water conservation facilities; equestrian centers, golf courses and open space reserves (Ibid.: 28–30). Santiago Creek is mapped generally as one of four planning areas within Orange County, with then-vacant lands along the creek identified as "greenbelt corridor" and nearby lands noted as "impact area." General concepts are presented, such as "Lower Santiago Creek

Regional Park" that was first proposed in the county's 1960 Master Plan of Regional Parks, a "live stream" extending from Santiago Dam to Walnut Avenue, sand and gravel pit rehabilitation, and development of a specific plan for Lower Santiago Creek (Ibid.: 32 and 79-82). The implementation plan also reflects some of the planning conceived by residents or coordinated by the City of Orange and local Citizen Greenbelt Committees. Equestrian and commuter trails were proposed from Hart Park to Santiago Oaks Regional Park, each along an edge of the creek. Hart Park, initially developed in 1933, had just recently been expanded across and south of the creek. An easterly expansion was now being discussed. Specific opportunities for development of a recreation facility and community park, the acquisition of open space, possible trail connections, park-and-ride sites, even a campground were suggested as projects. Nature preserve and wilderness areas were forecast at a site that had been recently purchased by the county, later known as Santiago Oaks Regional Park (Ibid.: 86-91). The success of this era was attributed to a strong level of community participation and interest in Santiago Creek, noted by Wells as key to the implementation of local projects. The city's portion of the Santa Ana River/Santiago Creek Greenbelt Implementation Plan was approved by the City Council on 18 May 1976. In addition to charter membership, in the Greenbelt Commission, the city has provided funds and staff hours in support of the joint study to develop the land use decision model for Santiago Creek and Santa Ana Canyon. The city's Citizen Greenbelt Committee has been exceptionally active in the greenbelt program, and has worked closely with the committees of neighboring jurisdictions and their staffs in the development of greenbelt plans. Members of the committee have attended numerous meetings with developers regarding planned developments along the greenbelt corridor; reviewed and provided comments and recommendations to their city's planning commission and council about the compatibility of plans with the greenbelt, and in general have been a forceful, constructive influence on maintaining the inertia and quality of the greenbelt program (Ibid.: 81).

City Council actions related to the *Santa Ana River/Santiago Creek Greenbelt Implementation Plan* (SARSCGIP) have been reviewed. The SARSCGIP was accepted by the City Council on May 18, 1976. The City did not adopt the SARSCGIP. However, the City Council Minutes (May 18, 1976) indicated that the City approved the implementation of certain project projects identified in the SARSCGIP. Based on this review, it has been determined that the SARSCGIP was not adopted by the City. While the SARSCGIP has been utilized as a reference, it is not a City adopted public policy related to the project site. Therefore, no further action or analysis is warranted.

## Santiago Creek Vision Plan

The Santiago Creek Vision Plan (SCVP) is a strategic visioning proposal for the seven-mile corridor in the City, from William O. Hart Park to Santiago Oaks Regional Park. The SCVP was prepared by the City, Santiago Creek Greenway Alliance, and the National Park Service Rivers, Trails, and Conservation Assistance Program with support from the Wildland Conservancy in December 15, 2008. The SCVP describes a "Vision Plan" for a greenway, multi-purpose trail system and healthy watershed along Santiago Creek in the City. The primary goals of the SCVP are to:

- 1. Develop a continuous multi-purpose trail on the upper bank of the Creek (uplands area).
- 2. Create a greenway along the creek by restoring the Creek bed and its adjacent uplands with native trees and shrubs.
- 3. Maximize ground water recharge by restoring the Creek bed in specific areas.
- 4. Maintain or improve existing level of flood protection.

The SCVP also provides general guidance on how Santiago Creek, greenway and trail improvements could be integrated into development proposals. The SCVP was developed as a vision for the future of Santiago Creek. The SCVP anticipated that following its adoption, more detailed proposals for specific projects will include evaluation of environmental resources and identification of project impacts. The SCVP does not obligate the City or landowners to any immediate actions or land use restrictions. At time of writing the City's 2010 General Plan, the Natural Resource Element states, "In 1999, the City applied for, and was granted, technical assistance from the National Park Service Rivers, Trails, and Conservation Assistance Program to prepare a conceptual master plan for Santiago Creek. The plan, which is under preparation, will address three major components: recreation trails, open space, and flood control. The City will continue to work toward completion of the Vision Plan for Santiago Creek, and will implement its recommendation, consistent with General Plan policies concerning the Creek." (Page NR-46) The SCVP is intended to facilitate long-term actions and strategic development of community-based improvements.

### The SCVP primary goals are to:

- 1. Construct a multi-purpose trail system along the Creek bank connecting Santiago Park in Santa Ana to Santiago Oaks Regional Park. Santiago Oaks Regional Park connects to regional trails further east and south (e.g., Anaheim Hills Trails, Irvine Regional Park, Weir Canyon and the Mountains-to-Sea National Recreation Trail and Peters Canyon).
- 2. Create a greenway (where possible) along the Creek by restoring the Creek bed and its adjacent uplands with native trees and shrubs.
- 3. Restore the Creek's natural contribution to groundwater recharge by removal of concrete parking lots from the Creek bed and replacing non-native plants with soft-stemmed natives.
- 4. Maintain or improve flood protection goals defined by county officials and the U.S. Army Corps of Engineers.

The SCVP describes the project site within Section 2.7, Mile 7, Cannon Street Bridge to East End of Sully-Miller (i.e., former project site owner) Property. The SCVP states that Mile 7 contains the largest undeveloped parcel of land in the study area. The SCVP describes the project site as:

It is known as the Sully-Miller properties named for the firm that mined this site between 1920 and 1985. It is one of only four sizeable undeveloped parcels of land remaining along Santiago Creek (the other three are the Yorba site behind Chapman Hospital; the Hurwitz property on the west side of Cannon Street; and the abutting Villa Park Landfill). A small portion on the

southeast corner is presently (2007) being used for a recycling/crushing facility operated by Hanson Aggregates. Agricultural field crops have been grown in the past on large portions of the site that were first mined for sand and gravel, and then filled with silt from the processing operations, or with inert materials (rock, asphalt, concrete, etc.). The Villa Park Landfill was a former gravel pit which was once mined to a depth of about 75 feet (County of Orange 1977). After removal of the sand and gravel it was used for disposal of household refuse. The disposal site is still producing significant amounts of methane gas that is evacuated through a system of underground wells and pipes exhausting to the atmosphere (County of Orange 2000). Figure 42 is a photograph of the Sully-Miller site looking west from Rattlesnake Peak in Santiago Oaks Regional Park. The Cannon Street Bridge is seen in the background near the upper left. A portion of Mabury Avenue is seen along the right. Santiago Creek, visible only as a riparian corridor, flows generally west past the Villa Park Landfill and under the Cannon Street Bridge. The creek itself is hidden by the trees in the foreground and eclipsed by the terrain.

Much of the Sully Miller property is covered with a mixture of native and non-native plant species, as seen in Figure 42 and 43. The trees shown in the photo are mostly native willows. An unpaved road could provide a good base for the bike path running east from the Cannon Street Bridge to the vicinity of Handy Creek. The portion of the Sully-Miller site that is on the south side of the creek is ideal for trails, a greenway and active park use. A 100-foot right-of-way is recommended for the trail and greenway along the south side of the creek, to the point where the trail would cross the creek to join an existing segment of the Santiago Creek Trail on the north side. Much of this area will likely be left undisturbed due to the mitigation that would be required, should the site become disturbed. (Sully-Miller/Fieldstone Communities 2001). Abutting this site is a 9.6-acre parcel (now owned by John Martin) that is presently zoned R-1-8 although its development potential may be limited.

The SCVP identifies four potential projects recommended for Mile 7, which are shown in Table 2.5-2, Santiago Creek Vision Plan Potential Projects – Mile 7.

Table 2.5-2: Santiago Creek Vision Plan Potential Projects – Mile 7

Project No.	Description
7.1	Develop closed landfill as a parking facility for adjacent open space and active park.
7.2	Construct Class I bike path from Cannon Street to Handy Creek confluence.
7.3	Restore land on both sides of trails with native plants as needed.
7.4	Construct recreation trail north from the bike trail to the Mabury Ranch Trail Install pedestrian
	bridge across Santiago Creek.

Source: Santiago Creek Vision Plan.

City Council actions related to the SCVP have been reviewed. Based on this review, it has been determined that the SCVP was not adopted by the City. While the SCVP has been utilized as a reference, it is not a City adopted public policy related to the project site. Therefore, no further action or analysis is warranted.

### Planning Area A

Several commenters expressed concern that should the ownership of Planning Area A be transferred to the County of Orange (County); that the policies of the County's General Plan would then apply to this portion of the project site. The County does not have a land use plan for Planning Area A. The County General Plan primarily focuses on the unincorporated area - territory that is not located within a city - the plan also addresses regional services and facilities provided by the County such as regional parks, roads, flood control facilities, etc. The majority of the unincorporated area is located in the southern portion of the County, however there are large parcels of unincorporated property, developed and undeveloped, located throughout the County. In addition, there are numerous small, unincorporated "islands" of property spread throughout the central and northern County. In the past ten years, the unincorporated territory has changed dramatically. Since 1993, three new cities (Laguna Woods, Rancho Santa Margarita, and Aliso Viejo) have incorporated within Orange County.

Government Code Section 65302 requires that general plans contain seven elements: land use, circulation, housing, conservation, open space, noise, and safety. This section also allows for the inclusion of other optional elements in the general plan. Section 65301 provides flexibility in the format of general plans and allows jurisdictions to combine elements. The County General Plan consists of an introductory chapter, a demographics chapter, and nine elements: Land Use, Transportation, Public Services and Facilities, Resources, Recreation, Noise, Safety, Housing, and Growth Management.

The first land use plan for Orange County, the Master Plan of Land Use, was adopted in 1946. The Master Plan was later amended and refined through the adoption of Area Plans for individual planning areas throughout the unincorporated area. The first comprehensive update of the Orange County General Plan was completed in the early 1980s through the General Plan Modernization (GPM) effort. The objective of the GPM was to streamline the processing of land development projects that were consistent with the goals and policies adopted by the Board of Supervisors.

A 1999 administrative update to the General Plan was prepared to create a more current and readable document. This update incorporated new County programs, socioeconomic data, and revised charts, graphics and maps. In addition, the update included a reformatted text that combined the nine separate elements into a single document. Sidebar notes, or factoids, were also added to the page margins to increase reader interest. The 1999 General Plan update deleted both Components I and III.

In 2001 County staff amended the County's Housing Element. The State of California certified the County's Housing Element on January 2002. On March 5, 2002, Orange County voters approved Measure W, which repealed the aviation reuse designation for the closed Marine Corps Air Station, El Toro and other provisions enacted by Measure A in 1994. Measure W also amended the Orange County General Plan to authorize El Toro to be used for non-aviation uses, including a multi-purpose central park, open space, nature preserve, universities and schools, cultural facilities, and other interim and long-term uses. As clearly noted above, the County General Plan does not have a land use plan for Planning Area A.

It is reasonable to assume that any future use of Planning Area A would be limited to those uses specified in the City's General Plan. Section 65454, *Consistency with General Plan* provides that no specific plan may be adopted or amended unless the proposed plan or amendment is consistent with the general plan. Section 65455, *Zoning, Tentative Map, Parcel Map, and Public Works Project Consistency with Specific Plan* provides that no local public works project may be approved, no tentative map or parcel map for which a tentative map was not required may be approved, and no zoning ordinance may be adopted or amended within an area covered by a specific plan unless it is consistent with the adopted specific plan. Finally, Section 65566, *Consistency of Acquisitions, Disposal, and Regulation* provides that any action by a county or city by which open-space land or any interest therein is acquired or disposed of or its use restricted or regulated, whether or not pursuant to this part, must be consistent with the local open-space plan.

Additionally, State Laws require that County policies and programs related to areas such as transportation and recreation (i.e., bicycle and equestrian trails) would be applicable.

## 2.5.2 Conditionally Permitted Uses

Commenters expressed concern with the analysis of conditionally permitted uses. Section 6.4.1, Conditional Use Permit, Open Space - Park of the *Rio Santiago Specific Plan* provides a list of uses allowed in Planning Area B, subject to the approval of approval of a Conditional Use Permit (CUP) in accordance with the standards of the City of Orange Municipal Code (OMC). Commenters have expressed a concern with specific "intensive uses" permitted by a Conditional Use Permit (CUP) in Planning Area B. Stating that the impacts associated with these uses are quantitatively different from those associated with the proposed YMCA. They provided, as an example, of impact difference that automobile trips generated by a stadium exceed that of an athletic facility. Additionally, that these automobile trips are more concentrated in short windows of time before and after an event.

The Draft EIR indicates that Planning Area B would be located in the southwestern corner of the project site, generally bordered by Santiago Creek on the north, East Santiago Canyon Road to the south and the closed Villa Park Landfill to the west. The planning area totals 10 gross acres in size (approximately nine percent of the project site) and would be developed prior to the last occupancy permit in Planning Area C and D. It would allow a variety of fee based recreational and community uses including "pay-for-play" uses, such as, but not limited to:

- Sports Activity Field(s) (i.e., softball/baseball),
- Soccer/Lacrosse/Field Hockey Field,
- Court Sport(s),
- Swimming Pool(s),
- Open Turf Area, and
- Athletic Training Center.

The Draft EIR indicates that the proposed sport fields have the potential to be lighted. Planning Area B would include a multi-purpose facility with a maximum of 81,000 square feet that may include a

combination of the uses (listed below) and shall not exceed two stories in height. Ancillary uses in support of the above uses would also be allowed (including but not limited to parking lots, bicycle parking, restrooms, and support services such as sandwich shop, juice bar, coffee, pro shop, etc.). Freestanding commercial uses would not be permitted. The following uses would be allowed subject to the approval of a Conditional Use Permit (CUP) and additional use-specific environmental assessment and review by the City:

- Archery Range,
- Country Club(s),
- Free-standing Museums and Libraries,
- Stadiums and Grandstands,
- Skate Park,
- Veterinary Clinics and Livestock Animal Hospitals, and
- Daycare with 9 or more children

The Draft EIR states that the proposed project would alter the existing visual character of Planning Area B with the elimination of existing on-site current uses [(i.e., the backfilling operation) Page 5.1-36 of the Draft EIR]. Further, the Draft EIR states that the proposed project, including all the permitted and conditionally permitted uses would not be perceived as a substantial degradation to the long-term visual character of portions of the project site and indicating that Planning Area B is substantially degraded by the current backfilling operation. At issuance of the NOP, Planning Area B was being backfilled and contained the backfill operations and associated uses. There is no time limit for the completion of the backfill operation. Additionally, PDF AES-11 through AES-19, and PDF AES-22 would reduce potential long-term impacts related to the proposed project improvements in Planning Area B. These PDF's would require compliance with the City's Municipal Code related to landscaping and the establishment of specific design features to lessen the impact on the visual character of this area. Therefore, a less than significant long-term visual character impact would occur and no mitigation would be required. (Page 5.1-37 of the Draft EIR)

The Draft EIR does not evaluate the impacts of an archery range, skate park, or daycare with nine (9) or more children. These uses are directly associated with a YMCA use and are customarily found within their operations. While commenters noted these use are necessarily more "intensive uses," they are uses that require the approval of a Conditional Use Permit (CUP) in accordance with the OMC. An archery range, skate park, or daycare with 9 or more children has been evaluated throughout the EIR in association with the YMCA as associated uses. Each of these three uses require further evaluation for potential specific issues once their precise location would be determined (i.e., safety zones for archery range). Therefore, they would be subject to further discretionary review and approval for a CUP and further CEQA analyses and review by the City at the appropriate time to review potential issues.

The Draft EIR does not evaluate country clubs; free standing museums and libraries; stadiums and grandstands; and, veterinary clinics and livestock animal hospitals. County clubs would be associated with a golf facility. Therefore, since no golf facility could be developed in Planning Area B this potential

use, while conditionally permitted, must be considered speculative. The project applicant has indicated that free standing museums and libraries would occur within the evaluated 81,000 square feet of allowable development within Planning Area B. Therefore, they would be subject to the further discretionary review and approval for a CUP and further CEQA review by the City would be the appropriate time to review potential issues with these specific uses.

Planning Area B could be utilized as a stadium or grandstand with the approval of a CUP. It would be speculative to evaluate a stadium or grandstand facility at this time as the exact location and size (i.e., number of seats) are unknown. Therefore, hey would be subject to the further discretionary review and approval for a CUP and further CEQA review by the City would be the appropriate time to review potential issues with these specific uses.

The approval of the Specific Plan by the City would not represent a commitment to expand the use of the project site to allow these uses. City approval would establish the requirement that should these specific uses be considered on the project site that further evaluation (i.e., CEQA & CUP) must be undertaken. Therefore, while it might be argued that potential for approval of a future conditionally permit use would exist, there is no commitment to expand uses on the project site at this time.

## 2.5.3 Physically Divide an Established Community

Commenters expressed concern that the proposed project constitutes "spot zoning"; thereby, physically diving an established community. The California Planning Guide (*An Introduction to Planning in California*) December 2005 Edition defines "spot zoning" as:

The zoning of an isolated parcel in a manner which is inconsistent or incompatible with surrounding zoning or land uses, particularly if done to favor a particular landowner. A conditional use permit is not a spot zone.

The Draft EIR indicates that the proposed project would not be developed as an isolated parcel in a manner inconsistent or incompatible with surrounding zoning or land uses. The Draft EIR indicates that the project site is located within a developed setting and is adjacent to established residential communities. Santiago Oaks Regional Park is located to the northeast of the project site. The proposed project replaces the existing materials recycling operation (i.e. asphalt and concrete crushing) and backfilling operations land uses with proportions of open space, open space recreational uses, age-qualified residential, and low density single-family residential uses. The Draft EIR indicates that the existing use of the project site is inconsistent with the surrounding residential and open space land use. The proposed project provides PDF LUP-1 through PDF LUP-3 to define the proposed project's connectivity to the surrounding community. (Page 5.10-11 of the Draft EIR)

The proposed project does not propose to establish or relocate any roadways, which would have the potential to divide an established community. The proposed project would modify East Santiago Canyon Road, by providing the addition of road right-of-way adjacent to the project site, and providing a landscape median for aesthetic and safety purposes.

The proposed project provides for open space along both sides of Santiago Creek area. This open space provides a connection for the community to Santiago Oaks Regional Parks. Presently, the project site is fenced-off from public access. The proposed project and the existing community would be able to access Santiago Oaks Regional Parks through the trail system provided by the proposed project. The following recreational trails and/or possible connections are proposed within the project site and are shown in Section 5.15, *Recreation*, Figure 5.15-2, *Existing and Proposed Trails*:

- The proposed project would maintain the Bikeway within East Santiago Canyon Road.
- The proposed project will provide a public multi-use trail adjacent to Santiago Creek that would allow for linkage to Cannon Street and planned regional trail connectors to the west.
- A public recreation trail currently exists along the north side of East Santiago Canyon Road adjacent to the existing Reserve neighborhood. The proposed project provides a connection to this trail and extends it along the project's entire East Santiago Canyon Road frontage.
- At the southwest corner of the project site, a further public trail extension westward by the adjacent property owner (County of Orange) would be possible.
- The proposed project provides a public recreational multi-use trail extending into the project site alongside the proposed main entry roadway, providing a connection between East Santiago Canyon Road and the proposed multi-use trail along the south bank of Santiago Creek.
- PDF-TRA 17, which requires a signal at the main entrance to the project, provides connectivity
  from surrounding residential communities and adjacent Mara Bradman Equestrian Arena to the
  project trail system.
- A public multi-use trail is proposed along the southern boundary of Planning Area A along the entire south bank of Santiago Creek.
- At the far western edge of the project site, the multi-use trail would allow for future linkage to Cannon Street by the adjacent property owner and planned regional trail connectors to the west.

While commenters have expressed a concern that the proposed project would be developed as an isolated parcel in a manner inconsistent or incompatible with surrounding zoning or land uses, this is not an accurate statement. The Draft EIR indicates that the proposed project has been designed to be consistent with the surrounding community by preserving the area's rustic environment and lifestyle as required in PDF LUP-2. The proposed project provides single-family residential units adjacent to the established residential communities. The proposed project provides age-qualified housing adjacent to the project site's single-family uses. Within the proposed project age-qualified area, there will be villas that act as a transition from the single-family to the age-qualified units.

The Draft EIR indicates that the *Rio Santiago Specific Plan* would establish design requirements to ensure that the proposed projects scale and massing are consistent with surrounding neighborhoods. Three examples of design requirements in the *Rio Santiago Specific Plan* related to massing and scale include:

- Design and site buildings in a manner that respects the project's setting through the use of appropriate scale and massing of building elements, ample setbacks, and articulation of building facades by means of offsets, overhands, balconies, style appropriate detailing and other architectural enhancements.
- The plotting of residences shall be designed in a manner that achieves visual diversity and interest in the street scene. Such diversity shall be achieved through varying building setbacks, articulated building massing, or enhanced elevations on residences plotted on corner lots.
- Age-qualified building corners and ends shall step down in scale at highly visible key locations, softening the building edges and enhancing the street scene and providing articulated edges. One and two story height limit within 50' of the exterior Planning Area or project boundary. (*Rio Santiago Specific Plan*)

Additionally, while commenters expressed concern that the proposed project constitutes 'spot zoning<sup>1</sup>', thereby, physically diving an established community, the Draft EIR indicates that the proposed project would provide for community connectivity by:

- 1. The provisions of a multi-purpose building space for use as a community recreational center for all ages, benefitting the surrounding and all City residents.
- 2. The provision of recreational facilities, including the multi-purpose building, parks, multi-purpose trails, and fields;
- 3. The elimination of community barriers that would include privately owned fenced property; and,
- 4. The elimination of land used primarily for resource production purposes.

Additionally, the Draft EIR notes that the *Rio Santiago Specific Plan* indicates that the landscape plan has been developed to provide seamless edges between residential and open space uses throughout the community as implemented in PDF LUP-3. The combination of proposed project uses based on the analysis provided above indicates that the proposed project will join rather that separate the existing surrounding community. Implementation of the proposed project does not have the potential to divide an

According to the court [Avenida San Juan Partnership v. City of San Clemente, 201 Cal.App.4th 1256 (2011)], "the essence of spot zoning is irrational discrimination." Quoting at length from Arcadia Development Co. v. City of Morgan Hill, 197 Cal. App. 4th 1526 (2011), the court continued: "Spot zoning occurs where a small parcel is restricted and given lesser rights than the surrounding property, as where a lot in the center of a business or commercial district is limited to uses for residential purposes thereby creating an 'island' in the middle of a larger area devoted to other uses. . . . Usually spot zoning involves a small parcel of land, the larger the property the more difficult it is to sustain an allegation of spot zoning. . . . Likewise, where the 'spot' is not an island but is connected on some sides to a like zone the allegation of spot zoning is more difficult to establish since lines must be drawn at some point. . . . Even where a small island is created in the midst of less restrictive zoning, the zoning may be upheld where rational reason in the public benefit exists for such a classification."

established community. Therefore, less than significant impacts would occur and no mitigation measures would be required. (Page 5.10-13 of the Draft EIR)