CITY OF
TUCSON
OFFICE OF THE
CITY MANAGER

January 5, 2005

Ms. Debbie Hecht
The Silverbell Action Coalition
P. O. Box 87005
Tucson, AZ 85745

Subject: Response to Your Letter Dated December 19, 2004

Dear Ms. Hecht:

Enclosed are the City of Tucson's responses to the comments/questions in your December 19, 2004 letter to the City of Tucson, Pima County, and the Town of Marana.

As you may know, the City of Tucson facts and background data regarding Silverbell Corridor issues have been posted since mid-November on the Department of Transportation website, in a special section headed "Silverbell Road Corridor." The information included there has been prepared by staff from multiple City departments who have worked together on associated issues. Many of the responses included in this communication are the same as or based on the information presented at the November 17, 2004 public meeting at the Silverbell Golf Course and what is found on our website and other public City documents and reports.

Please feel free to contact Assistant City Manager Liz R. Miller or myself if you have any further questions.

Sincerely,

Michael D. Letcher
City Manager

MDL:LRM:sap

Attachment

c: The Honorable Mayor and Council Members
Liz R. Miller, Assistant City Manager
Benny J. Young, Assistant City Manager
Jim Glock, Transportation Director
Albert Elias, Urban Planning and Design Director
Ernie Duarte, Development Services Director
Fred Gray, Parks and Recreation Director
Ron Lewis, General Services Director
John Updike, General Services/Real Estate
Eliseo Garza, Environmental Services Department
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Attachment

There were several issues/recommendations that received majority support:

1. **Everyone would like to downgrade Silverbell from a main arterial. Moving the traffic off of Silverbell and onto I-10 and the frontage road, in order to maintain the existing two-lane roadway and the integrity of the original Butterfield stage route. The scenic corridor designation and the washes that provided wildlife crossing from the Tucson Mountain Park to the Santa Cruz River. These washes are designated as crucial habitat in the Sonoran Desert Conservation Plan.**

   - Silverbell is the only north-south arterial roadway on the west side of the Santa Cruz River. All other planned connections within unincorporated Pima County have been cut off and any opportunity for other relief for local traffic to not use Silverbell have been eliminated.

   - Silverbell Road serves as a regional corridor serving all of the Tucson Mountains, Marana, and Pima County. Emergency services, and other critical service connections rely on Silverbell Road for immediate access.

   - Catastrophic flooding of the Santa Cruz requires the presence of a safe and efficient Silverbell Road to provide needed access and service delivery to the west side of the Tucson. No other roadway can serve this function.

   - While it is agreed that through traffic destined for locations outside of the corridor should use I-10, it has to be remembered that the major roadways in Tucson and Pima County operate as a system. Incidents on I-10 often require detouring of traffic onto surface streets. Those streets must operate safely and efficiently within the system and be available at any time. Silverbell Road serves as one of those key links in the system.

   - Not only does Silverbell Road need to remain as is, to continue to be a functional roadway its cross-section needs to address the continuing needs of growth in the areas to the north and west of the City of Tucson. Regional cooperation is required to elevate its priority to assure adequate funding to address this key link in the roadway system. Downgrading Silverbell Road is not an option from a local access, regional corridor, or emergency service perspective.

2. **The Santa Cruz River Park should extend along the west side of the Santa Cruz River from downtown Tucson to Marana, to preserve archeological sites, to isolate soil contamination, minimize impact from WAPA high tension power lines and floodplain, and to link existing development to park lands. The committee felt that much of this land is not suitable development.**

   The City agrees that the Santa Cruz River Park should be extended.

3. **To request the City, County and Marana to delay building permits until a transportation and land use Master Plan is implemented. A group of Environmental Studies completed to insure the health and safety of residents from TCE contamination at Silver Creek. 10 landfills along the Santa Cruz River that have the potential to leak methane gas, the danger from WAPA high tension power lines and the aging, leaking Kinder Morgan Pipeline. We also request that uninvolved and unbiased third parties and consultants, that are not hired by selling jurisdiction, should be completed to preserve valuable sites before any more buildings permits are issued. Much concern was expressed for any additional homes in the area between Grant and Sweetwater where the traffic count is already over traffic engineers recommended capacity of 19, 000 car trips per day.**

There are many issues raised in this one recommendation. The issues of environmental studies are being covered and policies are in place to deal with contamination. Archeological studies are required by current City and County policies. There are existing land use plans in place that have been endorsed by all neighborhood groups and are supported by the Tucson Mountains Association. These land use plans cover all the area in question and set forth clear policy direction regarding development of the Tucson Mountains and the area east of Silverbell Road through the Tumamoc and Santa Cruz Area Plans.

Pima County Comprehensive Plan clearly provides direction for all unincorporated Pima County vacant lands. Marana has a General Plan covering its territory. These plans guide any future rezoning and all other properties can develop under their existing underlying zones. In addition, the City of Tucson and Pima County have Hillside Development Zone regulations, WASH ordinances, floodplain regulations, Native Plant Preservation plans, and other regulatory tools that address many of the issues raised by the coalition. There is no need for a Land Use Plan other than to gather the existing policies to apply to any vacant lands in the corridor.

Regarding a Transportation Plan, Silverbell Road has always been recognized as a major arterial roadway by all jurisdictions. According to the Tucson Major Streets and Routes (MS&R) plan this corridor is planned as a six lane divided scenic roadway throughout its length in the City. A current Design Concept Report by Transportation will define the roadway needs through the year 2030. This report will address the needs for wash crossings, cultural and environmental issues, right-of-way needs, access, future traffic volumes, and any other transportation issues relevant to Silverbell Road.

The Town of Marana is proposing a new bridge over the Santa Cruz River at Sunset Road. This bridge provides direct connection to Interstate 10 at an existing interchange. In addition Silverbell Road is identified for regional funding in the adopted Pima Association of Governments 2025 Regional Transportation Plan for widening to a four lane divided roadway. No other transportation planning is required at this time to address future need on Silverbell Road. The current Design Concept Report will address all existing issues and the 2030 Regional Transportation Plan will project needed improvements for future traffic conditions.

The ADEQ is in the final process of evaluating the soil in and around the Silvercroft Wash area for PCE contamination. We expect the results to be published soon. For any questions on the Silvercroft Wash study, concerned citizens should direct their calls to ADEQ in care of Mr. Mike Fulton at 520- 628-6740.

There are twelve closed landfills along the Santa Cruz River (Cottonwood, Dragoon, Mission, Nearmont, Rio Nuevo North, Rio Nuevo South, St. Mary's, Silverbell Jail Annex, Tumamoc and 29th Street, State Pit, Ryland). They are all monitored for methane vapors at the property boundary as required by law. The groundwater around these landfills are in a corridor of wells that are monitored by both Tucson Water and City Environmental Services. Areas of concern, such as Silverbell Landfill are in environmental programs to remediate the site and the groundwater below the site is not used for drinking water purposes.

The Kinder Morgan pipeline has been replaced from the terminal at Ajo and Aviation to north of the break area where the line proceeds north along I-10. The line replacement along I-10 was already complete. The line replacement was a slow process due to right of way and access.

Professional Consultants were hired to perform Environmental Assessments on the Estes property and the CSD property for development. Professional Consultants must seal their documents and follow a code of ethics and rules. If a consultant is found guilty of falsifying a document they loose their license and the privilege to practice in the State of Arizona. If the seller or buyer of the property did not hire the consultant to evaluate the site for contamination prior to the sale who would pay for the services rendered? There has to be a certain level of faith or confidence that a licensed professional will perform the tasks they are paid in a professional, unbiased, and ethical manner or there is no point in going any further with this issue.

4. **If Silverbell Road needs to be improved, the existing property owners should not have to bear this expense. Developers should pay for roads permits, environmental testing (by an uninvolved 3rd Party) and other infrastructures including schools for the areas of Silverbell road that their development affects. For Example: Any properties that would add traffic to fee to improve Silverbell. Developers adjacent to Silverbell should pay to widen and improve the road and pay a per lot fee. [sic] Impact Fees should apply only to Silverbell improvement and not go into their General fund. These fees should be implemented as soon as building permits are received and not wait until city impact fees are scheduled in the future.**

- The passage of the City of Tucson Road and Parks Impact Fees by the Mayor and Council has set up a mechanism for developers to pay their fair share of roadway and parks improvements. The City currently requires all developers to make improvements to Silverbell Road as part of their subdivision review process. There is a limit to how much an individual developer can be responsible for.

- Impact Fees and other exactions will only pay a portion of any ultimate widening of Silverbell Road. Regional funding will be required from either exiting HURF revenue streams or the future Regional Transportation Authority.

- It should be noted that the issue raised by the Coalition is limited to properties fronting on Silverbell Road. The nearly 1000 new homes that have been built in unincorporated Pima County in the vicinity over the past five years utilize Silverbell Road as their primary access and account for the majority of the growth in traffic volumes on Silverbell Road. Pima County Impact Fee revenue generated by those permits has been used to widen Wetmore Road from La Cholla to Fairview within the county's Tucson Mountains Benefit District. The vacant land in unincorporated areas can result in nearly 1000 more homes under existing zoning. Pima County should direct the impact fee revenue from those homes to future Silverbell Road improvements.

- With regard to school funding issues raised by the coalition, local jurisdictions are limited in their ability to influence school funding by state laws and are restricted from being directly involved in acquiring school funding from developers.

5. **The planning process should encompass the Silverbell corridor from the Rio Nuevo Project and Congress Street to Twin Peaks road on the north.**

- As stated in the response to Issue/Recommendation #3 (Page 2 of 9) plans already exist that cover land use in these areas.

- As for Transportation planning, we agree. However, it may need to be done in increments.

6. **The Silverbell Corridor Plan should include all plans implemented in the past, including but not limited to the Sonoran Desert Conservation Plan, Pima County Comprehensive Land Use Plan, zoning plans for all jurisdictions, river restoration plans, Rio Nuevo, traffic plans for Menlo Park, Barrio Hollywood etc.**

The City agrees.

7. **Because Silverbell Road is a designated scenic corridor, all properties owned by the City, Pima County and Marana along the corridor should also be disclosed and pertinent maps provided. Part of the scenic Corridor designation includes open space. We would like to see each jurisdiction commit to designating open space parcels in writing.**

- The City has provided information and maps regarding the land it owns on Silverbell between Grant and El Camino del Cerro. These were exhibited at the recent public meeting at Silverbell Golf Course and as found on the City Department of Transportation webpage under Silverbell Corridor.

- Tucson Land Use Code contains provisions for scenic corridor requirements. Viewsheds, setbacks, landscaping, signage and other provisions are already in place to protect the corridor.

8. **Guarantee that the Silverbell Golf Course and Columbus Park (including the 55 acres north of Camino Del Cerro) should be left as Park property in perpetuity for the use of future generations.**

   The City has no plans for either of these other than to operate them for their current uses.

   There are no future plans to abandon or sell either of them.

9. **Commit that the property leased by the City of Tucson to the United State Border Patrol at Goret and Silverbell (which is currently on a month to month lease) should remain leased to law enforcement (but not as a jail or prison) or become Park property in perpetuity.**

   The City of Tucson currently has no future plans or commitments regarding the above-mentioned property.

10. **We request that government representatives with decisions-making authority, be assigned as contact people for this committee from the City Manager's Office, the County Administrator's Office and the Town of Marana Office. In addition, the committee would like to be assigned contact people from each jurisdiction for traffic, environmental, floodplain and archeological information.**

    The City has committed considerable staffing to this issue and remains committed to work with the Coalition on any issue.

<u>We respectfully request answers to the many questions that were generated:</u>

1. **Traffic engineers state that the capacity of two lane Silverbell Road is 19,000 car trips per day (One home = 10 car trips per day). The area between Grant and Goret Roads is over capacity according to City engineers at the November 17, 2004 meeting. If additional people are hurt or killed in this area, and the government entity continues to issue more permits for home, thereby adding traffic, will they be liable?**

   - Capacity of Silverbell Road - The term "capacity" is a planning term to determine design requirements. Stating that a roadway is near or over capacity does not imply that the roadway is unsafe or cannot sustain any increases in traffic volume. It merely acknowledges that the roadway conditions are at a design threshold.

- Many 2-lane roadways within Pima County handle more than 20,000 vehicles per day in an efficient manner. There are several sections of 2 lane arterials carrying 25,000 vehicle or more every day where there is no planned action to widen the roadway in the near future. These roadways continue to operate safely and efficiently above their planned capacity.

- Silverbell Road is capable of handling additional traffic safely and efficiently due to its operating characteristics and the free-flow nature of most of the roadway segments. The current portion of Silverbell with the highest volumes has additional turn lanes and deceleration lanes that increase its planning capacity beyond the 19,000 vehicle threshold.

2. **Would it be possible to establish some "trigger" to widening the road? For example, if it was projected that the road capacity would reach 19,000 car tips per day, then the road would have to be widened BEFORE any subdivision plats were approved or building permits were issued?**

   The City of Tucson concurs with the December 29th statements made by the Pima County Administrator in his response to Ms. Hecht and the Coalition, regarding subdivision plat approval and issuance of building permits.

3. **What traffic calming strategies might work along parts of Silverbell to divert commuter traffic from this road and onto I-10 and the freeway frontage roads?**

   It is not recommended that any traffic calming be considered for Silverbell Road. See answer #1 under "Issues and Recommendations" (page 1 of 9) for reasons why Silverbell cannot be downgraded. Traffic calming is not an option for an important regional roadway like Silverbell.

4. **Silverbell Road is popular with bicyclists. Can all road improvements be required to incorporate bike lanes on each side of the road?**

   Mayor and Council policies require all roadway improvements to provide bike lanes and pedestrian facilities. Bike lanes would be placed on both sides of the roadway.

5. **What provisions can be made for critical habitat according to the Sonoran Desert Conservation plan and retaining washes as wildlife corridors?**

   It is recommended future Silverbell improvements are done in accordance with Pima County's Environmentally Sensitive Design Standards. These standards address habitat and wash issues as well as view sheds, scenic corridors and wildlife corridors.

6. **What requirements for roadways do the Army Corps of Engineers and other jurisdictions have for washes and floodplain? Please provide the report and maps on the washes.**

All washes considered as Waters of the United States will require permits in accordance with Section 401 of the Clean Water Act. The Design Concept Report (DCR) for Silverbell Road from Grant Road to El Camino Del Cerro will identify which wash crossings will require these permits. The DCR is approximately 40 percent complete. Once completed, the DCR will be made available to the public.

7. **If a governmental entity sells land to developers and the land is later found to contain contaminated soils, is the original contaminator still responsible for clean up and liable for any adverse health affects to residents? If so, won't taxpayer ultimately bear this expense?**

Under Federal and State law, the clean up of a hazardous substance is the responsibility of any or all of the following on a "no-fault" basis: parties who generated the hazardous substance, parties who transported the hazardous substance, parties who released the hazardous substance to the environment, parties who owned the property at the time of the release of the hazardous substance, and the current owner of the property (with some exceptions). The Arizona Department of Environmental Quality (ADEQ) would likely lead the clean up effort.

Liability for adverse health effects caused by exposure to a hazardous substance would be handled on a case-by-case basis through individual civil actions based on traditional concepts of fault such as negligence, trespass, and nuisance. ADEQ would not be involved.

Sales agreements involving the sale of City owned property to private parties also contain language that holds the City of Tucson harmless from any financial liabilities regarding the environmental condition of the property sold. A buyer is given adequate time, access and resources to determine the suitability of the land for the buyer's intended use before the buyer commits to closing of the sale.

8. **Soils of the new subdivisions near Grant and Silverbell have been found to be contaminated with TCE. Residents said they never realized that their homes were near contaminated sites. Would it be possible to pass an ordinance requiring developers to disclose contamination sites or potential health risks within 1 mile of new homes in BOLD letters prominently displayed on the first page of sales contracts or subdivision reports?**

The PCE that was found in the Silvercroft Wash area was in the groundwater below the site (140 feet below ground surface) which was mixed in with the gasoline plume the Kinder Morgan Company was removing. The ADEQ soil study in the Silvercroft Wash area is not complete. The Environmental Assessment performed in the Silvercroft area by a Professional Consultant for the Developer prior to construction was made available to home buyers through the title company prior to each close of escrow with each home buyer.

The City cannot require anything to be included on subdivision reports by ordinance or otherwise, as these are governed by state statute. Furthermore, to require disclosure of potential hazards within one mile of property on the deed would also likely run afoul of the state scheme regulating property sales, and most likely would present vagueness issues depending upon how one defines a hazard.

The City could conceivably pass an ordinance to this effect but would likely not have any enforcement ability inasmuch as the City is not a party to or overseer of the real estate transaction. Such an ordinance would be duplicative of the regulations currently in place and enforced by the Arizona Department of Real Estate.

9. **Can the City, County and Marana ask the Arizona Department of Environmental Quality or the Environmental Protection Agency to test the sites of old landfills and other contamination along the Santa Cruz? TCE contamination has been found in the Silver Creek subdivision. Supervisors Sharon Bronson and Richard Elias have already requested this. If this is not possible, we suggest that land near contaminated sites be tested before sale and after additional fill is added by ADEQ.**

As listed in the response to "Issue and Recommendation #3" (pages 2 and 3 of 9) all of the City landfills are being monitored and the landfills with contaminant problems are in remediation programs. The PCE contamination at the Silvercreek area was associated with a gas plume at 140 feet below the ground surface. The ADEQ study to determine if there is any PCE in the soil at the ground level is not complete. For further information please contact ADEQ at 520-628-6740 and ask for Mr. Mike Fulton.

10. **Since Silverbell Road is designated scenic route, what provisions can be made to assure that the scenic quality is preserved? If jurisdictions allow new development, and only require the 30-foot setback in the Scenic Corridor ordinance, the setback would be "eaten up" if the road needs to be widened. Could 60 feet landscape buffers be required to assure a landscaping buffer and the scenic quality of the road for the future?**

As a scenic route in the City of Tucson all development is required to retain existing vegetation in an area 30 feet from the edge of future right of way. The City's MS&R requires 150' right of way along Silverbell Road. The scenic route setback is outside of that 150' area. Future widening will not eliminate this setback. Current City policy encourages the developer to enhance the existing vegetation with native vegetation if it is very sparse or if it has been unavoidably disturbed through the development process.

11. **The Silverbell Corridor has numerous archaeological sites and is part of the Butterfield stage route and the DeAnza trail. What are there plans to preserve these important parts of our cultural heritage?**

The City of Tucson concurs with the statements of December 29th by the Pima County Administrator in this regard.

12. **Could the committee get a list of all Homeowner's or neighborhood groups in all jurisdictions that are located within 2 miles west of Silverbell and east to the Santa Cruz River? Would the City, County and Marana be willing to bear the expense for mailings and updates to residents in their jurisdictions?**

List of City Neighborhood Associations within the requested area:
Flowing Wells, Saguaro Miraflores, Ironwood Ridge, Silvercroft, El Rio, Barrio Hollywood, and Menlo Park.

City Neighborhood Coalitions in the area: Westside and Tumamoc.

The City's Department of Neighborhood Resources (DNR) can include brief information about public meetings related to this issue in the routine mailings it sends out to the President and VP of each neighborhood association and coalition; these routine mailings take place about every three weeks. In addition, DNR can post general information about public meetings on this issue on their website. This general meeting information can also be included on the City's Department of Transportation "Silverbell Corridor" section of their website; that special section has been set up since the November 17, 2004 public meeting held at the Silverbell Golf Course.

The City of Tucson does not maintain a homeowners association list/maps. We understand that a list of homeowner association names (which does not give geographic boundaries) can be ordered from the Corporation Commission.

13. **We would like maps that affect this area, including The Sonoran Desert Conservation Plan, River Restorations, contaminated sites and landfills, any environmental impact studies, existing zoning maps, comprehensive plan maps, the location of historical sites, existing master plan maps, future traffic plans (including but not limited to the hook-up with La Cholla Boulevard at Goret Road) for all jurisdictions?**

All City maps and plans are available to the public.

14. **Is there grant money available for facilitation of our meetings? We would appreciate the same assistance that was extended to the Menlo Park, Barrio Hollywood, Barrio Anita, El Presidio neighborhoods for the Rio Nuevo project and the same assistance that was extended to east side residents who worked on the Houghton Corridor. In a Dec. 7, 2004, Board of Supervisors Memo: "The City of Tucson Department of Urban Planning and Design is leading an effort to master plan approximately 9,000 acres of land on either side of Houghton Road from Tanque Verde to Interstate 10, leading to a Houghton Area Master Plan."**

We are not aware of funding being available to neighborhood groups from the City of Tucson Funds. There was no assistance to eastside residents for HAMP planning. The HAMP was funded internally to the Department of Urban Planning and Design.

15. Tucson Mountain area residents should be fully informed about the nature of development that is currently projected along the Silverbell corridor and what total build out at existing zoning in the County Marana and the City would be and the impact such development will have on all Westside residents whether they live in the City or the County.

See answer #3 in the Issues and Recommendations section. All development is anticipated to be in accordance with approved area and neighborhood plans. The Design Concept Report for Silverbell Road will address many of the transportation issues through the year 2030.

16. Is there Bond money available to purchase lands, possibly from Flood plain money or Open Space?

The City of Tucson concurs with the statements of December 29th by the Pima County Administrator in this regard.

17. Should we do long range planning for light rail along the corridor linking Marana with downtown and Rio Nuevo?

Pima Association of Governments is conducting an update of the Regional Transportation Plan through 2030. It is evaluating needs for all modes of transportation including express buses and future light rail. The Silverbell Corridor is a likely candidate for express bus service from Marana to downtown. Light Rail service is unlikely due to the density of development and the lack of activity centers in the area. The adopted area land use plans would not support light rail service in this portion of the Tucson region.

18. Could land be set aside for a community aquatic facility (as promised during Columbus Park negotiations) and a library?

- The City currently does not have any plans, nor funds, for a community aquatic facility.
- The County Administrator responded in his December 29th letter that a community aquatic facility is not programmed in any County CIP.
- The Tucson Pima Public Library's draft facilities plan does identify the need for a future library to serve this area. There is no specific funding identified at this time for such a facility.

19. Is there wastewater capacity to service all of the 400+ potential homes?

This is a Pima County Wastewater Management question. The County Administrator's December 29th reply to the Coalition was "yes."