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RECEIVED BY
PLANNING DEPARTMENT

November 9, 2009

NOV 12 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

CITY OF NEWPORT BEACH

Re: Draft Environmental Impact Report (DEIR)
for Sunset Ridge Park Project

Dear Ms. Brown:

According to Section 1.3 Project Summary of the Draft Environmental Impact Report (DEIR) for Sunset Ridge Park Project "Vehicle ingress and egress would be provided via an access easement from West Coast Highway through the Newport Banning Ranch property. Use of this adjacent property for the park access road would require an access easement from the Newport Banning Ranch property owner."

In additional, "As a part of the Project, the City proposes to widen a portion of the northern side of West Coast Highway from Superior Avenue to a point west of the proposed access road...The City (of Newport Beach) is proposing a signal on West Coast Highway at the proposed access road...Where widening would occur on Newport Banning Ranch property, a dedication from the Newport Banning property owner would be required." The proposed access road on West Coast Highway is depicted as part of Conceptual Site Plan Exhibit 3-9 to the Sunset Ridge Park DEIR, a copy of which is attached for your review.

On Page 4.1-15 in Section 4.1 Land Use and Related Planning Programs of the DEIR it is mentioned "[T]he Newport Banning Ranch property is currently proposed for development with up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75 room hotel; no actions have been taken by the City (of Newport Beach) regarding this proposal."

On or about March 16, 2009 the City of Newport Beach issued the Notice of Preparation (NOP) of Draft Environmental Impact Report for the Newport Banning Ranch Project. Consistent with above description the NOP's Project Summary states "[T]he Newport Banning Ranch Project proposes the development of up to 1,375 residential dwelling units, 75,00 square feet of commercial, and 75 overnight resort accommodations on a

Project site of approximately 401 acres." The adjacent proposed Sunset Ridge Park is depicted in Exhibits 3 and 5 to the NOP. A copy of the NOP is attached for your review.

In the NOP, the proposed park access road for Sunset Ridge Park is named "South Bluff Road" for the Newport Banning Ranch Project. It is part of road system designated "Bluff Road" described as "backbone roads" for the Newport Banning Ranch Project. According to the Circulation Section of the NOP "[A]s a part of the (Newport Banning Ranch) Project, Bluff Road would be constructed from a southern terminus a West Coast Highway to a northern terminus at 19th Street...Bluff Road would serve as the primary roadway through the Project site, would intersect with the proposed extensions of 15th Street, 16th Street and 17th Street within the Project site, and would connect to 19th Street to the north...The implementation of Bluff Road may be phased. Access into the City of Newport Beach's proposed Sunset Ridge Park is proposed from Bluff Road within the Project site. An interim connection from Bluff Road through the Project site connecting to Sunset Ridge Park may be constructed as a part of the Sunset Ridge project."

As shown above, from their adjacent locations, their overlapping project sites and their proposed common road system the Sunset Ridge Park Project and the Newport Banning Ranch Project constitute one "Project." Indeed, to paraphrase the above, the Sunset Ridge Park is "Phase One" of the Newport Banning Ranch Project. This is expressly stated on Pg. 18 in the "Development Phasing/Project Implementation" section of the Newport Banning Ranch NOP. The section states in pertinent part as follows:

"The Project Applicant (Newport Banning Ranch property owners) proposes to implement the (Newport Banning Ranch) Project starting in the southern portion of the Project site closest to West Coast Highway. Initial phases would include the development of residential uses, resort uses, and a portion of the proposed Community Park, along with internal roadway access and infrastructure improvement..."

The California Environmental Quality Act (Public Resources Code 21000 et. seq.) (CEQA) embodies California policy that "the long-term protection of the environment shall be the guiding criterion in public decisions" *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 74. The law's purpose is not only to protect the environment but also to inform the public and responsible officials of the environmental consequences of their decisions before they are made. *Id.* at 79. The CEQA authorized environmental impact report (EIR) is "intended to furnish both the road map and the environmental price tag for a project, so the decision maker and the public both know before the journey begins, just where the journey will lead, and how much they -and the environment will have to give up in order to take that journey." *National Resources Defense Council v. City of Los Angeles* (2002) 103 Cal. App. 4th 268, 271.

As the Sunset Ridge Park and the Newport Banning Ranch comprise one "Project" they must be subject to a single environmental review under California law. For the City of Newport Beach to consider separate EIRs for each "project" would constitute a violation of California law, specifically, CEQA, which prohibits piecemeal environmental review. *Orinda Ass'n v. Board of Supervisors* (1986) 182 Cal. App.3d 1145. Under clear California law, specifically CEQA, a public agency may not "piecemeal" or divide a single project into smaller individual subprojects to avoid responsibility for considering

the environmental impact of the project as a whole. Id; Sierra Club v. West Side Irrigation District (2005) 128 Cal. App.4th 690. CEQA "'cannot be avoided by chopping proposed projects into bite-sized pieces' which when taken individually, may have no significant effect on the environment.'" Id.; Tuolumne County Citizens for Responsible Growth v. City of Sonora (2007) 155 Cal. App. 4th 1214, 1223.

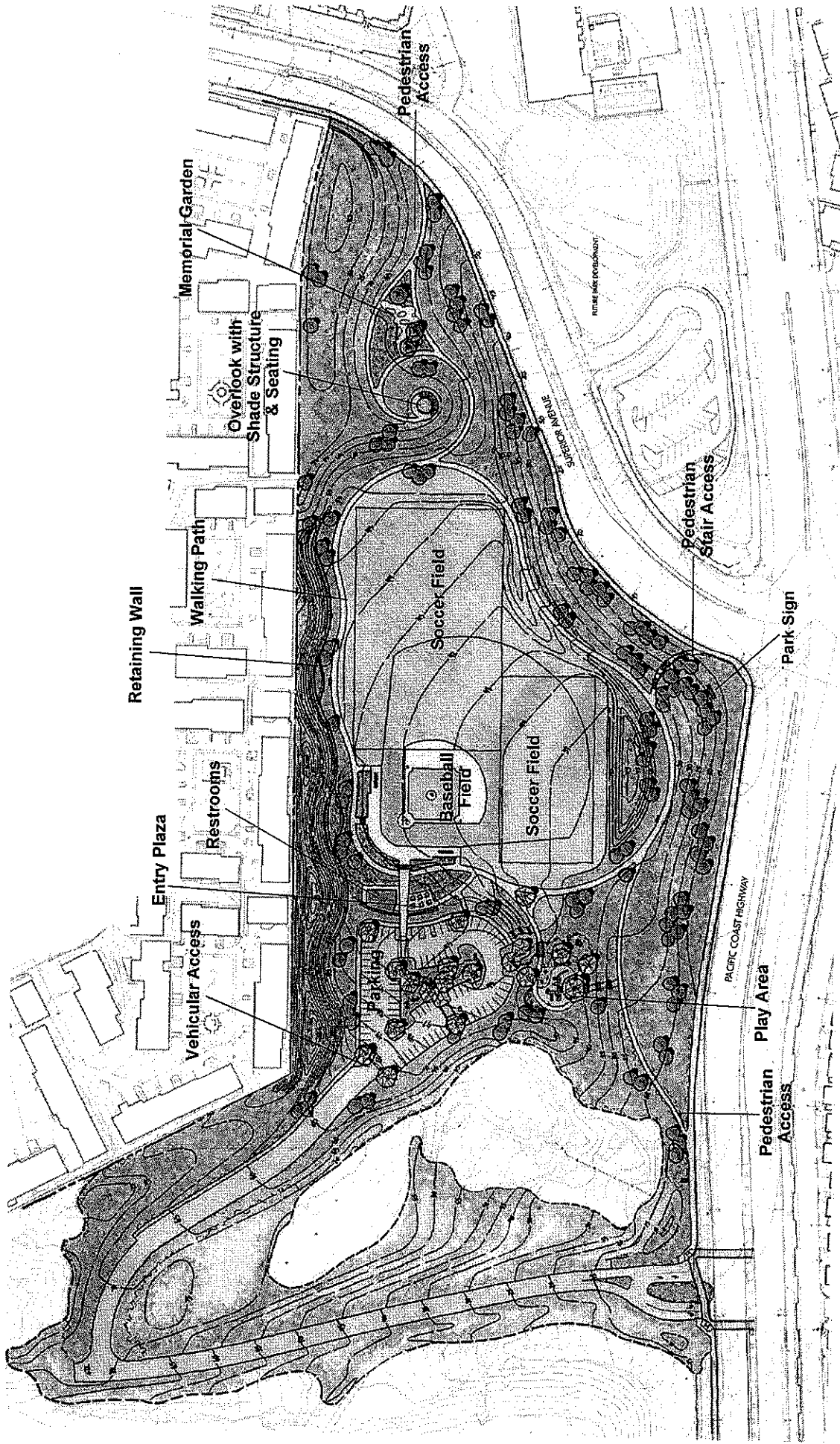
In summary, the Sunset Ridge Park and the Newport Banning Ranch comprise one "Project." As such, they must be subject to a single environmental review under CEQA by the City of Newport Beach. Since it appears that separate EIRS for each "project" are being prepared the EIRS should be considered at a combined joint hearing by the City of Newport Beach. This so both the City and its citizens will know the full costs both "they - and the environment will have to give up" in order for the entire Sunset Ridge Park and the Newport Banning Ranch "Project" to be constructed.

Please let me know your response to the foregoing as soon as possible. A hard copy of this email along with the attachments will be sent to you by US Mail.

Very truly yours,

A handwritten signature in black ink that reads "Bruce Bartram". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Bruce Bartram



Conceptual Site Plan

Sunset Ridge Park EIR

Exhibit 3-9



Benterra
CONSULTING

(Rev 10/22/08 KFD) Projects\Newport\J016\Graphics\EIR\EX-9_CSP.pdf



NOTICE OF PREPARATION

Date: March 16, 2009
To: Reviewing Agencies and Other Interested Parties
Subject: Notice of Preparation Draft Environmental Impact Report
Project Title: Newport Banning Ranch

The purpose of this Notice of Preparation (NOP) is to notify potential Responsible Agencies (Agencies) that the Lead Agency, the City of Newport Beach, plans to prepare a Program Environmental Impact Report (EIR) for the Newport Banning Ranch Project (Project) and to solicit comments and suggestions regarding (1) the scope and content of the EIR and (2) the environmental issues and alternatives to be addressed in the EIR (California Environmental Quality Act [CEQA] Guidelines §15082). This NOP also provides notice to interested parties, organizations, and individuals of the preparation of the EIR and requests comments on the scope and contents of the environmental document.

As the Lead Agency, the City of Newport Beach requests that Agencies respond to this notice in a manner consistent with CEQA Guidelines §15082(b). The attached summary of the Project's probable environmental effects and alternatives is not an analysis of the Project or its impacts. The Project summary information is intended to provide said Agencies, persons and organizations with sufficient information describing the Project and the environmental issues that will be addressed in the EIR so that meaningful responses and comments can be provided.

The City of Newport Beach requests your careful review and consideration of this notice, and it invites any and all input and comments from interested Agencies, persons, and organizations regarding the preparation of the EIR. Pursuant to CEQA §21080.4, Agencies must submit any comments in response to this notice no later than *30 days after receipt of this notice*. The City will accept comments from other parties regarding this notice through the close of business on April 17, 2009.

All comments or other responses to this notice should be submitted in writing to:

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658

The City of Newport Beach will also accept responses to this notice by e-mail received through the close of business on April 17, 2009. If e-mail comments are submitted with attachments, it is recommended that the attachments be delivered in writing to the address specified above. Virus protection measures and variety of formats for attachments can limit the ability for the attachments to be delivered. E-mail responses to this notice may be sent to dlinn@city.newport-beach.ca.us.

All parties that have submitted their names and mailing addresses will be notified of the availability of the Draft EIR. If you wish to be placed on the mailing list, have any questions, or need additional information, please contact the person identified above at (949) 718-1848.

Scoping Meeting

The City will hold a Public Scoping Meeting to solicit comments on the scope of the EIR at 7:00 PM on April 2, 2009, at Newport Beach City Hall, 3300 Newport Boulevard, Newport Beach, California 92658, as required by CEQA Guidelines §15082(c)(1).

NEWPORT BANNING RANCH PROJECT SUMMARY

The Newport Banning Ranch Project (Project) proposes the development of up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and 75 overnight resort accommodations on a Project site of approximately 401 acres. These uses are consistent with the description of the proposed land uses for this property in the Newport Beach General Plan, adopted by the City and its electorate in 2006. The Project Applicant has submitted applications for a Planned Community Development Plan, a Master Site Plan, a Zoning Code Amendment, and a Vesting Tentative Tract Map to the City for review. More specific information regarding the Project location and setting, existing conditions and the proposed development, including the necessary discretionary approvals, are set forth below.

Existing Setting

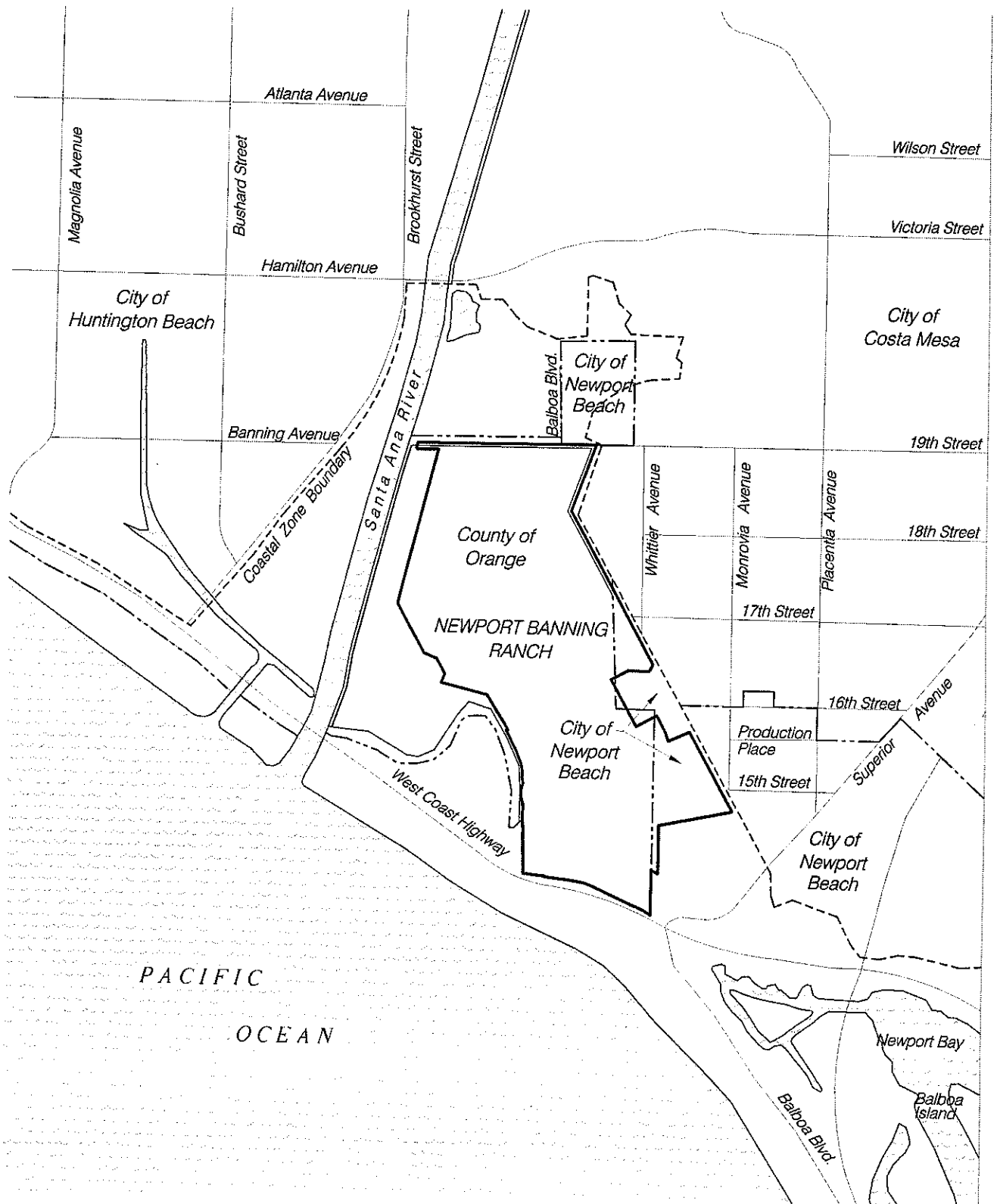
The Newport Banning Ranch Project site (Project site) encompasses approximately 401 acres. Approximately 40 acres of the Project site are located within the incorporated boundary of the City of Newport Beach; the remainder of the Project site is within unincorporated Orange County, in the City of Newport Beach's adopted Sphere of Influence, as approved by the Local Agency Formation Commission of Orange County. The entire Project site is within the boundary of the Coastal Zone as established by the California Coastal Act. A regional location map and local vicinity map are provided as Exhibits 1 and 2, respectively.

The Project site is generally bound on the north by Talbert Nature Preserve/Regional Park in the City of Costa Mesa and residential development in the City of Newport Beach; on the south by West Coast Highway and residential development in the City of Newport Beach; on the east by residential, light industrial, and office development in the Cities of Costa Mesa and Newport Beach; and on the west by the U.S. Army Corps of Engineers (ACOE) wetlands restoration area and the Santa Ana River. The City of Huntington Beach is west of the Santa Ana River. At its nearest point, the Project site is less than 0.25 mile inland from the Pacific Ocean. There is no interior public access to the Project site.

The Project site is primarily undeveloped but has been in active operation as an oil field since the mid-1940s. The Project site contains approximately 500 producing/potentially producing and abandoned oil well sites and related oil facility infrastructure, including but not limited to pipelines, storage tanks, power poles, machinery, improved and unimproved roadways, buildings, and oil processing facilities. Of the approximately 500 oil well sites, the City of Newport Beach operates 16 wells and an oil processing facility proximate to the southwestern boundary of the Project site, accessed from West Coast Highway. West Newport Oil Company, the current operator of the oil field, operates approximately 90 producing/potentially producing oil well sites.

The Project site topography is characterized by lowland and upland mesa areas which generally divide the Project site. From south to north, the site's topography becomes more gradual and transitions to sloping hillsides. The lowland mesa (lowland) areas encompass approximately one-third of the Project site and comprise the northwestern portion of the property. Elevations range from approximately one foot to ten feet above mean sea level (msl). The upper mesa areas comprise approximately two-thirds of the Project site in its southern and eastern portions. Elevations range from approximately 60 feet above msl in the southwestern area to approximately 105 feet above msl in the eastern-central area. Bluffs¹ traverse the Project site; extend along the southwestern and southern edges of the upper mesa portion of the Project

¹ Per the City of Newport Beach Municipal Code, "bluff" is any landform having an average slope of 26.6 degrees (50 percent) or greater, with a vertical rise of 25 feet or greater.



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Local Vicinity Map

Newport Banning Ranch

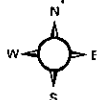


Exhibit 2

site; and serve to visually separate the majority of the Project site from West Coast Highway. The upper mesa area contains three arroyos with the southern arroyo being the largest; the middle arroyo being the smaller; and the northern arroyo being the smallest of the three.

Newport Banning Ranch is located adjacent to the Newport-Inglewood Fault, which generally extends from the City of Newport Beach to the City of Inglewood. Splays of the fault have been mapped on the Project site. Proposed habitable structures would be required to be set back from these fault zones pursuant to State guidelines.

Although the Project site has been disturbed by historic and ongoing permitted oil operations and is largely dominated by non-native vegetation, it contains diverse flora and fauna. Native vegetation that remains intact on the Project site consists of several large patches of maritime succulent scrub and southern coastal bluff scrub. This vegetation supports several special status species, including the coastal California gnatcatcher (*Polioptila californica californica*), a federally listed species, and the coastal cactus wren (*Campylorhynchus brunneicapillus couesi*), a California Department of Fish and Game (CDFG) Species of Special Concern. The lowland supports special status plants (e.g., southern tarplant [*Centromadia parryi* ssp. *australis*]) and a number of wetland habitats, including areas of tidal coastal salt marsh that support the State-listed Endangered Belding's savannah sparrow (*Passerculus sandwichensis beldingi*); southern willow scrub; and southern willow forest that support the State and federally listed Endangered least Bell's vireo (*Vireo bellii pusillus*) and a variety of special status nesting raptors. In addition, vernal pools occur on the Project site and may be occupied by the San Diego fairy shrimp (*Branchinecta sandiegoensis*), a federally Endangered species.

The Project site includes aquatic habitat areas that fall under the jurisdiction of the ACOE and the CDFG streambed protection program. The Project site also includes areas that may be defined and regulated under the California Coastal Act (CCA) as either wetlands or environmentally sensitive habitat areas (ESHAs) and may be defined by the City of Newport Beach Coastal Land Use Plan (CLUP) as an Environmental Study Area (ESA). The Project site contains areas of upland scrub communities, as well as riparian and wetland habitat.

Surrounding Land Uses

As depicted on Exhibit 3, the Project site is generally bound by the land uses listed below.

North: Talbert Nature Preserve, an approximately 180-acre County of Orange nature preserve and wilderness park facility located in the City of Costa Mesa.

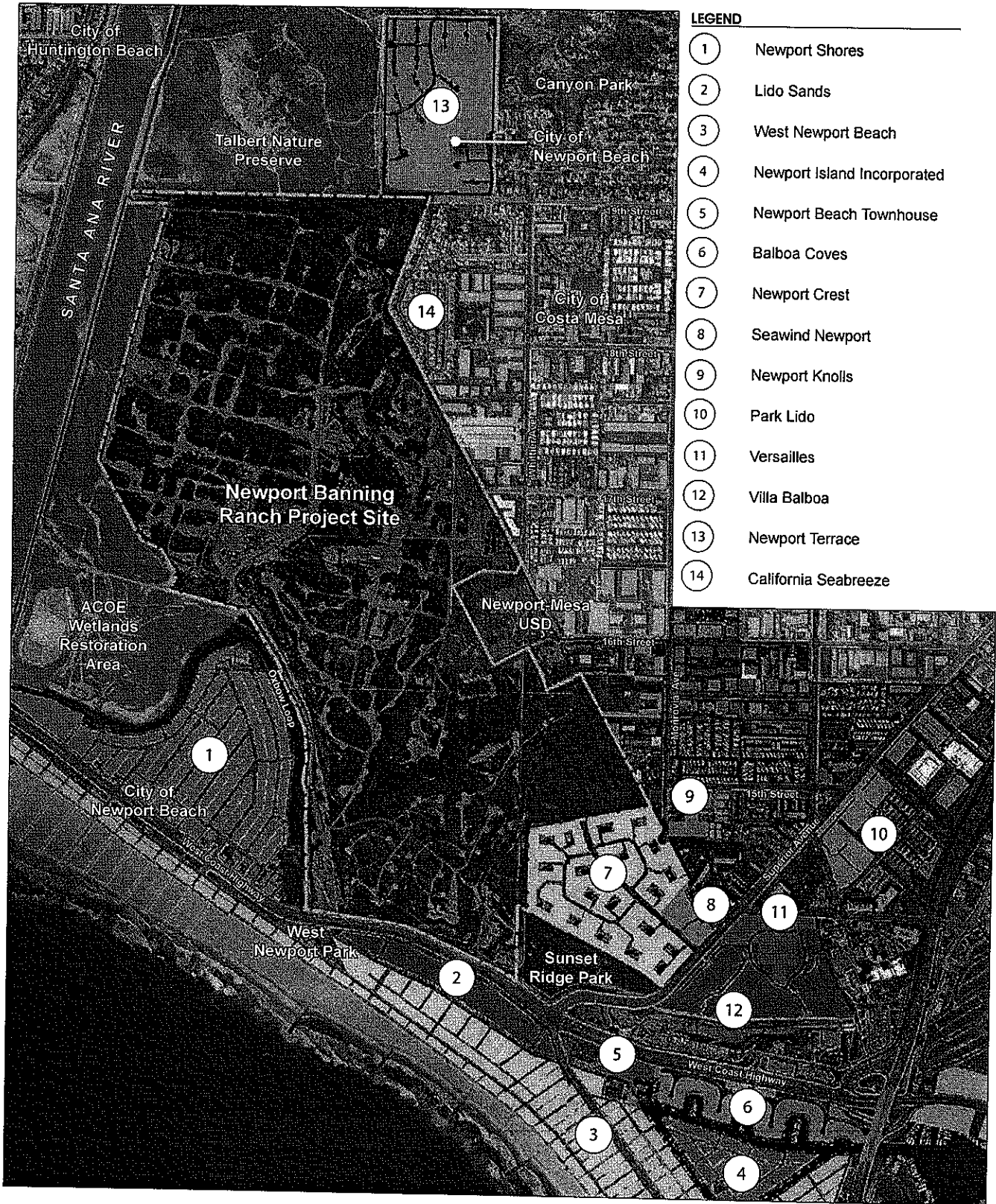
Newport Terrace, a residential development located in the City of Newport Beach.

South: West Coast Highway, a State highway.

Lido Sands, a single-family residential community in the City of Newport Beach, located south of West Coast Highway.

Single-family and multi-family residential units located south of Lido Sands within West Newport Beach.

East: Residential developments, including the California Seabreeze community, located generally between 19th Street and 18th Street contiguous to the Project site in the City of Costa Mesa.



Surrounding Land Uses

Newport Banning Ranch

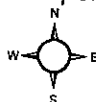


Exhibit 3

Uses that transition from residential to light industrial and office located between 18th Street and Newhall Street.

A Newport-Mesa Unified School District-owned parcel adjacent to the Project site. The parcel, located predominantly in the City of Newport Beach, is used for storage.

A City of Newport Beach Utilities Yard accessed from West 16th Street.

Between 16th Street and 15th Street, uses adjacent to the Project site include Carden Hall, a private school for kindergarten through 8th grade, office uses, and light industrial uses.

Additional residential uses south of 15th Street, including the condominium developments of Newport Crest, Newport Knolls, and Seawind Newport in the City of Newport Beach.

The City of Newport Beach's proposed Sunset Ridge Park, located contiguous to the Project site's southeastern boundary.

West: Santa Ana River. West of the Santa Ana River is the City of Huntington Beach.

Semeniuk Slough (Oxbow Loop). The Semeniuk Slough is a remnant channel of the Santa Ana River that branches off the Santa Ana River and receives runoff from the adjacent oil fields, wetlands, and upper mesa areas including the Cities of Newport Beach and Costa Mesa.

Approximately 92 acres of ACOE-restored wetlands (full tidal wetlands) border the westernmost and southwestern portions of the Project site and are adjacent to the Santa Ana River. This area is a part of the Santa Ana River Flood Control Project.

Newport Shores, a 440-home residential community in the City of Newport Beach, abutting the Project site to the southwest.

Property Owner

Newport Banning Ranch, LLC is the Project Proponent and Project Applicant.

General Plan Land Use

The General Plan Update was adopted by the City Council on July 25, 2006, and approved by the voters on November 6, 2006. The *City of Newport Beach General Plan* establishes criteria and standards for land use development in the City as well as its Sphere of Influence. The Project site is designated as Open Space/Residential Village (OS[RV]). The OS(RV) land use designation allows for both a Primary Use (open space) and an Alternative Use (residential village) of the Project site as described below:

Primary Use:

"Open Space, including significant active community parklands that serve adjoining residential neighborhoods if the site is acquired through public funding."

Alternative Use:

"If not acquired for open space within a time period and pursuant to terms agreed to by the City and property owner, the site may be developed as a residential village containing a mix of housing types, limited supporting retail, visitor accommodations, school, and active community parklands, with a majority of the property preserved as open space. The property owner may pursue entitlement and permits for a residential village during the time allowed for acquisition as open space."

As the open space acquisition option is described in the General Plan, it would include consolidation of oil operations; restoration of wetlands; the provision of nature education and interpretative facilities and an active park containing playfields and other facilities to serve residents of adjoining neighborhoods; and the construction of the north-south Primary Arterial² extending from Coast Highway to a connection with an east/west arterial roadway.

If, however, the property is not acquired for open space within a time period and pursuant to terms agreed to by both the City and property owner, the Project site could be developed as a residential village containing a mix of housing types, limited supporting retail, visitor accommodations, a school, and active community parklands with a majority of the property preserved as open space. The General Plan identifies the maximum intensity of development allowed on the property to include 1,375 residential units, 75,000 square feet of retail commercial uses oriented to serve the needs of local and nearby residents, and 75 hotel rooms in a small boutique hotel or other type of overnight visitor accommodation.

A majority of the Project site is located in the unincorporated Orange County area with a General Plan designation of "Open Space". As a part of the Project, these unincorporated areas would be annexed to the City.

The proposed Project would allow for the development of up to 1,375 residential units, 75,000 square feet of retail commercial uses, and 75 hotel rooms consistent with General Plan designated "Alternative Use" for the Project site.

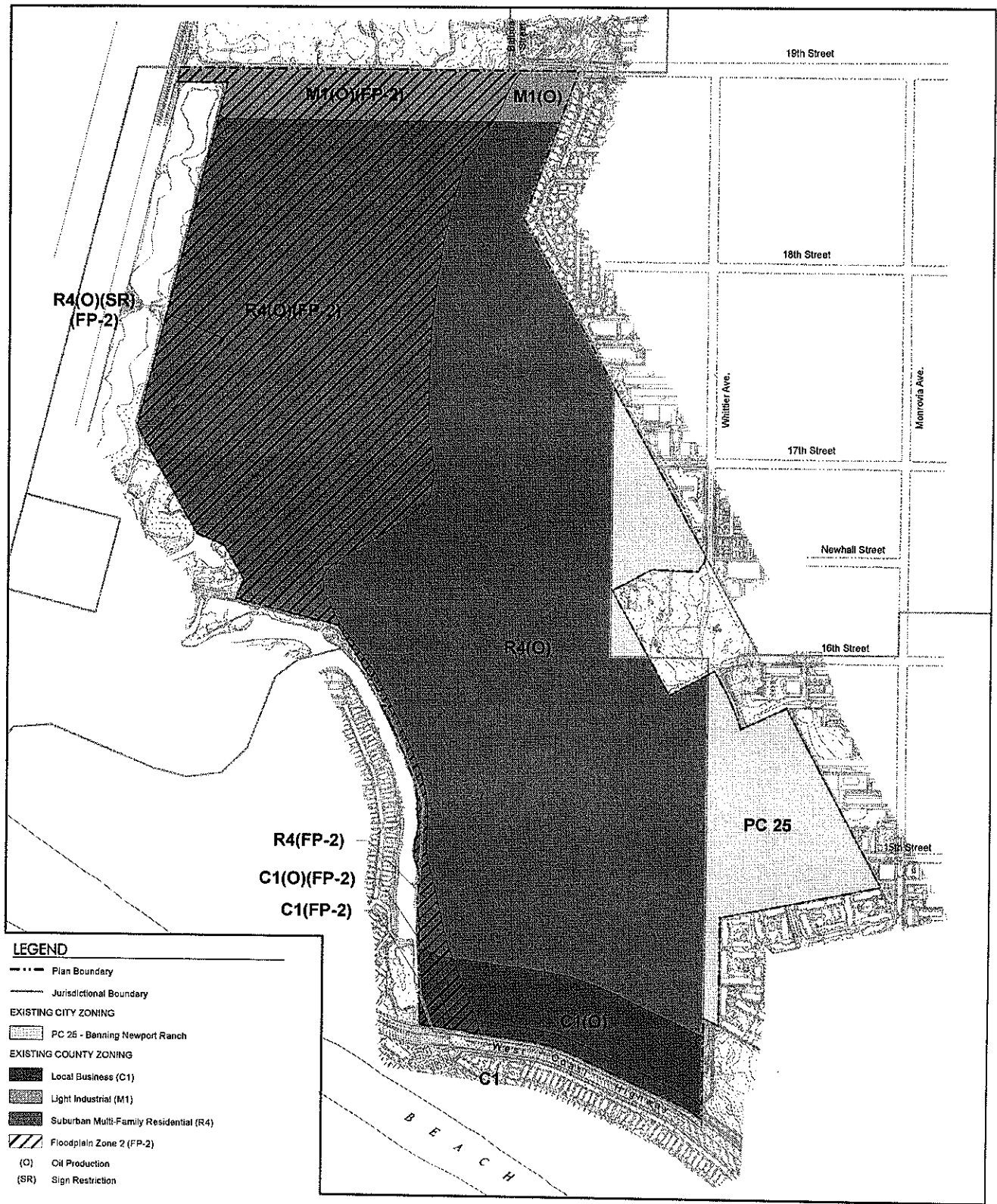
Proposed General Plan Amendment

The Project may require an amendment to the General Plan Circulation Element Master Plan of Streets and Highways. The General Plan Master Plan of Streets and Highways depicts a future Primary Arterial through Newport Banning Ranch from West Coast Highway to 15th Street. The Project Applicant is proposing to reserve right of way that would allow for the future construction of this road from West Coast Highway connecting to 16th Street instead of 15th Street. The construction of the road is not proposed as a part of the Newport Banning Ranch Project. This change in proposed alignment of the road as well as other refinements to the circulation system may require an amendment to the Circulation Element Master Plan of Streets and Highways. It is also anticipated that these changes may require a corresponding amendment to the Orange County Master Plan of Arterial Highways.

Existing Zoning

The existing zoning designations for the Project site are depicted in Exhibit 4. The approximate 40-acre portion of the Project site located within the jurisdictional boundaries of the City of Newport Beach is zoned "Planned Community District 25" (PC-25). The City of Newport Beach

² **Primary Arterial**—A primary arterial highway is usually a four-lane, divided roadway. A primary arterial is designed to accommodate 30,000 to 45,000 Average Daily Trips (ADT) with a typical daily capacity of 34,000 vehicles per day (VPD) (Source: City of Newport Beach General Plan Circulation Element).



Existing Zoning

Newport Banning Ranch



Exhibit 4

Municipal Code §20.35.010 states that a PC District is intended to "Provide for the classification and development of parcels of land as coordinated, comprehensive projects so as to take advantage of the superior environment which can result from large-scale community planning...Include various types of land uses, consistent with the General Plan, through the adoption of a development plan and text materials which set forth land use relationships and development standards". The boundary of the existing Planned Community District (PC-25) includes this portion of the Project site as well as parcels outside the boundaries of the Project site including the Newport-Mesa Unified School District parcel. PC-25 zoning permits residential and professional office/light industrial uses.

The remaining approximately 361 acres of the Project site are located in unincorporated Orange County and within the City's Sphere of Influence. This portion of the Project Site has not been zoned by the City and retains County zoning designations. County zoning for the Project site includes several zoning districts that permit residential, commercial, and light industrial/employment uses. Approximately 319 acres are zoned for R-4 Suburban Multi-family residential uses, approximately 23 acres area zoned for C-1 Local Business commercial uses, and approximately 19 acres for M1 Light Industrial employment uses. Overlay zones, including Oil Production, Sign Restriction, and Floodplain Zone 2 apply to portions of the property. The R-4 Zone permits one dwelling unit for each 3,000 square feet of net land area (i.e., approximately 14.5 dwelling units/acre [du/ac]).

Proposed Zoning

The proposed Project includes a request for the approval of a Zone Change to change the zoning of the Project site to the Newport Banning Ranch Planned Community (NBRPC) Zoning District. The Project Applicant has submitted the Newport Banning Ranch Planned Community Development Plan in support of the requested zone change. The proposed Newport Banning Ranch Planned Community Development Plan: a) provides zoning regulations for the entire Project site and b) serves as pre-annexation zoning for that portion of the Project site within the City's Sphere of Influence. Pursuant to annexation by the City of the Project site within the City's Sphere of Influence, the NBRPC would serve as zoning upon annexation of this area. As a part of the proposed Planned Community Development Plan, the Project Applicant has proposed an amendment to the City of Newport Beach Municipal Code Chapter 20.65, Height Limits, to permit a maximum building height within the NBRPC area of 50 feet for the Visitor-Serving Resort and Residential Districts and a maximum of 65 feet for the proposed Mixed-Use/Residential Land Use District.

Upon approval by the City, the NBRPC zoning would replace the PC-25 zoning as it applies to the Project site.

Relationship to California Coastal Act

The City's certified Coastal Land Use Plan (CLUP) designates the Project site as a Deferred Certification Area (DCA) due to the fact that it is largely outside the City's incorporated boundary; as such, a project plan is necessary in order to address land use, public access, and the protection of coastal resources.

Neither the City of Newport Beach nor the County of Orange has a certified Local Coastal Program for the Newport Banning Ranch site. The City does not have a certified Implementing Actions Program as part of its Local Coastal Program and, therefore, does not have the authority to issue Coastal Development Permits.

Proposed California Coastal Act Compliance

Should the City approve the PC zoning, a master site plan, a vesting tentative tract map and a pre-annexation development agreement between the City and the Developer, the Project Applicant will request approval of a corresponding Coastal Development Permit from the California Coastal Commission. It is anticipated that the Coastal Development Permit would include approval of the master site plan, vesting tentative tract map, and pre-annexation development agreement.

Description of Project

The Project proposes up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and 75 visitor serving resort accommodations. The proposed Master Land Use Plan is depicted on Exhibit 5 and a statistical summary describing the Development Plan is provided as Table 1.

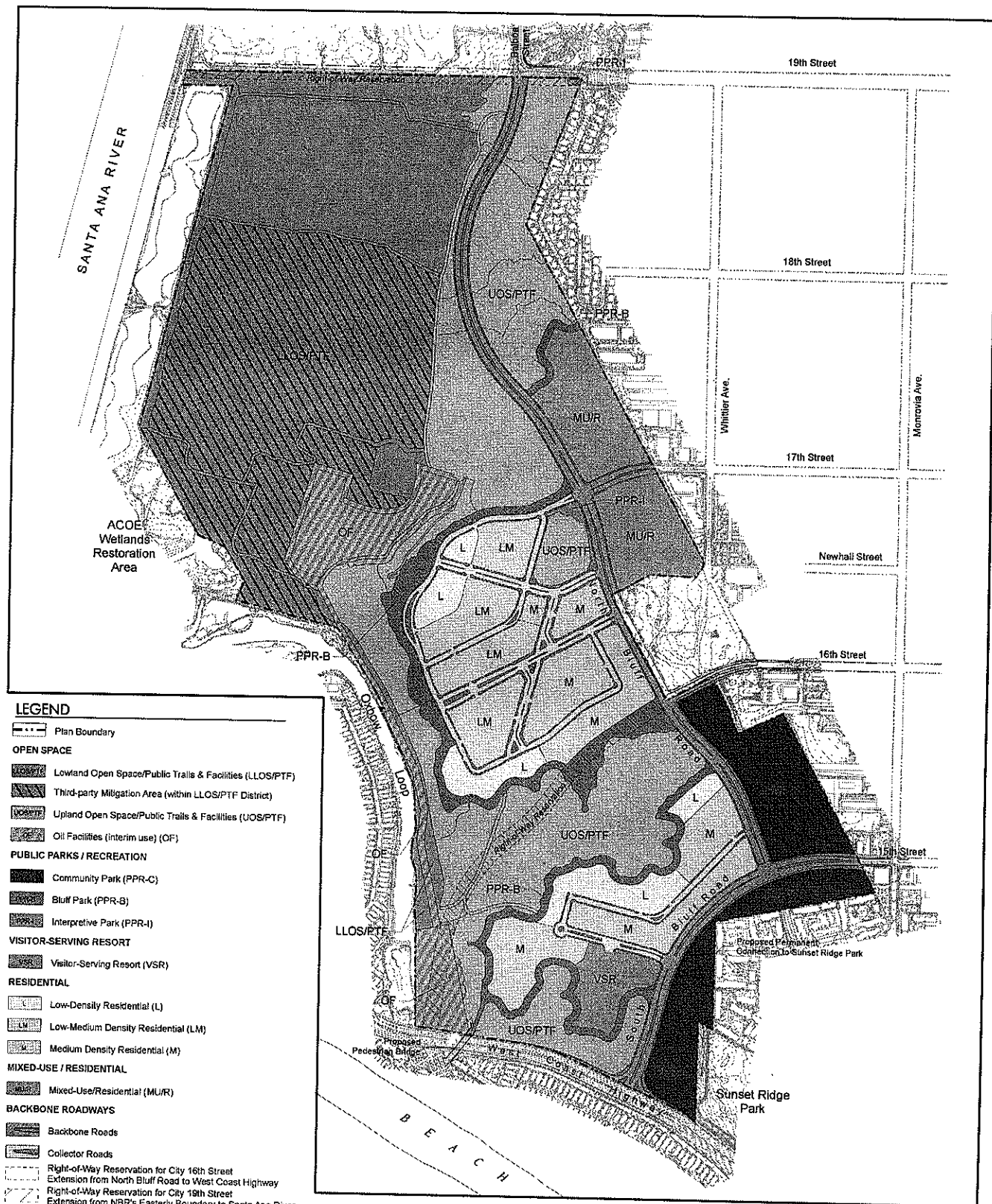
Disposition of Oil Facilities

To allow for the implementation of the Project, existing oil wells that are located within proposed development and open space areas would be abandoned and these areas would be remediated. No active wells would be retained within these areas. All producing/potentially producing and abandoned oil well sites would be abandoned and/or re-abandoned in compliance with State and local regulatory requirements. Oilfield tanks, equipment, pipelines, structures, roadways, and related facilities would be demolished and removed from the Project site. Soil impacted by oil operations would be remediated to applicable oversight agency standards. It is anticipated that a certain percentage of the soil/material from the oil remediation and oil well closure process would not be recyclable or suitable for use on site and would be exported for proper disposal at permitted facilities.

The following provides a summary description of the Land Use Districts.

Residential District

The Project proposes approximately 68 of the 401 acres for development of 569 residential dwelling units. As identified in Table 1, of the 569 residential units, 57 units are proposed as Low Density Residential (L); 163 units are proposed as Low-Medium Residential (LM); and 349 units are proposed as Medium Density Residential (M). The proposed Residential District would allow for a range of housing types and densities to address a range of income levels and lifestyles. A mix of housing types would be provided, including single-family detached, single-family attached, and multi-family units. Residential development would be sited in the southern and central portions of the Project site (Exhibit 5) and developed as smaller village areas with a variety of architectural styles and product types. The proposed PC zoning includes provisions allowing for the transfer of residential units within the Residential District or between Residential areas and Mixed-Use/Residential Land Use areas in accordance with the provisions of the proposed Planned Community Development Plan which require that the transfer not result in an increase of more than 15 percent of the total number of Planned Dwelling Units established for the Land Use District, that the total number of dwelling units within the Mixed Use/Residential District does not exceed the number of Planned Dwelling Units for that district, and provided the total number of units does not exceed 1,375.



Conceptual Master Land Use Plan

Newport Banning Ranch

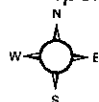


Exhibit 5

TABLE 1
NEWPORT BANNING RANCH STATISTICAL SUMMARY

Land Use District		Gross Acres ^a	Planned Dwelling Units ^b	Maximum Permitted Commercial (sf)	Maximum Permitted Overnight Accommodations (Rooms)
Open Space					
LLOS/PTF	Lowland Open Space/Public Trails and Facilities ^d	131	—	—	—
UOS/PTF	Upland Open Space/Public Trails and Facilities ^{c, d}	92	—	—	—
OF	Consolidated Oil Facilities (interim use) ^c	20	—	—	—
Subtotal Open Space		243	—	—	—
Parks/Recreation					
PPR-C	Community Park	25	—	—	—
PPR-B	Bluff Park ^{c, d}	19	—	—	—
PPR-I	Interpretive Parks ^d	1	—	—	—
Subtotal Public Parks/Recreation		45	—	—	—
Visitor-Serving Resort					
VSR	Visitor-Serving Resort	5	—	—	75
Subtotal Visitor-Serving Resort		5	—	—	75
Residential^f					
L	Low Density Residential (up to 8 DU/Ac)	13	57	—	—
LM	Low-Medium Density Residential (up to 16 DU/Ac)	21	163	—	—
M	Medium Density Residential (up to 24 DU/Ac)	34	349	—	—
Subtotal Residential		68	569	—	—
Mixed-Use/Residentialⁱ					
MU/R	Mixed-Use/Residential	18	806	75,000	—
Subtotal Mixed-Use/Residential		18	806^g	75,000^h	—
Total Land Use Districts		379	1,375ⁱ	75,000^{h, g}	75
Backbone Roadways					
—	North Bluff Road	14	—	—	—
—	South Bluff Road	5	—	—	—
—	15 th Street	1	—	—	—
—	16 th Street	1	—	—	—
—	17 th Street	1	—	—	—
Total Backbone Roadways		22	—	—	—
Total		401 acres	1,375 duⁱ	75,000 sf^h	75 rooms

TABLE 1 (Continued)
NEWPORT BANNING RANCH STATISTICAL SUMMARY

Land Use District	Gross Acres ^a	Planned Dwelling Units ^b	Maximum Permitted Commercial (sf)	Maximum Permitted Overnight Accommodations (Rooms)
<p>sf: square feet DU: dwelling unit Ac: acre</p> <p>^a Gross acres are rounded to the nearest whole number and are typically measured to centerlines of adjacent local road rights-of-way where such roads are shown on the plan (Exhibit 5). Refinements to the gross acres within each Land Use District are permitted subject to the criteria set forth in the proposed Newport Banning Ranch PC Development Plan.</p> <p>^b Planned dwelling units may be transferred from one Residential or Mixed-Use/Residential Land Use District to another in accordance with the provisions of the Newport Banning Ranch PC Development Plan, provided the transfer does not result in an increase of more than 15% of the total number of Planned Dwelling Units established for the Land Use District.</p> <p>^c The right-of-way reservation for the 16th Street extension, from North Bluff Road to West Coast Highway, encompasses approximately 7 acres, including approximately 2 acres of the Bluff Park District, 3 acres of the Upland Open Space/Public Trails and Facilities District, and 2 acres of the Oil Facilities District.</p> <p>^d The right-of-way reservation for the 19th Street Extension from Newport Banning Ranch's easterly boundary to the Santa Ana River encompasses approximately 3 acres, including less than 1 acre (approximately 0.5 acre) of the Upland Open Space/Public Trails and Facilities District, less than 1 acre (approximately 0.1 acre) of the Interpretive Parks District, and approximately 2 acres of the Lowland Open Space/Public Trails and Facilities District.</p> <p>^e Gross acres for the Bluff Park District and Interpretive Parks District may include fuel management zones, interpretive trails and facilities, and landscape focal points and greens.</p> <p>^f Gross acres for Residential Districts and the Mixed-Use/Residential District may include fuel management zones, privately owned and maintained parks and recreation facilities, and landscape focal points and greens.</p> <p>^g For the Mixed-Use/Residential District, the number of Planned Dwelling Units is the same as the maximum number of permitted dwelling units.</p> <p>^h Up to 2,500 square feet of commercial uses may be transferred to a Residential Land Use District in accordance with the provisions of Chapter 3, "Land Uses and Development Standards", of the Newport Banning Ranch PC Development Plan, provided the total area of commercial uses for the Planned Community does not exceed 75,000 sf.</p> <p>ⁱ A maximum 1,375 dwelling units are permitted within the Newport Banning Ranch PC Development Plan irrespective of maximum permitted dwelling units for individual Land Use Districts within the Newport Banning Ranch PC Development Plan.</p>				

Mixed-Use/Residential District

The Mixed-Use/Residential District (MU/R) (High Density, up to 46.0 du/ac provides for the development of up to 806 units and 75,000 square feet of retail uses on 18 acres on the eastern side of North Bluff Road north and south of 17th Street, adjacent to the City of Costa Mesa. The MU/R District permits residential development with the potential for lofts, live-work units vertically and/or horizontally integrated with retail uses. The proposed Project includes an application for an amendment to the City's Municipal Code to allow a maximum height of 65 feet in portions of the MU/R District of the NBRPC.

Up to 75,000 square feet of retail development are proposed in this District. Neighborhood commercial uses are proposed to serve on-site residents and nearby off-site residents.

Affordable Housing

Affordable housing units are proposed as a part of the Project, and would likely be developed within the Mixed-Use Residential District. The City of Newport Beach requires that projects of more than 50 units prepare an Affordable Housing Implementation Plan (AHIP) that specifies how the development will meet the City's affordable housing goal.

Visitor-Serving Resort District

A Visitor-Serving Resort (VSR) is proposed on approximately five acres of the Project site. Consistent with the General Plan, the resort could have a maximum of 75 guest rooms. Resort

amenities could include but not be limited to restaurants, shops, a fitness center, a swimming pool, a health spa, conference facilities, and banquet rooms.

Open Space District

The proposed Project designates approximately 243 of the Project site's 401 acres for Open Space uses. The Open Space District comprises three categories: (1) Lowland Open Space/Public Trails and Facilities (LLOS/PTF); (2) Upland Open Space/Public Trails and Facilities (UOS/PTF); and (3) Consolidated Oil Facilities (OF).

Approximately 131 acres are designated as LLOS/PTF. The LLOS/PTF area is generally located in the northwestern portion of the Project site and is contiguous to the ACOE Wetlands Restoration Area. This LLOS/PTF area would include wetland restoration areas, water detention and cleansing areas, public interpretive trails and viewpoints, and habitat conservation areas. The LLOS/PTF area includes an approximately 75-acre area designated as a "Third-party Mitigation Area" to be used by entities outside of the Project site for restoration and/or payment for restoration in exchange for compensation for impacts from projects outside Newport Banning Ranch.

Approximately 92 acres are designated as the UOS/PTF area extending from the northern to southern boundary of the Project site both east and west of Bluff Road. This area includes land that would be retained in open space, areas for habitat and wetlands restoration, and areas for public interpretive trails and viewpoints. Trails in this area would connect to trails in the Lowland Open Space, public parks and trails on the site and off site, and proposed residential areas within Newport Banning Ranch.

Approximately 20 acres are designated OF for use as an oil production facilities consolidation area. All existing oil wells that are located within proposed development and other open space areas would be abandoned and remediated on the 20-acre OF area. No active wells outside the consolidated oil facilities sites would be retained. As a part of the Project, oil operations would continue to be allowed within the OF area within two consolidation sites connected by a non-exclusive joint-use easement oil access road. One site is located in the southwestern corner of the property with access from West Coast Highway. The second site is located in the central portion of the Project site contiguous to the Lowland Open Space (LLOS/PTF). Upon cessation of all oil operations, the two consolidated oil operations areas would be remediated, abandoned, and restricted to open space uses.

The Project Applicant proposes that all Open Space areas be reserved as open space in perpetuity through an irrevocable offer(s) of dedication, deed restrictions or conservation easements over all designated open space and dedicated to a public agency or offered to a qualified non-profit organization in a phased program that would be implemented after receiving all local, State, and federal approvals needed to complete the Project. Much of the Open Space consists of degraded habitat that would need to be restored to increase its function and value. Some restoration would occur as mitigation for Project impacts; some would be undertaken above and beyond mitigation requirements as part of the Project's design; and a portion of the open space would be available for restoration by third parties or on behalf of third parties to mitigate for impacts associated with projects outside the Project site.

Parks/Recreation District

The proposed Project includes 45 acres for a Parks/Recreation District, including 25 acres for a Public Community Park, 19 acres for a privately owned and publicly accessible Bluff Park, and

1 acre for a privately owned and publicly accessible Interpretive Park. The parks proposed as part of the Project are described below.

Community Park. Approximately 25 acres are proposed for a Public Community Park to include passive and active park and recreational uses for both surrounding communities and future residents of Newport Banning Ranch. The Community Park site is proposed east of Bluff Road from West Coast Highway to 16th Street. Potential park uses could include sports fields, hard courts (basketball and/or tennis), tot lot(s), open-play turf areas, picnic facilities, trails, and parking.

Bluff Park. Approximately 19 acres are proposed for a privately owned and maintained Bluff Park to include approximately 2 linear miles of public trails and vista points available for public use. Seating and interpretive signage would be provided at major viewpoints.

Interpretive Parks. Approximately one acre is proposed for Interpretive Parks to include a vernal pool preservation area (located southwest of the proposed intersection of Bluff Road at 17th Street) and the proposed Talbert Trailhead Staging Area (located at the northeastern corner of the Project site). The vernal pool interpretive area could include signage kiosks and displays. The Talbert Trailhead/Staging Area would provide public access to a regional network of on- and off-site nature trails via a trail through the Upland Open Space. Public parking is proposed on site and off site along the southern side of 19th Street. The Interpretive Parks are planned to be privately owned and maintained but accessible to the public.

Circulation

Public access to the Project site does not currently exist. Access to oil operations is provided from West Coast Highway in the City of Newport Beach and from 17th Street in the City of Costa Mesa.

West Coast Highway. The primary entrance to the Project site is proposed from West Coast Highway, a Major Arterial.³ Construction of the planned intersection into the Project site from West Coast Highway consistent with the standards of the City of Newport Beach General Plan Circulation Element and the Orange County Master Plan of Arterial Highways may require the widening of a portion of the northern side of West Coast Highway from Superior Avenue to a point west of the Project site. Because West Coast Highway is a State Highway, California Department of Transportation (Caltrans) approvals would be required.

Bluff Road. As a part of the Project, Bluff Road would be constructed from a southern terminus at West Coast Highway to a northern terminus at 19th Street. The City of Newport Beach General Plan Circulation Element and the Orange County Master Plan of Arterial Highways depict a north-south roadway through the Project site in this general location. The City's Circulation Element designates this roadway as a Primary Arterial.

Bluff Road would serve as the primary roadway through the Project site, would intersect with the proposed extensions of 15th Street, 16th Street and 17th Street within the Project site, and would connect to 19th Street to the north. The intersection of 19th Street at Balboa Boulevard would be reconfigured to accommodate Bluff Road. The implementation of Bluff Road may be phased.

³ **Major Arterial**—A Major Arterial highway is typically a six-lane, divided roadway that is designed to accommodate 45,000 to 67,000 ADT with a typical daily capacity of 51,000 vehicles per day (VPD). Major arterials carry a large volume of regional through traffic not handled by the freeway system (Source: City of Newport Beach General Plan Circulation Element).

Access into the City of Newport Beach's proposed Sunset Ridge Park is proposed from Bluff Road within the Project site. An interim connection from Bluff Road through the Project site connecting to Sunset Ridge Park may be constructed as a part of the Sunset Ridge Park project. This connection will be identified as a part of the proposed Sunset Ridge Park Project.

15th Street. 15th Street is designated as a Primary Arterial in the City's General Plan. Currently, 15th Street does not connect to the Project site. The extension of 15th Street from the Project site to Monrovia Avenue is proposed as a part of the Project. In order to extend 15th Street as proposed, the City would need to obtain the necessary right-of-way.

16th Street. The extension of 16th Street from its existing terminus at the City of Newport Beach Utilities Yard to the Project site is proposed as a part of the Project. This off-site improvement to 16th Street would be partially constructed on Newport-Mesa Unified School District property and be within the right-of-way easement provided for the City of Newport Beach Utilities Yard to join the existing roadway at the easterly School District property line.

17th Street. In the Project vicinity, 17th Street is designated as a Secondary Arterial.⁴ 17th Street currently terminates at the boundary of the Project site and would be extended through the site to connect with the proposed construction of North Bluff Road.

Non-Vehicular Circulation. The proposed Project includes footpaths, trails, and on-street and off-street bike trails. Trail connections would connect to the existing Santa Ana River Regional Trail System. A pedestrian bridge over West Coast Highway with a landing in West Newport Park is proposed to provide connectivity from the beach through the Project site to existing Santa Ana River trail connections and the Talbert Nature Preserve to the north. Since West Coast Highway is a State Highway, Caltrans approvals would be required for the pedestrian bridge.

Utilities

Both on-site and off-site utility connections and improvements would be required to serve the proposed Project. Utilities necessary to serve the Project include but are not limited to domestic water, wastewater collection and disposal, electricity, gas, telephone, and cable television.

Reclaimed water facilities do not exist in the vicinity of the Project site. As a part of the Project, the Project Applicant may provide a separate, on-site water system to irrigate the parks, open space, and common areas. The separate system would be built to reclaimed water standards but initially be connected to the domestic system. At a time when reclaimed water is available, the system could be disconnected from the domestic potable water system and connected to the reclaimed water line.

Grading

It is anticipated that approximately 1,200,000 cubic yards (cy) of excavation would be required as part of site development. Cuts would generally vary from 1 foot to 10 feet but may be up to 25 feet; fill would generally vary from 1 foot to 30 feet, but could reach up to 60 feet in limited

⁴ **Secondary Arterial**—A Secondary Arterial highway is a four-lane roadway (often undivided) that distributes traffic between local streets and Major or Primary arterials. Although some Secondary arterials serve as through routes, most provide more direct access to surrounding land uses than Principal, Major, or Primary Arterials. Secondary arterials carry a daily capacity ranging from 20,000 to 30,000 ADT with a typical daily capacity of 23,000 VPD (Source: City of Newport Beach General Plan Circulation Element).

areas. Approximately 1,600,000 cy of additional, corrective/remedial grading is anticipated to implement geotechnical/soils recommendations.

Bluff Restoration

The bluff/slope edge has been eroded as a result of pipeline crossings related to oil operations and uncontrolled drainage through the Project site including urban runoff from Newport Beach and Costa Mesa. As part of the Project grading would be conducted to restore and revegetate the bluff/slope edge and to limit further degradation. Drainage, which currently flows over the bluffs and slopes, would be intercepted and redirected.

Development Phasing/Project Implementation

The Project Applicant proposes to implement the Project starting in the southern portion of the Project site closest to West Coast Highway. Initial phases would include the development of residential uses, resort uses, and a portion of the proposed Community Park, along with internal roadway access and infrastructure improvements. In general, development would be constructed from south to north. Concurrently, there would be ongoing protection, oil facilities cleanup, remediation, and restoration of the Project site.

Alternatives to the Proposed Project

CEQA Guidelines §15126.6(a) requires that, "an EIR describe a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project, and evaluate the comparative merits of the alternatives." The range of alternatives to be addressed for the Project will include alternatives that are specifically required (i.e., No Project; No Action/No Development) by CEQA. Additional land use alternatives to be addressed could include a reduced development alternative and a design alternative. Land Use alternatives currently being considered by the City for analysis in the EIR include but are not limited to the Open Space Alternative and the No Action/No Development Alternative. At least one Circulation Alternative will be considered.

Open Space Alternative

The City of Newport Beach General Plan Land Use Element prioritizes the retention of the Project site for open space. The General Plan Land Use designation of OS(RV) is intended for the preservation of the Project site as open space, restoration of wetlands and other habitats, the development of a community park, and the consolidation of oil extraction and processing facilities. This alternative would also allow for the future construction of roadways through the Project site consistent with the City of Newport Beach Circulation Element. These roadways are: (a) a north-south Primary Arterial with a southern terminus at West Coast Highway to a northern terminus at 19th Street; (b) a Primary Arterial extending from West Coast Highway and connecting to 15th Street; and (c) the extension of 17th Street as a Secondary Arterial on to the Project site and connecting with the north-south Primary Arterial.

No Action/No Development Alternative

The No Action Alternative assumes existing conditions on the Project site and continued use of the property for oil production operations. No uses other than oil operations would occur on the Project site. Oil consolidation, clean up, and remediation would not occur and public access would not be provided.

In addition to other potential land use alternatives, the EIR will address circulation alternatives. These alternatives may include but not be limited to the following:

Circulation Alternative

As previously described, the City of Newport Beach General Plan Circulation Element and Orange County Master Plan of Arterial Highways depict a north-south roadway connection from West Coast Highway to 19th Street through the Project site. This Alternative would provide a north-south connection from West Coast Highway to 17th Street. As an alternative to the Project's construction of a roadway connection from West Coast Highway to 19th Street, this alternative includes a right-of-way dedication within the Open Space Land Use District for future implementation by the City and/or other public agency of Bluff Road between 17th Street and 19th Street. This alternative is described in the Project Applicant's Draft Planned Community Development Plan and Master Site Plan.

Anticipated Discretionary Project Approvals

Project implementation will require approvals from multiple agencies.

City of Newport Beach

City of Newport Beach discretionary actions that could be approved based on this EIR would include the following:

- Certification of the EIR.
- Approval of a Pre-Annexation City of Newport Beach General Plan Amendment to the Circulation Element Master Plan of Streets and Highways, if required.
- Adoption of a Pre-Annexation Zone Change to zone the Project site as Planned Community (CA 2008-004) and an amendment to the Banning-Newport Ranch Planned Community (PC-25) District Regulations to remove the Project site from the boundaries of PC-25.
- Approval of an amendment to the City of Newport Beach Municipal Code Chapter 20.65, Height Limits, to permit a maximum building height of 50 feet in the Visitor-Serving Resort District and Residential District and a maximum height of 65 feet within certain portions of the Mixed-Use/Residential Land Use District of the NBRPC.
- Approval of a Newport Banning Ranch Planned Community Development Plan that includes: land use districts/permitted land uses, community regulations, site development standards/regulations, and design guidelines.
- Approval of a Master Site Plan that is anticipated to include: habitat restoration plan, fuel management plan, master grading, master roadway improvements, master infrastructure and utilities, master water quality plans, master landscape plans, master architectural design, and community transition/interface plans.
- Approval of a Traffic Phasing Ordinance (TPO) analysis.
- Approval of a Pre-Annexation and Development Agreement.
- Approval of a Vesting Tentative Tract Map.

- Approval of an Affordable Housing Implementation Plan (AHIP).

Subsequent activities would be examined in the light of the Program EIR to determine whether additional CEQA documentation would be required pursuant to the requirements of CEQA §21166 and CEQA Guidelines §§15162 and 15168 for subsequent approvals.

In addition to the approvals identified above, the Project is subject to other discretionary and ministerial actions by the City as part of Project implementation. Additional City approvals include but are not limited to site development permits, tract maps, grading permits, use permits, sign permits, and building permits.

Responsible and Trustee Agencies

Future implementation of the Project would require permits and/or approvals from the following agencies:

- **CDFG:** Section 1600 Streambed Alteration Agreement.
- **California Coastal Commission:** Coastal Development Permit inclusive of the Master Site Plan, Vesting Tentative Tract Map, and Pre-Annexation and Development Agreement.
- **Regional Water Quality Control Board:** Section 401 Certification.
- **Local Agency Formation Commission:** Annexation of unincorporated area into the City of Newport Beach; Water Agency boundary change.
- **Caltrans:** Encroachment Permit for the pedestrian bridge over West Coast Highway; additional actions would be required for the widening of West Coast Highway.
- **California Department of Conservation, Department of Oil, Gas and Geothermal Resources:** Approval related to site remediation activities.
- **Orange County Transportation Authority:** Amendment to the Master Plan of Arterial Highways, if required.
- **Regional Water Quality Control Board and Orange County Health Care Agency:** Approval related to oil well/facility abandonment and site remediation.

Federal Agencies

- **USFWS:** Section 7 Consultation, and
- **ACOE:** Section 404 Permits.

Probable Environmental Effects of the Proposed Project

The Project has the potential to have significant impacts on a number of environmental factors. Using the City of Newport Beach Environmental Checklist as a guide, at least one impact area has been identified as having a "Potential Significant Impact" in the following areas, and will be addressed in the EIR:

Aesthetics and Visual Resources

Air Quality

Biological Resources	Climate Change
Cultural Resources	Geology and Soils
Hazards and Hazardous Materials	Hydrology and Water Quality
Land Use and Planning	Mineral Resources
Noise	Population and Housing
Public Services	Recreation
Transportation/Circulation	Utility and Service Systems

The only topic identified on the City's Environmental Checklist that is not required for assessment in the EIR is agricultural resources. The Project site does not contain Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. No portion of the Project site is covered by a Williamson Act Contract. Additionally, the Project site is not zoned for agriculture.

Anticipated Schedule

The Project schedule, as currently envisioned, anticipates a Draft EIR to be available for public review in fall 2009. A 45-day public review period will be provided, after which responses to environmental comments received will be prepared. Public hearings before the Planning Commission and City Council are expected to start in spring 2010.

BRUCE E. BARTRAM
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RECEIVED BY
PLANNING DEPARTMENT

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~~NOV 30~~ 2009

Via email and US Mail

December 2, 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

CITY OF NEWPORT BEACH

Re: Draft Environmental Impact Report (DEIR)
for Sunset Ridge Park Project Comment II

Dear Ms. Brown:

Attached below are copies of a series of emails between myself, my neighbor Mr. Gary Garber and Newport Beach Councilman Steve Rosansky concerning the draft Environmental Impact Report (DEIR) for the Sunset Ridge Park Project. The emails involve requests for information from Councilman Rosansky, in whose council district the Sunset Ridge Park Project is located, concerning the terms of the two agreements the City of Newport Beach must enter into with the adjacent Banning Ranch property owners in order for the Project to be built as described in the DEIR. As you know, the Banning Ranch property owners have their own proposed project currently pending before the City of Newport Beach for approval. Their project entitled the "Newport Banning Ranch Project" proposes to build up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75 room hotel on their property adjacent to the Sunset Ridge Park Project.

According to Executive Summary Section 1.3 Project Summary for the Sunset Ridge Park Project DEIR the two proposed agreements between the City and the Banning Ranch property owners are described in pertinent part as follows:

"Vehicle ingress and egress would be provided via an access easement from West Coast highway through the Newport Banning Ranch property. Use of this adjacent property for the park access road would require an access easement from the Newport Banning Ranch property owner."

"Construction of the proposed (Sunset Ridge Park) Project is planned to occur in a single construction phase of between 16 and 18 months. Approximately 130,000 cubic yards (cy) of cut

and 96,000 cy of fill may be required during grading activities, with a net export of approximately 34,000 cy. The City proposes that all of the exported soil would go to identified locations on the adjacent Newport Beach Banning Ranch property. Existing oil field roads on the Newport Banning Ranch Property would provide truck access to transport the export material from the park site to Newport Banning Ranch... (Emphasis added)

Nowhere in the Sunset Ridge Park DEIR are the terms of the above access road easement and dump site agreements listed. As a consequence, I contacted Councilman Rosansky to determine what those terms were or are going to be. The obvious question I posed to Councilman Rosansky is what is the price the Banning Ranch property owners demand to allow the City the park access road easement and to dump 34,000 cubic yards of soil on their property? Will the Banning Ranch property owners require City approval of all 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75 room hotel of their Project in return for the access road easement and dump site agreements?

Of particular concern is the proposed dump site agreement with the Banning Ranch property owners. The Banning Ranch "dump sites" are depicted in Exhibits 3-3 and 3-12 to the Sunset Ridge Park DEIR. The dump sites are well away from the City owned proposed park area. These dump sites and connecting roads appear to double the Project boundary area from the actual proposed Park area depicted in Exhibit 3-9. From these plans one can only conclude the City of Newport Beach and the Banning Ranch property owners contemplate simultaneous construction activities on each of their respective Projects. This, of course, presupposes City approval of the Newport Banning Ranch Project.

In response to my emails expressing the above concerns Councilman Rosansky stated that the terms of the access road easement and dump site agreements with Banning Ranch property owners are not "finalized" and therefore, the negotiations and the terms of the agreements are still confidential. According to Councilman Rosansky once the terms have been finalized the agreements will be set for public hearing and will be eligible for public comment at that time.

The problem is that without the terms of these agreements "finalized" the Sunset Ridge Park DEIR Project Description is by definition uncertain and subject to change. If, for example, agreement cannot be "finalized" for the access road easement then there is no park road and therefore, no Sunset Ridge Park Project as described in the DEIR. If no dump site agreement can be reached then, at a minimum, the 34,000 cy yards of cut will have to be transported elsewhere causing an entirely different set of environmental impacts from those currently analyzed in the Sunset Ridge Park DEIR.

Under the California Environmental Quality Act (CEQA) (Public Resources Code 21000 ET seq) an accurate, stable and finite project description is basic to an informative and legally sufficient environmental impact report. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App.3d 692. An accurate and complete project description is necessary for an intelligent evaluation of the potential environmental impacts of the agency's action. Simply stated, it is only through an accurate view of the project that affected outsiders and public decision-makers balance a project's benefit against its environmental cost, consider mitigation measures, assess

the advantage of terminating the project and weigh other alternatives in the balance. City of Redlands v. County of San Bernardino (2002) 96 Cal. App. 3d 398, 406.


In addition to the above, the park access road easement and dump site agreements further support the argument made in my initial Sunset Ridge Park Project comment dated November 9, 2009. That being that the Sunset Ridge Park and Newport Banning Ranch Projects are one project for purposes of environmental review. In addition to their adjacent locations, overlapping project sites and common road systems, the proposed park access road easement and dump site agreements demonstrate beyond reasonable dispute that the Sunset Ridge Park and Newport Banning Projects are interrelated, interconnected and interdependent. CEQA requires an environmental impact report to discuss the cumulative effect on the environment of the subject project in conjunction with other closely related past, present and reasonably foreseeable probable future projects. Pub. Resources Code 21803(b); CEQA Guideline 15130, 15355. The term cumulative effects refers to two or more effects which, when taken together, are considerable or which compound or increase other environmental impacts. CEQA Guideline 15355.

The purpose of the cumulative effect analysis requirement is obvious: consideration of the effects of a project or projects as if no others existed would encourage piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services. This would effectively defeat CEQA's mandate to review the actual effect of the projects upon the environment. Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles (1986) 177 Cal. App. 3d 300, 307.

In summary, the "finalized" terms of the park access road easement and dump site agreements between the City of Newport Beach and the Banning Ranch property owners must under CEQA be included in the Sunset Ridge Park DEIR. As important, the Sunset Ridge Park and Newport Banning Ranch projects are one project under CEQA and must be subject to concurrent environmental review. It is my understanding that the Newport Banning Ranch Project DEIR will be issued in January, 2010. Thus, simultaneous environmental review of both can be easily accomplished.

Please let me know your response to the foregoing as soon as possible. A hard copy of this email along with copies of Exhibits 3-3, 3-9 and 3-12 mentioned above will be sent to you by US Mail.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bruce Bartram". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bruce Bartram

Bruce Bartram

From: "Bruce Bartram" <b.bartram@verizon.net>
To: "Brown, Janet" <JBrown@newportbeachca.gov>
Cc: "Terry Welsh" <terrymwelsh@hotmail.com>; <slgenis@stanfordalumni.org>;
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 <jessp77@gmail.com>; <bmiserv@juno.com>; <nopc@sbcglobal.net>;
 <christopherbunyan@yahoo.com>; <susantheresalee@msn.com>; "Ginny Lombardi"
 <ginnylombardi@yahoo.com>; "Gary Garber" <garbergary@yahoo.com>
Sent: Wednesday, December 02, 2009 6:59 AM
Subject: Sunset Ridge Park DEIR Comment II

December 2, 2009

Janet Johnson Brown, Associate Planner
 City of Newport Beach, Planning Department
 3300 Newport Boulevard
 P.O. Box 1768
 Newport Beach, CA 92658-8915

Re: Draft Environmental Impact Report (DEIR)
 for Sunset Ridge Park Project Comment II

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12/2/2009

the Banning Ranch property owners demand to allow the City the park access road easement and to dump 34,000 cubic yards of soil on their property? Will the Banning Ranch property owners require City approval of all 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75 room hotel of their Project in return for the access road easement and dump site agreements?

Of particular concern is the proposed dump site agreement with the Banning Ranch property owners. The Banning Ranch "dump sites" are depicted in Exhibits 3-3 and 3-12 to the Sunset Ridge Park DEIR. The dump sites are well away from the City owned proposed park area. These dump sites and connecting roads appear to double the Project boundary area from the actual proposed Park area depicted in Exhibit 3-9. From these plans one can only conclude the City of Newport Beach and the Banning Ranch property owners contemplate simultaneous construction activities on each of their respective Projects. This, of course, presupposes City approval of the Newport Banning Ranch Project.

In response to my emails expressing the above concerns Councilman Rosansky stated that the terms of the access road easement and dump site agreements with Banning Ranch property owners are not "finalized" and therefore, the negotiations and the terms of the agreements are still confidential. According to Councilman Rosansky once the terms have been finalized the agreements will be set for public hearing and will be eligible for public comment at that time.

The problem is that without the terms of these agreements "finalized" the Sunset Ridge Park DEIR Project Description is by definition uncertain and subject to change. If, for example, agreement cannot be "finalized" for the access road easement then there is no park road and therefore, no Sunset Ridge Park Project as described in the DEIR. If no dump site agreement can be reached then, at a minimum, the 34,000 cy yards of cut will have to be transported elsewhere causing an entirely different set of environmental impacts from those currently analyzed in the Sunset Ridge Park DEIR.

Under the California Environmental Quality Act (CEQA) (Public Resources Code 21000 et seq) an accurate, stable and finite project description is basic to an informative and legally sufficient environmental impact report. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App.3d 692. An accurate and complete project description is necessary for an intelligent evaluation of the potential environmental impacts of the agency's action. Simply stated, it is only through an accurate view of the project that affected outsiders and public decision-makers balance a project's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the project and weigh other alternatives in the balance. *City of Redlands v. County of San Bernardino* (2002) 96 Cal. App. 3d 398, 406.

In addition to the above, the park access road easement and dump site agreements further support the argument made in my initial Sunset Ridge Park Project comment dated November 9, 2009. That being that the Sunset Ridge Park and Newport Banning Ranch Projects are one project for purposes of environmental review. In addition to their adjacent locations, overlapping project sites and common road systems, the proposed park access road easement and dump site agreements demonstrate beyond reasonable dispute that the Sunset Ridge Park and Newport Banning Projects are interrelated, interconnected and interdependent. CEQA requires an environmental impact report to discuss the cumulative effect on the environment of the subject project in conjunction with other closely related past, present and reasonably foreseeable probable future projects. Pub. Resources Code 21803(b); CEQA Guideline 15130, 15355. The term cumulative effects refers to two or more effects which, when taken together, are considerable or which compound or increase other environmental impacts. CEQA Guideline 15355.

The purpose of the cumulative effect analysis requirement is obvious: consideration of the effects of a project or projects as if no others existed would encourage piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services. This would effectively defeat CEQA's mandate to review the actual effect of the projects upon the environment. *Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles* (1986) 177 Cal. App. 3d 300, 307.

In summary, the "finalized" terms of the the park access road easement and dump site agreements between the City of Newport Beach and the Banning Ranch property owners must under CEQA be included in the Sunset Ridge Park DEIR. As important, the Sunset Ridge Park and Newport Banning Ranch projects are one project under CEQA and must be subject to concurrent environmental review. It is my understanding that the Newport Banning Ranch Project DEIR will be issued in January, 2010. Thus, simultaneous environmental review of both

can be easily accomplished.

Please let me know your response to the foregoing as soon as possible. A hard copy of this email along with copies of Exhibits 3-3, 3-9 and 3-12 mentioned above will be sent to you by US Mail.

Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

----- Original Message -----

From: parahdigm@aol.com

To: b.bartram@verizon.net

Cc: DKiff@city.newport-beach.ca.us; SBadum@city.newport-beach.ca.us; SWood@city.newport-beach.ca.us; dhunt@newportbeachca.gov; edselich@roadrunner.com

Sent: Thursday, November 19, 2009 6:01 AM

Subject: Re: Sunset Ridge Park Road Question Follow Up

Dear Mr. Bartram:

By copy of this e-mail I am forwarding on your comments to the City manager for inclusion in the public record. As to the questions you pose, I will stand on my response to Gary Garber with regard to your previous letter, which response you apparently received.

Steve

-----Original Message-----

From: Bruce Bartram <b.bartram@verizon.net>

To: parahdigm@aol.com

Cc: itmansfield@ca.rr.com; mezzohiker@msn.com; dkoken@hmausa.com; terrymwelsh@hotmail.com; steveray4surfcity@hotmail.com; jenniferfrutig@aol.com; knelson@web-conferencing-central.com; greenp1@cox.net; jamesquigg@juno.com; marktabbert@sbcglobal.net; jonfox7@yahoo.com; evenkeel4@sbcglobal.net; jimcassidy52@earthlink.net; techcowboy@ca.rr.com; margaret.royall@gmail.com; cmcevoy@dusd.net; jessp77@gmail.com; bmlserv@juno.com; nopc@sbcglobal.net; christopherbunyan@yahoo.com; susantheresalee@msn.com; medjkraus@yahoo.com; Kristine Adams <Kristine.Adams@sbcglobal.net>; Don @ Toni Bruner <don_bruner@hotmail.com>; Jim Caras <jim@healthdirectusa.com>; Barbara Durst-Taylor <dursttaylor@sbcglobal.net>; Gary Garber <ggarber237@aim.com>; Kathy White <kathy.white@fedex.com>; Ginny Lombardi <ginnylombardi@yahoo.com>; Sandra Genis <slgenis@stanfordalumni.org>

Sent: Tue, Nov 17, 2009 4:26 pm

Subject: Sunset Ridge Park Road Question Follow Up

November 17, 2009

Councilman Steve Rosansky
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

12/2/2009

Re: Sunset Ridge Park Road Question Follow Up

Dear Councilman Rosansky:

My neighbor, Mr. Gary Garber, has been kind enough to forward to me your responses to his email questions. They concerned my November 9, 2009 email to you regarding the proposed access easement agreement the City of Newport Beach must obtain from the Banning Ranch property owners in connection with the proposed Sunset Ridge Park Project. In that email I pointed out that the Banning Ranch property owners have their own project, the Newport Banning Ranch Project, currently pending for City approval. In that email, I asked the obviously question, that being what would the Banning Ranch property owners demand as the price for the access easement? City approval of their proposed project in its entirety? All 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75 room hotel?

Since sending you the November 9, 2009 email I have further reviewed the draft Environmental Impact Report for the Sunset Ridge Park Project (DEIR). I have found yet another "agreement" the City of Newport Beach must enter into with Banning Ranch property owners in connection with the Sunset Ridge Park Project. That being the City's "proposal" to dump some 34,000 cubic yard of "exported soil" from the Sunset Ridge Park Project site on "identified locations on the adjacent Newport Beach Banning Ranch property." Once again, as with the access easement, what is the "price" the Banning Ranch property owners will demand to, addition to the access easement, allow the City to dump 34,000 cubic yard on their property. Once again, is that price City approval of all 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75 room hotel of their Project?

According to Executive Summary Section 1.3 Project Summary for the Sunset Ridge Park Project DEIR it is stated in part as follows:

"Construction of the proposed (Sunset Ridge Park) Project is planned to occur in a single construction phase of between 16 and 18 months. Approximately 130,000 cubic yards (cy) of cut and 96,000 cy of fill may be required during grading activities, with a net export of approximately 34,000 cy. The City proposes that all of the exported soil would go to identified locations on the adjacent Newport Beach Banning Ranch property. Existing oil field roads on the Newport Banning Ranch Property would provide truck access to transport the export material from the park site to Newport Banning Ranch..."(Emphasis added)

These Banning Ranch "dump sites" are depicted in Exhibits 3-3 and 3-12 to the DEIR copies of which are attached for your review. As you can see, the dump sites are well away from the City owned proposed park area. These dump sites and connecting roads appear to double the Project boundary area from the actual proposed Park area depicted in Exhibit 3-9 a copy of which is also attached for your review. From these plans one can only conclude the City of Newport Beach and the Banning Ranch property owners contemplate simultaneous construction activities on each of their respective "Projects." This, of course, presupposes City approval of the Newport Banning Ranch Project.

In your November 15, 2009 email response to Mr. Garber a copy of which is below, you state that the access easement "agreement with the Banning Ranch has not been finalized and therefore the negotiations and the agreement are still confidential. Once has been finalized and is ready for a public hearing at the City Council, I will be happy to discuss any of the proposed terms with you,..." If as with the access easement agreement the "terms" of the above described "dumping agreement" with the Banning Ranch property owners have not been finalized then City Council consideration of these agreements must be coordinated for public hearing with the environmental review of both the Sunset Ridge Park and Newport Banning Ranch Projects. The access easement and dump site "agreements", their adjacent locations and their common "Project" sites demonstrate beyond any argument their interconnection and interdependence. This requires their common public review.

One of the basic purposes of California Environmental Quality Act (CEQA) is to disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved. CEQA Guideline 15002. To comply with CEQA the City of Newport Beach must review the Sunset Ridge Park and Newport Banning Ranch Projects, their access easement and dumping agreements, concurrently. This so both the City and its citizens will know the full costs both they and the environment will have to give up in order for the entire Sunset Ridge Park and the Newport Banning Ranch "Project" to be constructed.

As before, thank you for your expected cooperation and prompt response in this matter. Please note the large number of copies of this email are being sent to persons that have expressed interest in this issue. They are in large measure like me and Mr. Garber your constituents who will be greatly interested in your response. A hard

12/2/2009

copy in letter form of this email with the exhibits mentioned above will follow.

Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

From: Gary Garber [mailto:garbergary@yahoo.com]
Sent: Monday, November 16, 2009 6:37 AM
To: Bruce Bartram; Sharon Boles; Don Bruner; Barbara Dust-Taylor; Dorothy Krauss; ginny lombardi; Cathy Malkemus; Paul Malkemus; Sami Mankarias; Jim Mansfield; Terry Welsh
Subject: Fw: Re: Sunset Ridge Park Road Question
Good Morning All

Most recent response from Steve Rosansky.

Gary Garber

--- On Sun, 11/15/09, parahdigm@aol.com <parahdigm@aol.com> wrote:

From: parahdigm@aol.com <parahdigm@aol.com>
Subject: Re: Sunset Ridge Park Road Question
To: garbergary@yahoo.com
Cc: DKiff@city.newport-beach.ca.us, SBadum@city.newport-beach.ca.us, SWood@city.newport-beach.ca.us, dhunt@city.newport-beach.ca.us
Date: Sunday, November 15, 2009, 5:48 PM
Gary:

As to Mr. Bartram's assertions that the Banning Ranch Development and the Sunset Ridge Park project are the same project constructed in separate phases, the response will be given in the context of the responses to Draft EIR. I am sure that the City Staff and the City Attorney's office will work closely with the EIR Consultant to provide a comprehensive answer.

As to the questions concerning the proposed easement agreement with the Banning Ranch owners, the agreement has not been finalized and therefore the negotiations and the terms of the agreement are still confidential. Once the agreement has been finalized and is ready for a public hearing at the City Council, I will be happy to discuss any of the proposed terms with you, Mr. Bartram or any other interested party.

Steve

-----Original Message-----

From: Gary Garber <garbergary@yahoo.com>
To: parahdigm@aol.com
Cc: DKiff@city.newport-beach.ca.us; SBadum@city.newport-beach.ca.us; SWood@city.newport-beach.ca.us; dhunt@city.newport-beach.ca.us
Sent: Sun, Nov 15, 2009 1:19 pm
Subject: Re: Sunset Ridge Park Road Question

Steven

12/2/2009

I believe that Mr. Bartram's November 12 letter and my follow up email was directed to you, as our elected city representative requesting information. I also believe that Mr. Bartram's letter and my email was not meant to be directed to the EIR Consultant since information requested would only be known by you and not the Consultant. I do not have a business relationship with the Consultant. I would be happy to meet with you along with any other constitutions who want to join me. In any case my first question we'll be as an elected representative why do you refuse to answer a question of paramount interest to your constitutions. I would be more than happy to send you confirmation of your response in writing. I believe this response will then become a part of the administrative record for Sunset Ridge Park. I can not speak for Mr. Bartram, but I assume he would do the same if you respond to his letter in a timely matter.

Gary Garber
8 Landfall Court

--- On Sun, 11/15/09, parahdigm@aol.com <parahdigm@aol.com> wrote:

From: parahdigm@aol.com <parahdigm@aol.com>
Subject: Re: Sunset Ridge Park Road Question
To: garbergary@yahoo.com
Cc: DKiff@city.newport-beach.ca.us, SBadum@city.newport-beach.ca.us, SWood@city.newport-beach.ca.us, dhunt@city.newport-beach.ca.us
Date: Sunday, November 15, 2009, 7:38 AM
Gary:

I will not be preparing a written response to Mr. Bartram's letter. The response to Mr. Bartram's letter will be made by the EIR Consultant in the context of the responses to the Draft EIR that has been prepared for the proposed Sunset Ridge Park project. However, I am still willing to meet with you, Mr. Bartram or any other concerned residents with regard to this project. Please let me know if you would like to schedule an alternative date.

Sincerely,

Steven Rosansky

-----Original Message-----

From: Gary Garber <garbergary@yahoo.com>
To: parahdigm@aol.com
Sent: Sat, Nov 14, 2009 1:46 pm
Subject: Re: Sunset Ridge Park Road Question

Steve

Thanks for the quick response. Due to other commitments I tried to change yesterday and today Tuesday night November 17 at 7PM is not good for me. I would like to see your written response to Mr. Bartram

letter and email of November 12 before we meet. Please copy me with your response to Mr. Bartram. Possibly we can sit down after I have had a chance to go over your response.

Gary

--- On Sat, 11/14/09, parahdigm@aol.com <parahdigm@aol.com> wrote:

From: parahdigm@aol.com <parahdigm@aol.com>
Subject: Re: Sunset Ridge Park Road Question
To: garbergary@yahoo.com
Date: Saturday, November 14, 2009, 8:37 AM
Have you been able to confirm Tues. at 7:00?

Steve

-----Original Message-----

From: Gary Garber <garbergary@yahoo.com>
To: Steve Rosansky <parahdigm@aol.com>
Sent: Fri, Nov 13, 2009 10:24 am
Subject: Fwd: Sunset Ridge Park Road Question

Steve

As a long term resident of Newport Beach, past Board Member of West Newport Beach Association and New Crest HOA I also would like to hear your response to Mr. Bartram's November 12th letter and email (see below) regarding the proposed Bluff Road access to Sunset Ridge Park and Newport Banning Ranch.

Is it possible for you to meet with many of your concerned constituents and discuss this issue. What is a good time for you?

Gary Garber
8 Landfall Court
Newport Beach, CA

-----Original Message-----

From: Bruce Bartram <b.bartram@verizon.net>
To: parahdigm@aol.com
Cc: jtmansfield@ca.rr.com; mezzohiker@msn.com;
dkoken@hmausa.com; terrymwelsh@hotmail.com;
steveray4surfcity@hotmail.com; jenniferfrutig@aol.com;
knelson@web-conferencing-central.com; greenp1@cox.net;
jamesquigg@juno.com; marktabbert@sbcglobal.net;
jonfox7@yahoo.com; evenkeel4@sbcglobal.net;
jimcassidy52@earthlink.net; techcowboy@ca.rr.com;
margaret.royall@gmail.com; cmcevoy@dusd.net;
jessp77@gmail.com; bmlserv@juno.com; nopc@sbcglobal.net;
christopherbunyan@yahoo.com; susantheresalee@msn.com;
medjkraus@yahoo.com; Kristine Adams

12/2/2009

<Kristine.Adams@sbcglobal.net>; Don @ Toni Bruner
<don_bruner@hotmail.com>; Jim Caras <jim@healthdirectusa.com>;
Barbara Durst-Taylor <dursttaylor@sbcglobal.net>; Gary Garber
<ggarber237@aim.com>; Kathy White <kathy.white@fedex.com>;
Ginny Lombardi <ginnylombardi@yahoo.com>; Sandra Genis
<slgenis@stanfordalumni.org>
Sent: Thu, Nov 12, 2009 3:41 pm
Subject: Sunset Ridge Park Road Question

November 12, 2009

Councilman Steve Rosansky
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Re: Sunset Ridge Park Road Question

Dear Councilman Rosansky:

On November 7, 2009, the Daily Pilot ran a front page article concerning the proposed Sunset Ridge Park project. As described in the article, the project would include "[A] 28-foot-wide, two lane access road" that "runs north-south in plans for the park, cutting across Banning Ranch....The road would intersect with West Coast Highway about 980 feet west of Superior Avenue. Plans for the park show that the road would stretch north from West Coast Highway for about 850 feet, where it would end at the park parking lot....The city would have to get an easement to construct the road from Newport Banning Ranch, LLC, a consortium of three land owners that owns Banning Ranch." The weblink to the article is the following:
<http://www.dailypilot.com/articles/2009/11/06/politics/dpt-banningranch1109.txt>

In the article, it is also mentioned that "Newport Banning Ranch LLC wants to build 1,375 homes, shops and a hotel on Banning Ranch...The terms of the easement are still being hammered out with the land owners, city officials said Friday." The article continues "[N]ewport Beach Councilman Steve Rosansky, whose district includes Sunset Ridge Park, said the road is needed to give drivers access to West Coast Highway from the Park, Rosansky also has been involved with developing plans for the new park." You are quoted in the article as follows: "Even if we did preserve Banning Ranch as open space, you still need a road to get in there,...As far as I'm concerned, the roads needs to be there."

As you know, Newport Banning Ranch's "project" to build up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75 room hotel is currently before the City of Newport Beach for approval. On or about March 16, 2009 the City of Newport Beach issued the Notice of Preparation (NOP) of Draft Environmental Impact Report for the Newport Banning Ranch Project. Consistent with above description the NOP's Project Summary states "[T]he Newport Banning Ranch Project proposes the development of up to 1,375 residential dwelling units, 75,00 square feet of commercial, and 75 overnight resort accommodations on a Project site of approximately 401 acres." The adjacent proposed Sunset Ridge Park is depicted in Exhibits 3 and 5 to the NOP. The weblink to the Banning Ranch NOP

12/2/2009

is: http://www.city.newport-beach.ca.us/PLN/Banning_Ranch/Environmental/NBR%20NOP-031609_1.pdf

In the NOP, the proposed park access road for Sunset Ridge Park is named "South Bluff Road" for the Newport Banning Ranch Project. It is part of road system designated "Bluff Road" described as "backbone roads" for the Newport Banning Ranch Project. According to the Circulation Section of the NOP "[A]s a part of the (Newport Banning Ranch) Project, Bluff Road would be constructed from a southern terminus a West Coast Highway to a northern terminus at 19th Street...Bluff Road would serve as the primary roadway through the Project site, would intersect with the proposed extensions of 15th Street, 16th Street and 17th Street within the Project site, and would connect to 19th Street to the north...The implementation of Bluff Road may be phased. Access into the City of Newport Beach's proposed Sunset Ridge Park is proposed from Bluff Road within the Project site. An interim connection from Bluff Road through the Project site connecting to Sunset Ridge Park may be constructed as a part of the Sunset Ridge project."

From the above, it is impossible not to conclude that the Sunset Ridge Park Project and the Newport Banning Ranch Project are interconnected, if not interdependent. What are the terms you, the City and Newport Banning Ranch, LLC have or will agreed to to obtain the "easement" to construct the park road? Does Newport Banning Ranch's proposed granting of the easement come with the price of City approval of their Project? All 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75 room hotel? From the NOP it appears that Newport Banning Ranch will be constructing the park access road. Will the City of Newport Beach pay Newport Banning Ranch to construct the park access road? Or will they throw that in as a freebie, as part of their grateful thanks to the City for its approval of their project? In short, to what extent is Sunset Ridge Park contingent on City approval of the Newport Banning Ranch Project?

Thank you for your expected cooperation and prompt response in this matter. Please note the large number of copies of this email are being sent to persons that have expressed interest in this issue. They in large measure like me your constituents who will be greatly interested in your response.

Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663



- Approximate Project Boundary
- Conceptual Roadway and Park Design

Aerial Plan

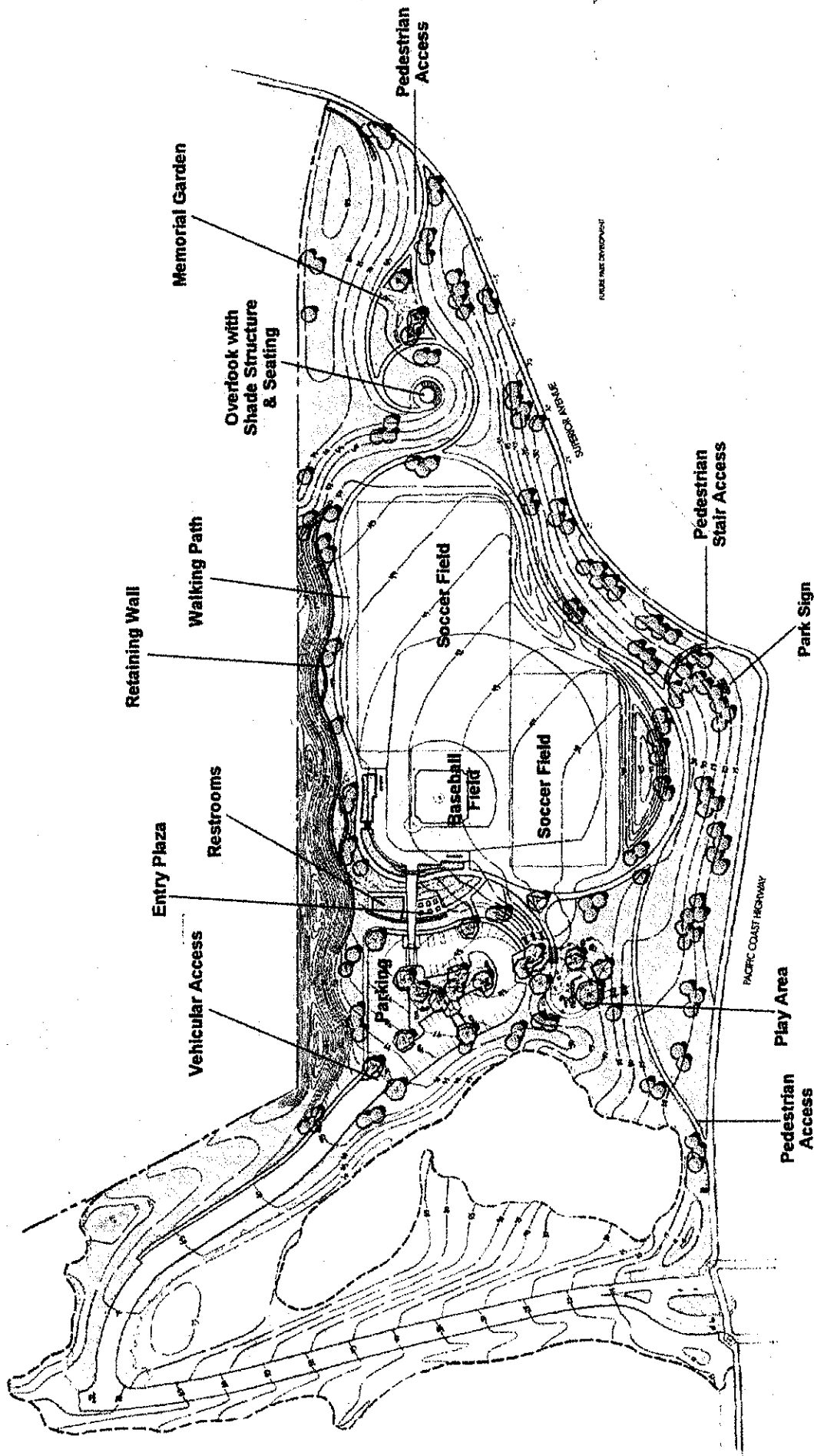
Sunset Ridge Park EIR

Exhibit 3-3



Bentley
CONSULTING

(REV: JFS 09-19-09) R:\Projects\Newport\018\Comp\et\EIR\Map3-3_aerial_plan.pdf



Source: EPT Design

Exhibit 3-9

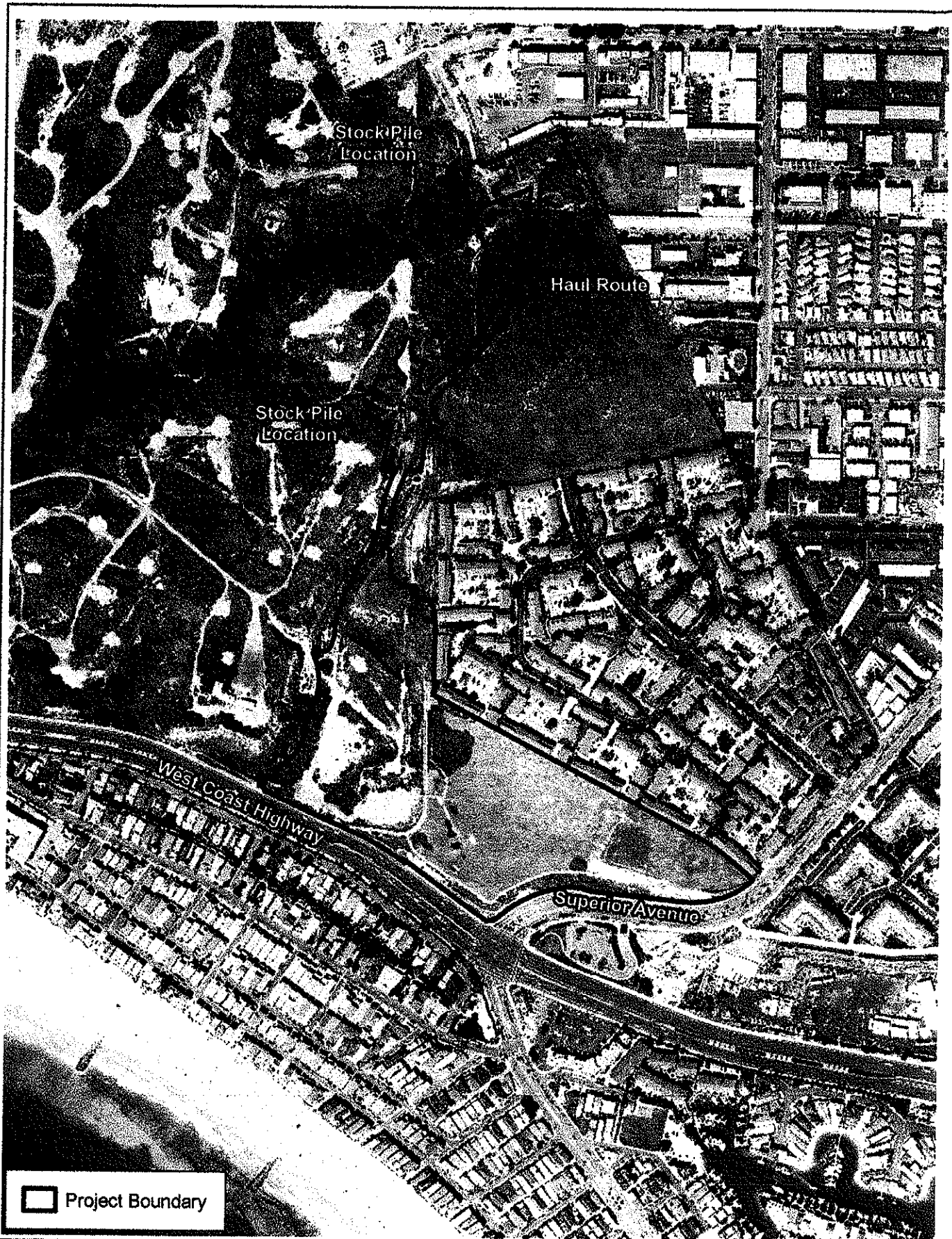
Conceptual Site Plan

Sunset Ridge Park EIR

Benterra
CONSULTING

(Rev: 10/22/09 KFD) Projects\Newport\016\Graphics\Benterra\3-9_CSP.pdf

D:\Projects\Newport\J01\Ex_EIR_stockpiles.mxd



Proposed Stock Pile Site and Haul Road

Exhibit 3-12

Sunset Ridge Park EIR



500 250 0 500
Feet

Benterra
CONSULTING

(REV. JFG 10/208) R:\Projects\Newport\J01\Graphics\EIR\Ex3-12_stockpiles.pdf

**Sandra Genis
Planning Resources**

Fax

To: Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1766
Newport Beach, California 92658-8916

From: Sandra Genis
(714) 754-0814
1586 Myrtlewood St., Costa Mesa, Ca.

Fax: 949-644-3229 **Pages:** 20 including cover

Phone: 949-644-3236 **Date:** 12/11/2009

Re: DEIR for Sunset Ridge Park (SCH
2009051036)

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

Attached are comments on the Draft Environmental Impact Report (DEIR) for Sunset Ridge Park (SCH 2009051036) in the City of Newport Beach submitted on behalf of the Banning Ranch Conservancy and myself.

I may be reached at (714) 754-0814 or by e-mail at slgenis@stanfordalumni.org

SANDRA GENIS PLANNING RESOURCES

1586 MYRTLEWOOD

COSTA MESA, CA. 92626

PHONE/FAX (714) 754-0814

December 11, 2009

Janet Johnson Brown
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92685-8915

Subject: DEIR for Sunset Ridge Park (SCH 2009051036)

Dear Ms. Johnson Brown,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for Sunset Ridge Park (SCH 2009051036) in the City of Newport Beach in Orange County. These comments are submitted on behalf of the Banning Ranch Conservancy and myself.

The project will entail the construction of active and passive park uses, restrooms, walkways, ninety-seven parking spaces, and a park access road which will largely be located on Banning Ranch property. The project will entail widening West Coast Highway and installation of a traffic signal at the West Coast Highway access point. Grading will consist of cubic yards of cut and cubic yards of fill on the park site, with the remaining excavated material to be deposited as engineered fill on Banning Ranch via a haul road to be constructed on Banning Ranch.

The DEIR does not consistently define the project site

A stable, complete, and accurate project description is the most basic and important factor in preparing a lawful EIR. It is critical that the project description be as clear and complete as possible so that the issuing agency and other responsible agencies may make informed decisions regarding a proposed project.

A vague or incomplete project description will render all further analyses and determinations ineffectual. As stated in *McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (202 Cal.App.3d 1136, 1143; 249 Cal.Rptr. 439), "An accurate project description is necessary for an intelligent evaluation of potential environmental effects of a proposed activity".

In setting aside the approval of an EIR by the City of Los Angeles for water development facilities in Inyo County, the court stated: "An accurate, stable and finite project description is the sine qua non of an information and legally sufficient EIR" (*County of Inyo v. City of Los Angeles* (71 Cal.App.3d 193) [139 Cal.Rptr. 401]). A stable, complete, and accurate project description is the most basic and important factor in preparing a lawful EIR. It is the denominator of the document and, thus, of the public's and decision-maker's review.

A key aspect of the project description is identification of the project site. The DEIR (p. 3.1) indicates that the project site consists of an 18.9-acre site comprised of 13.7 acres within City of Newport Beach boundaries and 5.2 unincorporated acres on Banning Ranch. By contrast, Table 4.6-1 (p. 4.6-5) identifying acreage of various vegetation types shows a total site acreage of 26.1 acres. The Water Quality Management Plan "Sunset Ridge Park" Newport Beach, California (p.2) found in Appendix I, indicates that the site is 20.4 acres.

The site is mapped in Exhibit 3-3, Aerial Plan, which shows the major portion of the site located adjacent to West Coast Highway along with two smaller areas to the north connected by a narrow strip. The same site is shown in Exhibit 3-5, Surrounding Land Uses. Figures 3-6, General Plan Land Use Designations, 3-7, Zoning Designations, and 3-8, Coastal Land Use Plan, appear to indicate that the project site comprises only the southerly consolidated area nearest West Coast Highway. Exhibit 3-9, Concept Plan and Exhibit 3-11, Landscape Plan show just the southerly area with a kidney shaped white hole on the westerly portion of the site. Exhibit 2, Local Vicinity, in the Notice of Preparation includes only the southerly portion of the site.

This discrepancy is carried forward into Section 4.0 Environmental Setting, Thresholds of Significance, Environmental Impacts, Mitigation Program and Level of Significance after Mitigation. Exhibit 4.6-1, Vegetation Types and Other Areas maps vegetation over the entire area shown in Exhibit 3-3, whereas Exhibit 4.10-3, Existing Site Hydrology and Exhibit 4.10-8, Site Hydrology-Post Project Condition, show only the 13.7-acre incorporated portion of the site, while Exhibit 4.8-1, site Topography, Exhibit 4.8-4, Proposed Project Grading Plan-Option 1, and Exhibit 4.10-10, Treatment Control Best Management Practices - Option 1, shows the entire southerly portion of the site, but not the fill area or road thereto.

The discussions in the text are similarly inconsistent. Whereas Section 4.6 discusses biological resources over the full area mapped in Exhibit 3-3, discussions of surrounding land use (Section 4.1) and noise (Section 4.5) neglect to address land uses in the vicinity of the fill site or potential impacts on such uses.

The Project must be examined in a comprehensive manner, not piecemealed.

Not only do many sections of the DEIR fail to examine impacts over the full extent of the project site mapped in Exhibit 3-3, as discussed above, the DEIR fails to fully acknowledge the full extent of the project. As noted in the DEIR (pp. 3-8 and 4.3-13) a 28-foot-wide two lane road would be graded and constructed to extend north from West Coast Highway and then turn to the southeast east to a parking lot designed to serve the proposed park.

Nowhere in the Section 3, Project Description, is the access roadway identified as Bluff Road, nor is Bluff Road identified in the discussion of the General Plan Circulation Element in Section 4.1 or discussed in the text of Section 4.3 Transportation And Circulation. In fact, the DEIR assiduously avoids any mention of Bluff Road. The text of the DEIR identifies Intersection 3 as only "Park Access Road" (Table 4.3-2, p. 4.3-5; Table 4.3-6, p. 4.3-10; Table 4.3-7, p. 4.3-11; Table 4.3-8, p. 4.3-12; Table 4.3-9, p. 4.3-14; and Table 4.3-10, p. 4.3-16). However, graphics in

Section 4.3 identify Intersection 3 as "Bluff Road at W. Coast Hwy" in approximately 8 point type (Exhibits 4.3-2 through 8). Similarly, the October, 2009 Traffic Impact Study for: Sunset Ridge Park in the City of Newport Beach prepared by Kimle-Horn and Associates, Inc., refers to Bluff Road throughout, beginning on Page 1, which states: "The park access road is located generally in the location and along the alignment of the future Bluff Road..."

The March 16, 2009 Notice of Preparation of a DEIR for Newport Banning Ranch states (p. 16-17):

Bluff Road would serve as the primary roadway through the Project site, would intersect with the proposed extensions of 15th Street, 16th Street and 17th Street within the Project site, and would connect to 19th Street to the north. The intersection of 19th Street at Balboa Boulevard would be reconfigured to accommodate Bluff Road. The implementation of Bluff Road may be phased.

Access into the City of Newport Beach's proposed Sunset Ridge Park is proposed from Bluff Road within the Project site. An interim connection from Bluff Road through the Project site connecting to Sunset Ridge Park may be constructed as a part of the Sunset Ridge Park project. This connection will be identified as a part of the proposed Sunset Ridge Park Project.

Based on the above, it appears that the "park access road" and Bluff Road are one and the same. Thus, the proposed project will establish the terminus point, the alignment for the first 850 feet, and major portions of the intersection configuration for the intersection of Bluff Road and West Coast Highway—all without any discussion of impacts of the roadway connection or examination of alternatives, including alternative locations for any future intersection of bluff Road and West Coast Highway.

In establishing a major portion of the Bluff Road alignment, the proposed project also shapes the future form of the Newport Banning Ranch Development. An approximately 5 acre area of Newport Banning Ranch will be located east of Bluff Road, isolated from the rest of Newport Banning Ranch. The DEIR does not indicate what will occur in this area, whether open space, residential, or some other use. However, the site configuration and surrounding grading would limit future use of the site.

The proposed project will entail placement of 34,000 cubic yards of engineered fill on the Newport Banning Ranch site (p. 3-12). Though fill areas are not specifically identified, it is assumed that the fill would be placed in the two areas north of the park site mapped as part of the in Exhibit 3-3. As shown on the attached United States Geological Service map, the fill sites are existing canyons. Placement of engineered fill in these areas will enhance the development potential for these areas and shape future development.

Along with the question of how the proposed project will shape future development of Newport Banning Ranch one is compelled to ask what was assumed regarding future development of Newport Banning Ranch. What representations regarding future development rights were made to Newport Banning Ranch in order to gain right-of-way for access to the proposed park?

Thus, it appears that the proposed project would not only establish the future of Bluff Road, it would establish the future of development at Newport Banning Ranch. CEQA mandates "... that environmental considerations do not become submerged by chopping a large project into many little ones--each with a minimal potential impact on the environment--which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Com.*, *supra*, 13 Cal.3d at pp. 283-284, 99 Cal.Rptr. 745, 492 P.2d 1137).

As noted in [*San Franciscans for Reasonable Growth v. City and County of San Francisco* ((1984) 151 Cal.App.3d 61, 198 Cal.Rptr. 634) analyzing only "piecemeal development would inevitably cause havoc in virtually every aspect of the urban environment". Yet that appears to be what has happened here.

The proposed project would result in the construction of infrastructure and other development not yet subject to environmental review

In accordance with Guidelines Section 15004(b), an environmental document is to be prepared as early as feasible in the planning process. *Per Laurel Heights Improvement Association of San Francisco, Inc. v. The Regents of the University of California* (1988) 47 Cal. 3d 376:

...the later the environmental review process begins, the more bureaucratic and financial momentum there is behind a proposed project, thus providing a strong incentive to ignore environmental concerns that could be dealt with more easily at an early stage of the project. This problem may be exacerbated where, as here, the public agency prepares and approves the EIR for its own project.

This is necessary if the EIR is to fulfill the stated purpose of CEQA which is

not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind. (*Bozung v. LAFCO* (1975) 13 Cal.3d 263)

Per Section the CEQA Guidelines (Section 15003):

The EIR serves not only to protect the environment but also demonstrate to the public that it is being protected...The EIR is to inform other governmental agencies and the public generally...The EIR is to demonstrate to an apprehensive citizenry that the agency has...considered and analyzed the ecological implications..."

Thus, an EIR must be prepared at a point in time when it may actually influence decision making. In accordance with Section 15004 (b)(2):

...public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance.

The proposed project will establish the terminus point, the alignment for the first 850 feet, and major portions of the intersection configuration for the intersection of Bluff Road and West Coast Highway—all without any discussion of impacts due to the roadway connection or examination of alternatives, including alternatives to construction of Bluff Road and alternative locations for any future intersection of Bluff Road and West Coast Highway. By establishing the roadway alignment and placing engineered fill in canyon areas, the proposed project will also commence certain aspects of future development of Newport Banning Ranch.

Specific Flaws in the DEIR

In addition to the essential systemic flaws discussed above, the EIR must address the comments and questions below regarding how specific information in the DEIR is presented. Each of these items is itself, though, so basic that each must be addressed in order for the DEIR to be considered legally adequate and to provide decision makers and the public with the information needed to evaluate the proposed project and its impacts

Project Description

An important aspect of the proposed project is landform alteration. While the project description indicates that 110,000 cubic yards of earth material will be moved (p.3-12), there is no indication of which areas will be cut and which will be filled nor how much will be altered at a given location. The first and only clear illustrations showing existing versus proposed topography are Figures 4.8-1 and 4.8-2, well into the document. Even so, the reviewer is still left to try to determine which areas will be cut and which will be filled on one's own. Further the illustrations do not show actual elevations in feet, so one has only the vaguest sense of changes in the general shape of the landform.

As noted above, site acreage is unclear. In addition to identifying the overall project acreage, the EIR must identify acreage devoted to active park uses, acreage devoted to passive park uses, acreage devoted to parking, acreage devoted to the access road, and acreage for widening of West Coast Highway.

In addition the following questions and comments must be addressed.

1. (p. 3-1) The EIR must indicate what area comprises 18.9 acres, whether the active and passive park area, park area plus roadways, or all area plus fill sites and the haul road. This must be mapped.
2. (p. 3-1&2) The DEIR includes an extensive history of the 13.7 acre portion of the project site currently owned by the city, going all the way back to the 1950s, but no explanation as to how the project came to include at least five acres of private property currently part of Newport Banning Ranch. How did this area come to be added to the park? How were the fill sites added to the project?
3. (p. 3-1&2) A copy of the scenic easement restrictions must be included in the EIR inasmuch as requirements of the easement are represented as shaping design of the park.
4. (p. 3-4) The EIR must identify ALL surrounding uses, including uses in both Newport Beach and Costa Mesa off 16th Street in the area of the fill sites.

5. (Ex. 3-6) The EIR must indicate general plan land use designations for ALL surrounding property, including property in Costa Mesa off 16th Street in the area of the fill sites.
6. (Ex. 3-7) The EIR must identify zoning for ALL surrounding property, including property in both Newport Beach and Costa Mesa off 16th Street in the area of the fill sites and unincorporated Orange County.
7. (Ex. 3-8) This graphic appears to identify only the 13.7-acre former Caltrans site as the project site.
8. (p. 3-7) Which of the project objectives provides for widening of West Coast Highway?
9. (p. 3-7) Which of the project objectives provides for placement of engineered fill on the Banning Ranch property?
10. (p. 3-7) If cut material is to be "exported from the site", to where will it be exported? Will cut material be exported to a location outside the project boundary shown in Exhibits 3-3 and 3-12?
11. (p. 3-8) What is the "memorial garden"? What memorials will be placed in the garden? What will the garden memorialize?
12. (p. 3-9) Will West Coast Highway be widened within the existing right of way for the highway, or will a portion of the 13.7 acre former Pacific Coast Freeway site be utilized for road widening?
13. (p. 3-9) Will the new traffic signal and five relocated mast arm street lights be located in the scenic easement? Are these improvements consistent with terms of the easement?
14. (p. 3-9) Will sports leagues be able to set up, complete a game and pack up in the two hour maximum parking period?
15. (p. 3-10) The EIR must include an elevation of the proposed retaining wall.
16. (p. 3-10) What material will be utilized to construct the security fence? Reflective or transparent material must not be utilized inasmuch as these could prove a hazard to avifauna.
17. (p. 3-11) Why would native vegetation be limited to the area west of the parking lot? Native vegetation should be utilized wherever possible.
18. (p. 3-12) On what basis were the fill locations on Banning Ranch selected?
19. (p. 3-12) Will the fill material merely be stockpiled, as implied in Exhibit 3-12 or will it be engineered as for permanent/semi-permanent placement?
20. (p. 3-12) For what purpose is the fill material to be engineered? What is the anticipated future use of the fill areas?

Land Use and Planning

Section 15125(d) of the CEQA Guidelines requires that an EIR discuss any inconsistencies between the proposed project and applicable general plans and regional plans. There is no requirement that an EIR identify policies with which a project is consistent or that an EIR balance different policies and programs. An EIR is only required to identify inconsistencies. By contrast, the DEIR devotes considerable effort to identifying policies with which the project could be considered consistent, but fails to discuss potential inconsistencies at all.

Areas of potential conflict include the following general plan goals and policies which relate to habitat and landform preservation as discussed below. Of greatest concern are the following Coastal Act Policies:

30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The EIR must examine the project in the light of the following policy:

NR 10.5 Development in Areas Containing Significant or Rare Biological Resources
Limit uses within an area containing any significant or rare biological resources to only those uses that are dependent on such resources, except where application of such a limitation would result in a taking of private property. ...

The proposed project would establish recreational uses not dependent on the resource within an area identified as environmental study areas in the Natural Resource Element, specifically Area 14.

In addition the following questions and comments must be addressed.

1. (p. 4.1-14) In addition to an undeveloped parcel in the foreground, do residents of the condominiums facing the project site also have bluewater views in the background?
2. (p. 4.1-23) The DEIR dismisses the importance of existing landforms because they are not natural. However, LU Policy 5.6.4 states

Conformance with the Natural Environmental Setting. Require that sites be planned and buildings designed in consideration of the property's topography, landforms, drainage patterns, natural vegetation, and relationship to the Bay and coastline, maintaining the environmental character that distinguishes Newport Beach.

The policy above does not denigrate landforms that have been altered in previous decades, merely requires the landform that exists be a consideration and that the character of the site be maintained. It appears that the proposed grading will replace undulating,

irregular slopes with slopes with a clearly engineered look. In addition, where slopes rose gradually from West Coast Highway, it appears that slopes will rise steeply (Figure 4.8-4). The EIR must address alterations to the character of the site.

3. (p. 4.1-29) LU Policy 6.5.3: Habitat and Wetlands calls for the City to restore and enhance wetlands and wildlife habitats, in accordance with the requirements of state and federal agencies. However, the proposed project will relocate some habitat and eliminate other habitat, in conflict with this policy.
4. (p. 4.1-33, 4.1-46) Consistent with HB Policy 8.20 and NR Policy 3.20, the project must be revised to include pervious pavement as has been used in parks elsewhere in southern California.
5. (p. 4.1-49, 51) Natural Resources Element Goal NR 10 calls for protection of sensitive and rare terrestrial and marine resources from urban development. NR Policy 10.4: New Development Siting and Design requires that the siting and design of new development, including landscaping and public access, protect sensitive or rare resources against any significant disruption of habitat values. However, the proposed project will relocate some habitat and eliminate other habitat, in conflict with this goal and policy.
6. (p. 4.1-51) NR Policy 10.6: Use of Buffers requires that new development maintain a buffer of sufficient size around significant or rare biological resources, if present, to ensure the protection of these resources. Require the use of native vegetation and prohibit invasive plant species within these buffer areas. However, the proposed project will not only fail to buffer existing habitat, it will relocate some habitat and eliminate other habitat, in conflict with this policy.
7. (p. 4.1-51) Why is total avoidance of habitat not possible? The EIR must indicate why preservation of habitat is not possible taking into account specific economic, environmental, legal, social, and technological factors.
8. (p. 4.1-54) NR Policy 20.4 calls for new development to be designed and sited on the edges of public view corridors, including those down public streets, to frame, accent, and minimize impacts to public views. However, it appears that the proposed grading will replace undulating, irregular slopes with slopes with a clearly engineered look. In addition, where slopes rose gradually from West Coast Highway, it appears that slopes will rise steeply (Figure 4.8-4). The EIR must address the altered character of the site. It should be noted that the policy does not specifically limit view preservation to pristine landforms.
9. (p. 4.1-66) The following policies require that environmentally sensitive habitat areas (ESHAs) be protected:

Policy 4.1.1-4 Protect ESHAs against any significant disruption of habitat values.

Policy 4.1.1-6 Require development in areas adjacent to environmentally sensitive habitat areas to be sited and designed to prevent impacts that would significantly degrade those areas, and to be compatible with the continuance of those habitat areas.

However, the proposed project would eliminate habitat and restore it elsewhere. The EIR must identify and discuss this conflict.

10. (p. 4.1-66) Policy 4.1.1-7 limits uses within ESHAs to only those uses that are dependent on such resources. By what stretch of the imagination are ballfields, a parking lot and a road dependent on ESHA? This conflict must be identified and addressed in the EIR.
11. (p. 4.1-70) Why is it not possible to provide a 100 foot buffer? The EIR must indicate why provision of a 100 foot buffer is not possible taking into account specific economic, environmental, legal, social, and technological factors.
12. (p. 4.1-75) Policy 4.4.1-3 requires that new development be sited and designed to minimize alterations to significant natural landforms, including bluffs, cliffs and canyons. The EIR must identify where on the entire project site landforms are natural and where landforms have been altered, and how much alteration has occurred. This applies to fill areas as well as areas to be developed for the park and associated improvements.

Aesthetics

The proposed project would result in alteration of the existing landform, replacing undulating, irregular slopes with engineered slopes (Figures 4.8-1 & 4). The EIR must address this change in light of the policies noted above.

In order to better evaluate changes in landform, the EIR must provide topographic maps which note elevation above mean sea level for the various contours. Though Figures 4.8-1 and 4.8-4 show general topography, the lack of elevation labels renders it impossible to determine whether individual areas will be higher or lower than at present. In addition, representative cross sections must be provided showing before-and-after ground contours. This information must be provided for the park site, roadways, and fill areas. The current discussion does not address the fill areas at all.

While the rendered photographs are of some help, for the most part the project site constitutes only a very small portion of a given photograph, typically well under half of the frame. This small scale renders it difficult to detect landmarks, let alone evaluate any changes. View 5, in particular shows primarily the area to the west of the access road, with the actual project area obscured by a large bush. A different angle showing more of the project site, including the access roadway, should be provided.

In addition the following questions and comments must be addressed.

1. (p. 4.2-9) How much lower is "slightly lower" as described for View 1?
2. (p. 4.2-9) How close in elevation would "essentially the same" be as described for View 2? A foot different? Two feet different? More?
3. (p. 4.2-10) View 5 illustrates the topography of the area west of the project site. A photograph showing the site itself would be more instructive and should be provided.
4. (p. 4.2-11) Is the approximately five acres now on the Banning Ranch property and included in the proposed project considered part of the 55 acres of parks anticipated to be provided on the Banning Ranch site?

Transportation and Circulation

This section must address to what extent the "access road" and other infrastructure improvement are designed to address future traffic from the proposed Banning Ranch development. All communications between the City of Newport Beach and Caltrans regarding the future signal at West Coast Highway and project related improvements to the highway must be included in the EIR.

In addition the following questions and comments must be addressed.

1. This section must also address handicapped access, including access to the passive portion of the park.
2. (p. 4.3-1) The regulatory setting must include a discussion of the City's Traffic Phasing Ordinance.
3. (p. 4.3-7) The trip generation table allocates trips based on 18.9 acres of city park. Will 18.9 acres of park actually be provided or do the 18.9 acres include the access road/Bluff Road, additional Coast Highway right-of-way and fill areas? All calculations related to park uses must be based on the size of the actual park use.
4. (p. 4.3-7) Does the allocation of trips per acre in addition to trips per field result in double counting trips for the same area?
5. (p. 4.3-8) The committed projects list must identify the specific type and amount of development committed, similar to Table 4.3-5.
6. (p. 4.3-12) The discussion of construction related traffic must also address impacts on traffic due to construction on West Coast Highway. Lane closures in particular must be addressed.
7. (p. 4.3-14) It makes no sense that preservation of Newport Banning Ranch as open space would generate average daily traffic of 5,225. What is the basis for that figure? Could a decimal point have been misplaced? While portions of the Banning Ranch site could be developed with ballfields, major portions of the site consist of wetlands, steep slopes and otherwise constrained areas. A trip generation rate similar to that at Fairview Park/Talbert Nature Reserve or Bolsa Chica Ecological Reserve would be more appropriate.
8. (p. 4.3-14) It makes even less sense that 1,375 dwelling units, 75,000 square feet of retail space and a 75-room hotel would generate only 2,225 more trips than open space. Based on the trip generation rates included in Table 13-1 of the October, 2009 Traffic Impact Study for: Sunset Ridge Park in the City of Newport Beach prepared by Kimle-Horn and Associates, Inc., far more traffic would be anticipated. This table must be revised to reflect realistic conditions.
9. (p. 4.3-14) What roadway scenario was assumed in calculating future trips from Banning Ranch?
10. (p. 4.3-13) A third access option to allow left turns only during non-peak hours should be considered.
11. (p. 4.3-16) Site acreage must be verified and parking demand recalculated due to the discrepancies noted above. Parking demand must be calculated based on actual parkland, not roadways or fill areas. A reduced demand for parking could also reduce the need for impervious surfaces and grading.

Air Quality and Climate Change

This section must consider localized significance thresholds for activities in the fill areas. To mitigate impacts due to construction equipment, the project must use the cleanest available technology for all equipment.

Noise

This section must address noise impacts in the fill area as well as the proposed park and roadway. Impacts on residences across West Coast Highway during grading, highway construction, and project operation must also be addressed.

In addition the following questions and comments must be addressed.

1. (p. 4.5-12) Noise is discussed based on distance to homes from the center of the construction site. To what extent is this representative? How near to existing residences will construction or grading occur?
2. (p. 4.5-12) What will be the maximum noise level experienced in nearby residences during construction?
3. (p. 4.5-12) What will be the typical day time noise level experience in nearby residences during construction?
4. (p. 4.5-15, 16) How is it that removal of a 6-foot-high noise wall would result in no significant change in noise levels? A 6-foot-high noise wall would normally provide a 5 dBA reduction in noise levels. What studies were performed to justify construction of the wall originally? What did these studies state regarding noise attenuation due to the wall? Will another barrier be provided to reduce noise? This must be explained.

Biological Resources

This section must evaluate resources in the light of the following section of the Coastal Act.

30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The EIR must also address off-site resources in proximity to any portion of the project site, including the fill sites and haul road. All resources within three hundred meters of any portion of the site must be identified and adequately buffered. As noted in Section 4.1 Land Use, a buffer of less than 100 feet will be provided for an off-site saltgrass wetland (p. 4.1-70). This must be discussed in this section along with any other off-site resources potentially affected. A detailed discussion of buffer size and a detailed rationale for reduction of buffers must be provided.

The proposed project would result in relocation of habitat in order to develop recreational uses not in any way dependent on ESHA resources. The DEIR rationalizes that "habitat values" would be preserved (p. 4.1-51, 66,67,68; p. 4.6-34). This is inconsistent with the Coastal Act. As stated in *Bolsa Chica Land Trust v. The Superior Court of San Diego County*, 1999 71 Cal. App. 4th 493; 83 Cal. Rptr. 2d 850;

Under the Coastal Act, Commission is required to protect the coastal zone's delicately balanced ecosystem. (§ 30001, subds. (a)-(c), 30001.5, subd. (a); *City of San Diego v. California Coastal Com.* (1981) 119 Cal. App. 3d 228, 233 [174 Cal. Rptr. 5]; *Sierra Club v. California Coastal Com.* (1993) 12 Cal. App. 4th 602, 611 [15 Cal. Rptr. 2d 779] (*Pygmy Forest*).) Thus in reviewing all programs and projects governed by the Coastal Act, Commission must consider the effect of proposed development on the environment of the coast. (See *City of San Diego v. California Coastal Com.*, *supra*, 119 Cal. App. 3d at p. 234.)

In terms of the general protection the Coastal Act provides for the coastal environment, we have analogized it to the California Environmental Quality Act (CEQA) (§ 21000-21174). (*Coastal Southwest Dev. Corp. v. California Coastal Zone Conservation Com.* (1976) 55 Cal. App. 3d 525, 537 [127 Cal. Rptr. 775].) We have found that under both the Coastal Act and CEQA: " 'The courts are enjoined to construe the statute liberally in light of its beneficent purposes. [Citation.] The highest priority must be given to environmental consideration in interpreting the statute [citation].' " (*Ibid.*)

In addition to the protection afforded by the requirement that Commission consider the environmental impact of all its decisions, the Coastal Act provides heightened protection to ESHA's. (*Pygmy Forest*, *supra*, 12 Cal. App. 4th at p. 611.) Section 30107.5 identifies an ESHA as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." "The consequences of ESHA status are delineated in section 30240: '(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. [P] (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with continuance of those habitat and recreation areas.' Thus development in ESHA areas themselves is limited to uses dependent on those resources, and development in adjacent areas must carefully safeguard their preservation." (*Pygmy Forest*, *supra*, 12 Cal. App. 4th at p. 611.)

Commission found that residential development in the eucalyptus grove was permissible under section 30240 because the LCP required that an alternate raptor habitat be developed on Huntington Mesa. Commission reasoned that section 30240 only requires that "habitat values" be protected [emphasis added] and that given the deteriorating condition of the grove, creation of a new raptor habitat on Huntington Mesa was the best way to promote the "habitat values" of the eucalyptus grove.

The reasoning Commission employed is seductive but, in the end, unpersuasive. [emphasis added] First, ... we are not required to give great weight to the interpretation of section 30240 set forth by Commission in its findings approving the LCP. The interpretation was not contemporaneous with enactment of section 30240 or the result of any considered official interpretative effort and it did not carry any other of the indicia of reliability which normally requires deference to an administrative interpretation. (See *Yamaha Corp. of America v. State Bd. of Equalization*, *supra*, 19 Cal. 4th at pp. 12-13.)

Secondly, the language of **section 30240 does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location.** [emphasis added] Rather, a literal reading of the statute protects *the area* of an ESHA from uses which threaten the habitat values which exist in the ESHA. Importantly, **while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development.** [emphasis added] Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA and by carefully controlling the manner uses in the area around the ESHA are developed. (*Pygmy Forest*, *supra*, 12 Cal. App. 4th at p. 611.)

Thirdly, contrary to Commission's reasoning, **section 30240 does not permit its restrictions to be ignored based on the threatened or deteriorating condition of a particular ESHA.** [emphasis added] We do not doubt that in deciding whether a particular area is an ESHA within the meaning of section 30107.5, Commission may consider, among other matters, its viability. (See *Pygmy Forest*, *supra*, 12 Cal. App. 4th at pp. 614-615.) However, where, as is the case here, Commission has decided that an area is an ESHA, section 30240 does not itself provide Commission power to alter its strict limitations. (12 Cal. App. 4th at p. 617.) There is simply no reference in section 30240 which can be interpreted as diminishing the level of protection an ESHA receives based on its viability. Rather, **under the statutory scheme, ESHA's, whether they are pristine and growing or fouled and threatened, receive uniform treatment and protection.** [emphasis added] (See *Pygmy Forest*, *supra*, 12 Cal. App. 4th at p. 617.)

In this regard we agree with the trust that Commission's interpretation of section 30240 would pose a threat to ESHA's. As the trust points out, **if, even though an ESHA meets the requirements of section 30107.5, application of section 30240's otherwise strict limitations also depends on the relative viability of an ESHA, developers will be encouraged to find threats and hazards to all ESHA's located in economically inconvenient locations. The pursuit of such hazards would in turn only promote the isolation and transfer of ESHA habitat values to more economically convenient locations. Such a system of isolation and transfer based on economic convenience would of course be completely contrary to the goal of the Coastal Act,** [emphasis added] which is to protect *all* coastal zone resources and provide heightened protection to ESHA's. (§ 30001, subds. (a)-(c), 30001.5, subd. (a); *Pygmy Forest*, *supra*, 12 Cal. App. 4th at p. 613, 15 Cal. Rptr. 2d 779.)

In short, while compromise and balancing in light of existing conditions is appropriate and indeed encouraged under *other* applicable portions of the Coastal Act, the power to balance and compromise conflicting interests cannot be found in section 30240.

C. Section 30007.5

Koll argues that even if transfer of habitat values was not permissible under section 30240, such a transfer was permissible under the provisions of section 30007.5 and our holding in *Batiquitos Lagoon*. Section 30007.5 states: "The Legislature further finds and recognizes that conflicts may occur between one or more policies of the [Coastal Act]. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies."

In *Batiquitos Lagoon* we were confronted with "the conflicting interests of fish and fowl." (*Batiquitos Lagoon, supra*, 19 Cal. App. 4th at p. 550.) Each interest was protected by a specific provision of the Coastal Act: The fish were protected by section 30230 which directed that marine resources be preserved and, where feasible, restored; the fowl were protected by the requirement of section 30233, subdivision (b), that the very substantial dredging needed to restore the fish habitat avoid significant disruption of the bird habitat. We found that under section 30007.5, Commission could resolve these conflicting policy interests by favoring long-term restoration of the fish habitat over the short-term, but significant, disruption of the bird habitat. (19 Cal. App. 4th at p. 562.)

Here, in contrast to the situation in *Batiquitos Lagoon*, the record at this point will not support application of the balancing power provided by section 30007.5. Unlike the record in that case, here our review of the proceedings before Commission does not disclose any policy or interest which directly conflicts with application of section 30240 to the eucalyptus grove. (See *Pygmy Forest, supra*, 12 Cal. App. 4th at p. 620.)

... Rather, the only articulated interests which the proposed transfer of the "habitat values" serves is Commission's expressed desire to preserve the raptor habitat values over the long term and Commission's subsidiary interest in replacing nonnative eucalyptus with native vegetation. However, as the trust points out, there is no evidence in the record that destruction of the grove is a prerequisite to creation of the proposed Huntington Mesa habitat. In the absence of evidence as to why preservation of the raptor habitat at its current location is unworkable, we cannot reasonably conclude that any genuine conflict between long-term and short-term goals exists.

The proposed project must be examined in the light of the above decision both as to its call to preserve of habitat in place and caution against minimizing the value of existing habitat.

Site surveys were conducted in the midst of a drought thereby affecting wetlands and vegetation in general. Surveys must be conducted following the upcoming rainy season, should normal rainfall or more occur.

In addition the following questions and comments must be addressed.

1. (p. 4.6-2) The Coastal Act must be discussed as part of the State regulatory framework. Issues to be addressed include the above section of the Act as well as the Commission's approach to defining wetlands.
2. (p. 4.6-4) The Newport Beach Local Coastal Program Land Use Plan must be addressed as part of the City's regulatory framework.
3. (p. 4.6-15) Wouldn't least Bells' vireo be expected to utilize willows in or near the project site?
4. (p. 4.6-21) How is it that wetlands recognized by the California Department of Fish and Game would not meet the Coastal Act definition of wetlands, which is "lands within the coastal zone which may be covered periodically or permanently with shallow water" (Section 30121)? This must be clarified.
5. (p. 4.6-24) Thresholds of significance must include any impacts on ESHA.
6. (p. 4.6-25) While California boxthorn is noted as having special status this is then denigrated by its low status, i.e. 4.2. The California Native Plant Society (CNPS) considers level 4 plants to be of limited distribution which warrant a "watch". The .2 extansion means the plant is Fairly Endangered in California (20-80% of occurrences threatened) (p. 4.6-13). How then does the DEIR conclude that impacts on the plant is not significant.
7. (p. 4.6-25) The DEIR says the California boxthorn is "relatively abundant" throughout its range. What is the range of the California boxthorn? What is "relatively abundant"? "Relative" to what? Areas it doesn't exist?
8. (p. 4.6-27) The DEIR presumes that impacts on habitat can be mitigated by replacement habitat elsewhere. This is not consistent with the Coastal Act, as discussed above.
9. (p. 4.6-28) Why is the site mowed? Could this not be considered incidental take?
10. (p. 4.6-29) It is simply not true that the project would not conflict with the Coastal Act, as discussed above. The project seeks to treat habitat values "as intangibles which can be moved from place to place to suit the needs of development", an approach repudiated by the courts in *Bolsa Chica*.
11. (p. 4.6-30) The discussion of cumulative impacts must consider development of Newport Banning Ranch. How is it that this project, immediately adjacent to the proposed project was not included in the discussion?

Cultural and Paleontological Resources

It is not clear whether on-site investigations included all areas within the project boundary or just the future park area. All studies must address the entire site, including fill areas.

Geology and Soils

This analysis of geology and soils suffers from the same deficiency noted previously: a shifting

project description and project site. Figures 4.8-1 and 4.8-4 show topography of just the southerly, park area, omitting the area to be subject to fill though the area will obviously sustain changes in topography. The August 19, 2009 Leighton Consulting, Inc. Geotechnical Study for the Proposed Sunset Ridge Park Project for the Environmental Impact Report maps only the 13.7- acre portion of the site within existing city of Newport beach boundaries (Figures 1 and 2). All soil borings are confined to that area. A geologic investigation for the entire site, including fill areas must be provided.

While the Leighton study states that conditions along the access road would likely be similar to those in the areas tested, Figure 2 in the Leighton study maps the access road for the park at approximately the city boundary, well to the east of the currently proposed location. Thus, evaluations of the access road in the Leighton study most likely did not consider the currently proposed alignment. It is not responsible to proceed absent a geologic study of the entire project site. The lack of information regarding the future roadway is especially worrisome.

As noted previously, in order to better evaluate changes in landform, the EIR must provide topographic maps which note elevation above mean sea level for the various contours. Topography for all areas within the project boundaries must be illustrated, including fill areas. Though Figures 4.8-1 and 4.8-4 show general topography, the lack of elevation labels renders it impossible to determine whether individual areas will be higher or lower than at present. Representative cross sections must also be provided.

The regulatory setting must address the following Section of the Coastal Act:

30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

30253. New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs....

In addition the following questions and comments must be addressed.

1. (Figure 4.8-1, 4) Site topography must identify the elevation of the topographic contours.
2. (p. 4.8-5) Figure 4.8-4 illustrates only a portion of finished topography within the project

- boundary. The entire area must be shown including the haul road and fills sites.
3. (p. 4.8-7) Figure 4.8-2 and mapping in the city's Safety Element also a potential for earthquake-induced landslides in the area of the access road and in the fill area near 16th Street. This must be addressed in the EIR.
 4. (p. 4.8-7) The EIR must address the potential that placement of fill could further destabilize the potential landslide area near 16th Street.
 5. (p. 4.8-9) The EIR must address cumulative alteration of landforms in light of all past, present and reasonably foreseeable probable future projects.

Hazards and Hazardous Materials

1. A map of the known hazardous sites closest to the project site would be helpful in this section.
2. Decades ago, it was not uncommon for wildcat wells to be drilled without benefit of permits and mapping. The EIR must present a contingency plan in case previously unknown oil facilities are encountered.
3. The EIR must explain what remediation would entail in terms of noise, materials hauling, and potentially toxic air emissions.

Hydrology and Water Quality

This section must be revised to address the entire site, including changes in hydrologic conditions in fill areas on Banning Ranch. Any fill in canyons/drainage ways is of particular concern. The EIR must address how placement of fill on the Banning Ranch fill site may alter drainage patterns.

In addition the following questions and comments must be addressed.

1. (p. 4.10-9) What frequency storm could be handled by the existing box culvert?
2. (p. 4.10-9) Has the capacity of the box culvert been exceeded in the past decade? By much?
3. (p. 4.10-9) This section must also address seepage described by Leighton Consulting, Inc. in the August 19, 2009 Geotechnical Study for the Proposed Sunset Ridge Park Project for the Environmental Impact Report (p.5).
4. (Figure 4.10-3) Existing drainage must be shown for all areas within the project boundary.
5. (p. 4.10-11) The EIR must address proposed amendments to the 303(d) list adopted by the Santa Ana Regional Water Quality Control Board and transmitted for approval of the State board in April 2009.
6. (p. 4.10-12) While the EIR mentions "potential pollutants", there is no information regarding *actual* pollutants. Clearly water quality in Semeniuk Slough is of enough concern to warrant monitoring. The EIR must present data regarding actual, not just "potential" quality of site runoff, including petroleum residues.
7. (p. 4.10-18) What steps will be taken to monitor the quality of any perched water to be removed?
8. (p. 4.10-19) How much will the proposed BMPs improve water quality. The EIR must identify the specific impact and quantify improvements to be achieved by use of the

proposed BMPs. This is especially important due to impacts on Semeniuk Slough and the project's proximity to the slough.

9. (p. 4.10-20) The EIR must identify and quantify any increase in runoff due to increased in impervious surfaces. Use of pervious paving should be utilized in the proposed parking area.
10. (p. 4.10-22) What year storm will the detention basins and treatment facilities be designed to handle?
11. (p. 4.10-23) How much increase is "slightly", "expected to be negligible"? What analyses were performed to arrive at these conclusions. The EIR must quantify the results.

Public Services and Utilities

This section must address impacts on emergency response times, including impacts due to construction on West Coast Highway.

Growth Inducing Impacts

The EIR must address how the proposed project would shape or facilitate future development on Banning Ranch. This includes construction and grading for the initial phase of Bluff Road and placement of fill on the Banning Ranch site. The EIR must address any agreement with Newport Banning Ranch that provides for any future considerations in return for the road right-of way and use of areas and include all related documentation in an addendum.

Project Alternatives

This section must include analysis of an alternative similar to that shown in the August 19, 2009 Leighton Consulting, Inc. Geotechnical Study for the Proposed Sunset Ridge Park Project for the Environmental Impact Report in Figure 2, with the access at approximately the city boundary.

In addition the following questions and comments must be addressed.

1. (p. 6-3) It does not necessarily follow that access at Superior Avenue would result in reduced park area. Is provision of the additional parkland a result of any agreements regarding construction of intersection improvements and the initial portion of Bluff Road?
2. (p. 6-4) How would the easement prevent construction of a road access? Does the scenic easement prohibit construction of flat pavement?
3. (p. 4-6) Are street lights and traffic signals permitted in the scenic easement? How would that affect the lights to be relocated along West Coast Highway and the proposed signal at the access road/Bluff Road and West Coast highway?
4. (p. 6-4) Why couldn't access from Superior be provided at the lower portion of the park, where there is greater sight distance for vehicles on Superior Avenue?
5. (p. 6-9) How does the feasibility of purchasing property adjacent to an industrial area with no views compare to the proposed acquisition of approximately 5 acres adjacent to West Coast Highway?

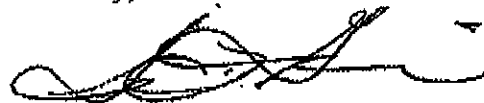
6. (p. 6-14) Why would a passive park necessarily entail construction of lawns and gardens? Why wasn't provision of a nature park considered?
7. (p. 6-25) There is no reason a passive park incorporating native vegetation would not be environmentally superior.

Conclusion

As currently presented, the DEIR is inadequate to fulfill the purposes of CEQA. The shifting definition of the project site is especially troublesome. The DEIR must be revised to provide more complete, accurate information regarding characteristics of the proposed project and project impacts and recirculated pursuant to Guidelines Section 15088.5(a)(4).

Once again, thank you for this opportunity to comment. Please keep us informed as this project progresses.

Yours truly,



Sandra L. Genis

Brown, Janet

From: chris bunyan [christopherbunyan@yahoo.com]
Sent: Friday, December 11, 2009 2:31 PM
To: Brown, Janet
Subject: Comments for Sunset Ridge DEIR
Attachments: Janet Johnson Brown.docx

Janet Johnson Brown, Associate Planner

City of Newport Beach

3300 Newport Blvd

Noise

Construction of the park is not a short process; instead, the city of Newport Beach's DEIR states, "Construction of the proposed Project is planned to occur in a single construction phase over an approximate 16 to 18-month period." Therefore, over a span of 1.5 years, residents will be forced to endure high decibel levels that are the result of a massive land moving process, and grading. The DEIR says, "During construction, sensitive receptors at the first row of condos would be exposed to occasional high noise levels and ground borne vibration associated with the operation of heavy equipment including loaders, scrapers, dozers, and loaded haul trucks."

The loaders, dozers, scrapers and loaded haul trucks have the largest duty cycles and the highest noise levels (dBA) at a range of 50ft:

	Noise level (dBA)	Typical Duty Cycle
• Dump truck	84	40%
• Excavator	85	40%
• Scraper	85	40%
• Dozer	85	40%
• Grader	85	40 %

The above decibel levels can be heard at high levels at distance more than 50 (fifty) feet. And it should be noted that the construction vehicles that will be utilized can have vibration levels that can cause damage to foundations, and structures. Vibration from construction is caused by pile driving, soil compaction, heavy grading, soil removal, and general equipment operations. Vibration from construction and may be perceived as motion of building surfaces, rattling, from items on a shelf or pictures on a wall. Vibration can take the form of an audible low-frequency rumbling noise, which is referred to as ground-borne noise. The soil removal portion of the Sunset Ridge is no minor endeavor; furthermore, it is one of the largest soil removal projects that the city of Newport Beach has seen in several years.

As noted in the DEIR, Section 10.26.035D of the City's Noise Ordinance exempts noise sources associated with construction, repair, remodeling, demolition, or grading of any real property from the City's Noise Ordinance standards shown in Table 4.5-3. These activities are subject to the provisions of Chapter 10.28, which prohibits construction activities that generates loud noise that disturbs, or could disturb, a person of normal

sensitivity who works or resides in the vicinity except during weekdays between the hours of 7:00 AM to 6:30 PM, and Saturdays between the hours of 8:00 AM to 6:00 PM. Therefore, based on the time standards of the City of Newport Beach's Noise Ordinance, heavy construction noise can commence as early as 7:00 AM during the weekdays and 8:00 AM on Saturdays. So for area residents, joggers, cyclists, business owners and patrons, the level of noise will be an unnecessary burden. Hypertension and various psychological difficulties can be related to noise exposure.

The DEIR claims the following:

"Noise impacts associated with the proposed Project were addressed for both construction and operation. Construction noise would be related primarily to the use of heavy equipment during the grading phase of construction. The proposed park would create a new source of noise in the residential community from children playing, yelling and cheering at the playground areas and during organized soccer and baseball games, dogs barking, landscaping maintenance activities, and other park-related activities. These types of noise are not out of character with a residential neighborhood and would be considered generally compatible."

The above claims states that the proposed park would create a new source of noise from children, playing, yelling and cheering . . . during organized soccer and baseball games." However, most noise comes not from children "yelling and cheering" but parents, family members and other attendees of a game. I resided next to the Lincoln Sport Complex in Corona Del Mar and the noise was never-ending. Soccer season entailed both youth and adult organizations and these leagues consisted of games that were played 7 (seven) days per week. Soccer season segued into baseball/softball season, which consisted of youth and adult leagues. Noise from spectators included screaming, yelling, cheering, arguments, referees making calls, and automobile noise. And the same noise can be expected from the proposed Sunset Ridge Park. The DEIR claims that "these types of noise are not out of character with a residential neighborhood and would generally compatible." That claim is wrong because neighborhoods are not the same; each neighborhood, within Newport Beach, has its unique personality. I currently reside in a neighborhood that is free from screaming, yelling, referees blowing whistles, dogs barking and heavy construction equipment. Not only is the EIR wrong, but is negligent in making a sweeping claim that the aforementioned noise is normal. Currently the Newport Crest Community quite peaceful and free from any noise. The Sunset Ridge Park project will introduce noise that currently does not exist. In the DEIR it is stated:

"Although the Project construction would be in compliance with the Noise Ordinance, some construction noise levels could be approximately 10 to 25 dBA above the ambient noise levels."

I interpret the remark "could be" as an escape-hatch so that when complaints do arise, and they will, then the City of Newport Beach can simply refer back to the EIR.

The DEIR states that the noise is a significant unavoidable impact. However, the impact is, in fact, avoidable by not allowing this project to happen. I ask the City of Newport Beach to not allow the Sunset Park to be constructed due to the long term and adverse effects it will have on area residents.

Truly,

Christopher S. Bunyan
Costa Mesa, CA

Brown, Janet

From: Matthew Erwin [jonfox7@yahoo.com]
Sent: Friday, December 11, 2009 2:32 PM
To: Brown, Janet
Subject: Sunset Ridge Park

Dear Ms. Brown,

The view from the ridge point in this park, from the top plateau, is undoubtedly among the best in the City, for being the best view of it. I continue to pray never to see a dump truck on that plateau (or concrete paths for that matter). I was glad to see what appears to be a third design in the report, moving, like the second, away from the disastrous first design wherein the view of the bay itself would have been graded away. I can only assume views of the docks and boats and bay are safe for now. But the fundamental illogic of that first design, wherein soft slopes were preferred over the naturally steep ones, replacing quiet ocean and bay views with noisy highway ones, still seems to be denied, and a fourth design is needed to fully embrace the value of the ridges and of the ridge point view of Sunset Ridge Park. Angels are in the details, and if workers with shovels are ever ordered to start scraping away the ridges, I can only hope they will enjoy the views themselves so much, working slowly, their bosses will notice the interior ridge wherein their playful designs on topography can be had without destroying value, so the street stays apart from the park, and panoramic views remain across the top plateau, including every possible home and tree in the hills behind the bay.

To the north, unnecessary burnishing of the ridge would diminish views of the river delta herself. And so it is that this third plan, albeit less so than the other two, continues to fail the City in failing to honor the view that can teach it and remind it of how the river bears it, and shapes it, forming the peninsula that makes the bay. Perhaps overshadowed by the playfulness of the ocean and uniqueness of the bay, the river is nonetheless the City's most treasured resource, bringing fresh actually drinkable water to a region that otherwise imports it, feeding plants and flowers that sustain themselves with a tremendously diverse ecology of birds and animals, all evolved naturally to this wettest part of a dry region, showing us the way. In light of the course of the other two rivers in our region, emptying into Long Beach and Los Angeles harbors, with the northside of this river delta bestowed to a sewage treatment plant, the City and its

neighbors can ill afford to lose sight of where this river that most defines our region, and so often names it, meets the ocean - among the foggiest and fanciest places around. Personally I most miss the crustaceans that would grow there more if our governments, having understandably channeled it to make it safer, decide to make it beautiful again.

In reference to the City's "weed abatement" on this park the past two years, I question whether the City knows what a weed is. The definition of a weed is a non-cultivated plant that grows in opposition to cultivated plants. Thus the waves of white, yellow, and purple wildflowers, dotted with reds and turquoises and all the colors I've missed so far, that grow in this delta and on this park without a drop of piped water or a dollar to a gardener, naturally home to myriad critters, that were burned crisp by thick layers of blueish-purple poison sprayed by unhappy gardeners, were weeds only to the extent they disturbed the growth of cultivated plants. But what was being cultivated, other than death? Isn't that what this process was supposed to be largely about, to determine where to put the cultivated green turf needed for sports? And so the "poison" - a word on signs, not mine - spread across almost the entirety of the park, and in Banning

Ranch, albeit thankfully less so, before any decisions had been made was breathtakingly absurd. How can the City name the birds, insects, animals, flowers, and plants after it kills them? It seems to me an environmental impact report exists precisely to measure the environment that would be lost from development - if only for the sake of history, and the future, to know what seeds carried with the wind, and grew in the soil naturally, what plants were happy in our sporadic rains and the fog, in harmony by definition with the creatures calling them home, including maybe even especially the birds just dropping in. And yet the City, before it began the process to understand the environment, killed it. What use was there in replacing the natural environment with poison that invariably seeped into our ocean, bay, and soles? Especially just before an environmental impact study? Alas nature forgives, and this spring the flowers will be back, less

full, less diverse, but together with the bees and the birds, offering the City another four seasons to see what it has, what it can hear, and what would be lost if its carelessness turns permanent.

That precious oceanfront land urged to be graded here is proposed for the Banning Ranch landowners, largely international, passive shareholders - never mind the voices paid to speak on their behalf, taught to be zealous advocates, skills that will be gone with the opportunity for profit - speaks to the nature of collective action dilemmas, wherein a small number of directly interested participants in the political process can tend, even if ironically, to weigh more heavily than larger numbers of the passively interested. Which is why good government requires the City to be, if not opposed to the adjacent landowning investors, respectfully independent of them, certainly as to designing the City's parkland. Frankly it is embarrassing that the City would even think of destroying its own ocean view property to give soil to a private party, or designing its streets with that party's profit most in mind. But that seems to be where this report is now.

I end by reminding the City again of a long line of legal principles that respect what has been respected in the law forever as far as I can tell - the power of the sovereign, in our democracy, the public, over riverlands and tidelands. 164 Cal. 24; 4 Cal.2d 31; 6 Cal.3d 251; 3 Cal.3d 462; 33 Cal.3d 419; 26 Cal.3d 515; 39 Cal.4th 1145; 107 Cal.App.2d 738; 19 Cal.App.3d 1040; 55 Cal.App.3d 560; 72 Cal.App.3d 778; 96 Cal.App.3d 403; 466 U.S. 198; Civil Code section 3479; Penal Code section 370; Harbors and Navigation Code section 131. The plan from the Banning Ranch consortium pretends the channeling of the river, and tunneling of water under the coast highway, expanded its land ownership. They did not, and could not. Rights vest from title, and public projects, even if they dry up land, do not expand that title. Public land cannot be adversely possessed. The powerful and rich don't need the City's help, they have money to buy their own. In

short, I hope the City continues its work, looking further from the lookout point in this special park to see the connection between our river and our bay, their health and cleanliness so fundamentally intertwined, such that the City can best serve their ecology, the environment of those without a voice precisely because they now need the City's voice most of all.

Best wishes and good luck,

Matt Erwin
1 Kialoa Ct.

Brown, Janet

From: Dorothy Kraus [medjkraus@yahoo.com]
Sent: Friday, December 11, 2009 8:22 AM
To: Brown, Janet
Subject: Sunset Ridge Park DEIR Comments

December 11, 2009

Ms. Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Re: Draft Environmental Impact Report (DEIR) for Sunset Ridge Park, DEIR, 04-Section 3.0 Project Description, 3.6.3 Off-Site Circulation Improvements

Dear Ms. Brown:

Please accept the following comments in response to the DEIR for Sunset Ridge Park and specifically comments regarding the City's proposal to install a 3-way traffic signal on West Coast Highway at the proposed park access road. It has been our understanding all along that the Sunset Ridge Park DEIR was focused only on Sunset Ridge Park so we were surprised and are now concerned about the inclusion of Banning Ranch into this report issued by the City.

In the way of background, we emailed Caltrans to request an explanation of the rationale behind the proposed installation of a 3-way traffic signal on West Coast Highway. In our email we stated that the proposed Sunset Ridge Park design has one baseball field and two soccer fields which overlay one another so all 3 could never be used at the same time. So why, we asked, would a stoplight be needed?

The following email response was received on December 3, 2009, from Ms. Tracey Lavelle, Caltrans Public Information Chief from District 12, Orange County.

From: Tracey Lavelle <tracey_lavelle@dot.ca.gov>
View Contact
To: medjkraus@yahoo.com
Cc: Tracey Lavelle <tracey_lavelle@dot.ca.gov>

Dear Ms. Kraus:

Thank you for your inquiry on the proposed installation of a 3-way traffic signal on West Coast Highway in the City of Newport Beach.

According to our Office of Traffic Operations, the proposed traffic signal is not for the sole purpose of providing access to Sunset Ridge Park. This signal will be the main access to the future Banning Ranch development, which is currently in the planning stage. In turn, this signal will also provide access to Sunset Ridge Park; however, the main reason behind it is to provide motorists access to the Banning Ranch Development.

I hope this helps to explain the necessity and function of this traffic signal.

Tracey Lavelle
Office Chief, Public Information/Governmental Affairs/EEO
Caltrans - District 12 Orange County
(949) 724-2031 office
(949) 279-8552 cell
(949) 724-2748 fax

Ms. Lavelle's response states that Caltrans views the traffic signal as not only for the Sunset Ridge Park project but the primary reason for it is for access to the future Banning Ranch development. Having read our neighbor, Mr. Bruce Bartram's November 9, 2009 Sunset Ridge Park DEIR comments, we fully support Mr. Bartram's conclusions that, now additionally supported by Caltrans' position regarding the 3-way traffic signal, Sunset Ridge and Banning Ranch should both be subject to a common environmental review.

Mr. Bartram's email is attached below.

November 9, 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Re: Draft Environmental Impact Report (DEIR)
for Sunset Ridge Park Project

Dear Ms. Brown:

According to Section 1.3 Project Summary of the Draft Environmental Impact Report (DEIR) for Sunset Ridge Park Project "Vehicle ingress and egress would be provided via an access easement from West Coast Highway through the Newport Banning Ranch property. Use of this adjacent property for the park access road would require an access easement from the Newport Banning Ranch property owner." In addition, "As a part of the Project, the City proposes to widen a portion of the northern side of West Coast Highway from Superior Avenue to a point west of the proposed access road...The City (of Newport Beach) is proposing a signal on West Coast Highway at the proposed access road...Where widening would occur on Newport Banning Ranch property, a dedication from the Newport Banning property owner would be required." The proposed access road on West Coast Highway is depicted as part of Conceptual Site Plan Exhibit 3-9 to the Sunset Ridge Park DEIR.

On Page 4.1-15 in Section 4.1 Land Use and Related Planning Programs of the DEIR it is mentioned "[T]he Newport Banning Ranch property is currently proposed for development with up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and a 75 room hotel; no actions have been taken by the City (of Newport Beach) regarding this proposal." On or about March 16, 2009 the City of Newport Beach issued the Notice of Preparation (NOP) of Draft Environmental Impact Report for the Newport Banning Ranch Project. Consistent with above description the NOP's Project Summary states "[T]he Newport Banning Ranch Project proposes the development of up to 1,375 residential dwelling units, 75,00 square feet of commercial, and 75 overnight resort accommodations on a Project site of approximately 401 acres." The adjacent proposed Sunset Ridge Park is depicted in Exhibits 3 and 5 to the NOP.

In the NOP, the proposed park access road for Sunset Ridge Park is named "South Bluff Road" for the Newport Banning Ranch Project. It is part of road system designated "Bluff Road" described as "backbone roads" for the Newport Banning Ranch Project. According to the Circulation Section of the NOP "[A]s a part of the (Newport Banning Ranch) Project, Bluff Road would be constructed from a southern terminus a West Coast Highway to a northern terminus at 19th Street...Bluff Road would serve as the primary roadway through the Project site, would intersect with the proposed extensions of 15th Street, 16th Street and 17th Street within the Project site, and would connect to 19th Street to the north...The implementation of Bluff Road may be phased. Access into the City of Newport Beach's proposed Sunset Ridge Park is proposed from Bluff Road within the Project site. An interim connection from Bluff Road through the Project site connecting to Sunset Ridge Park may be constructed as a part of the Sunset Ridge project."

As shown above, from their adjacent locations, their overlapping project sites and their proposed common road system the Sunset Ridge Park Project and the Newport Banning Ranch Project constitute one "Project." Indeed, to paraphrase the above, the Sunset Ridge Park is "Phase One" of the Newport Banning Ranch Project. This is expressly stated on Pg. 18 in the "Development Phasing/Project Implementation" section of the Newport Banning Ranch NOP. The section states in pertinent part as follows:

"The Project Applicant (Newport Banning Ranch property owners) proposes to implement the (Newport Banning Ranch) Project starting in the southern portion of the Project site closest to West Coast Highway. Initial phases would include the development of residential uses, resort uses, and a portion of the proposed Community Park, along with internal roadway access and infrastructure improvement..."

The California Environmental Quality Act (Public Resources Code 21000 et. seq.) (CEQA) embodies California policy that "the long-term protection of the environment shall be the guiding criterion in public decisions" No Oil, Inc. v. City of Los Angeles (1974) 13 Cal. 3d 68, 74. The law's purpose is not only to protect the environment but also to inform the public and responsible officials of the environmental consequences of their decisions before they are made. Id. at 79. The CEQA authorized environmental impact report (EIR) is "intended to furnish both the road map and the environmental price tag for a project, so the decision maker and the public both know before the journey begins, just where the journey will lead, and how much they -and the environment will have to give up in order to take that journey." National Resources Defense Council v. City of Los Angeles (2002) 103 Cal. App. 4th 268, 271.

As the Sunset Ridge Park and the Newport Banning Ranch comprise one "Project" they must be subject to a single environmental review under California law. For the City of Newport Beach to consider separate EIRs for each "project" would constitute a violation of California law, specifically, CEQA, which prohibits piecemeal environmental review. Orinda Ass'n v. Board of Supervisors (1986) 182 Cal. App.3d 1145. Under clear California law, specifically CEQA, a public agency may not "piecemeal" or divide a single project into smaller individual subprojects to avoid responsibility for considering the environmental impact of the project as a whole. Id; Sierra Club v. West Side Irrigation District (2005) 128 Cal. App.4th 690. CEQA "cannot be avoided by chopping proposed projects into bite-sized pieces" which

when taken individually, may have no significant effect on the environment." *Id.*; *Tuolumne County Citizens for Responsible Growth v. City of Sonora* (2007) 155 Cal. App. 4th 1214, 1223.

In summary, the Sunset Ridge Park and the Newport Banning Ranch comprise one "Project." As such, they must be subject to a single environmental review under CEQA by the City of Newport Beach. Since it appears that separate EIRS for each "project" are being prepared the EIRS should be considered at a combined joint hearing by the City of Newport Beach. This so both the City and its citizens will know the full costs both "they -and the environment will have to give up" in order for the entire Sunset Ridge Park and the Newport Banning Ranch "Project" to be constructed.

Please let me know your response to the foregoing as soon as possible. A hard copy of this email along with copies of Exhibit 3-9 and the Newport Beach NOP mentioned above will be sent to you by US Mail.

Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

Additionally, we found further confirmation in Section 4.3 Transportation and Circulation, Pg. 4.3-13 &14, that the 'Signal Warrants Analysis' assumes the build out of Newport Banning Ranch, and that the signal installation proposed in connection with Sunset Ridge Park is designed to accommodate the future development of Banning Ranch.

In conclusion, since the Sunset Ridge Park DEIR, Appendix B, Traffic Impact Study, page 6, Table 3, references the "cumulative effects" of the Sunset Ridge and Banning Ranch Projects, then the DEIR should also include a cumulative effects analysis of the other environmental impacts discussed including air quality, noise, aesthetics, biological resources, et al. This traffic signal study was conducted to include the Banning Ranch project as fully built; therefore, this further supports that a concurrent environmental review of both the Sunset Ridge and Banning Ranch projects by the City of Newport Beach is necessary.

Sincerely,

Michael and Dorothy Kraus
10 Wild Goose Court
Newport Beach, CA 92663
949-612-7521

Brown, Janet

From: Dorothy Kraus [medjkraus@yahoo.com]
Sent: Friday, December 11, 2009 3:02 PM
To: Brown, Janet
Cc: Henn, Michael; Gardner, Nancy; kdrellishak@gmail.com
Subject: Sunset Ridge Park DEIR - Comments
Attachments: 2009-11-16 Agenda.pdf

Dear Ms. Brown,

We are in agreement with the comments submitted by the City of Newport Beach, Environmental Quality Affairs Citizens' Committee (EQAC) prepared in response to the Sunset Ridge Park DEIR dated November 17, 2009 (attached).

Please accept this as our formal request to the City that a revised Sunset Ridge Park DEIR be produced with documentation that addresses the questions and concerns outlined in EQAC's comments.

In particular, we agree with EQAC's comments regarding the 'vagueness' of information provided in several sections of the DEIR including Sunset Ridge Park DEIR sections 1.3 Project Summary, 4.9 Hazards and Hazardous Materials, and 4.10 Hydrology and Water Quality. Additionally, EQAC has called out many occurrences of 'conclusory' statements where 'additional facts and analysis' are needed to support these conclusions including DEIR sections 4.1 Land Use, 4.2 Aesthetics, and 4.5 Noise.

We feel that it is the City's obligation to thoroughly address these concerns and produce a revised Sunset Ridge Park DEIR to contribute to a more complete understanding of the proposed project. We also request that the revised DEIR be made available for public review and comment because of the extent of the issues and concerns cited by EQAC.

Sincerely,

Mike and Dorothy Kraus
10 Wild Goose Court
Newport Beach, CA 92663

TO: Janet Johnson Brown, Associate Planner

November 17, 2009

FROM: Environmental Quality Affairs Citizens' Advisory Committee (EQAC)

SUBJECT: Comments on Sunset Ridge Park DEIR, SCH. NO. 2009051036, dated
October 2009

EQAC is pleased to submit the following comments related to the Subject DEIR in hopes that they will contribute to a more complete understanding of the proposed project and a better project for the City of Newport Beach. Comments are presented in order of appearance in the DEIR with appropriate section and page references to help facilitate your responses.

1.0 EXECUTIVE SUMMARY

1.3 Project Summary (p.1-2): The DEIR is vague about total parking provided. It states that the lot at the end of the access road will provide 75 spaces and that an additional 22 spaces "may be provided along the park access road". This vagueness continues on p.3-8 with the projection of "up to 22 parallel parking spaces along the access road". The issue is not clarified in the parking plan shown in Exhibit 3-11 or in the analyses of Section 4.3, Transportation and Circulation. Please include a direct statement of the parking requirements with reference to the supporting analysis.

4.1 LAND USE

Arts and Cultural Element. The DEIR states that "no goals or policies of the Arts and Cultural Elements (sic) are applicable to the proposed Project" (DEIR, p. 4.18). However, the DEIR should address at least whether the proposed Project can or will further the goal contained in the Arts and Cultural Element of providing "improved and expanded arts and cultural facilities and programs to the community."

Coastal Development Permit. The DEIR states that the City of Newport Beach CLUP applies only to properties within the City's boundaries (DEIR, p. 4.1-9). Only 13.7 acres of the Project site are located within the City's boundaries. 5.2 acres of the site are located in unincorporated Orange County within the City's Sphere of Influence. The DEIR states that those 5.2 acres constitute a "Deferred Certification Area (DCA)", but the DEIR does not explain the significance of DCAs, including how they are processed and by whom. The DEIR should clearly state when and how a coastal development permit will be processed for the 5.2 acres located outside of the City's boundaries, and which agency will be responsible for doing so.

LAFCO Proceedings. The Land Use section of the DEIR does not make any mention of whether the City intends to annex the 5.2 acres currently located outside the City's boundaries but within its sphere of influence. The DEIR should clearly state whether or

not the City intends to annex those 5.2 acres, and whether any LAFCO proceedings will be initiated as part of the proposed Project. If not, the DEIR should clarify whether any approvals from the County of Orange will be required with respect to the 5.2 acres.

Zoning for the 5.2 Acres Outside the City's Boundaries. The DEIR states that the County of Orange zoning designation "for the portion of the Project site (5.2 acres) proposed for the access road is Local Business with an Oil Production Overlay [C1(O)] (DEIR, p. 4.1-12). The DEIR does not state whether a zone change will be required for that portion of the Project site to allow use of a park site. The DEIR should clarify this issue and explain whether the County would process that zone change or whether the City will annex that property and consequently change its zoning.

Thresholds of Significance. There are three thresholds of significance related to land use: (1) conflicting with any applicable land use plan, policy or regulation of an agency with jurisdiction over the Project, (2) physically dividing an established community and (3) conflicting with any applicable habitat conservation plan or natural community conservation plan. Section 4.1.6 is poorly organized and does not clearly delineate those three thresholds.

Height of Buffer. The DEIR states that the buffer between the Newport Crest development and the Project "would vary in height and would vary in width from approximately 60 feet to 80 feet" (DEIR, p. 4.1-14). The DEIR should state the height of the buffer.

Conclusory Statements about Compatibility with Adjacent Land Uses. CEQA requires that an EIR contain facts and analysis, not just bare conclusions. The section in the DEIR entitled "Compatibility with Surrounding Off-Site Land Uses" describes the project and the adjacent land uses but provides minimal analysis about compatibility with those land uses. The DEIR states only that a landscaped buffer would be provided between the Newport Crest community and the active park uses. Other than the mention of the buffer, there is no discussion about the Project's compatibility with Newport Crest. Likewise, the DEIR describes the existing land uses to the east and merely concludes that "the proposed Project is considered compatible with land uses east of the site" (DEIR, p. 4.1-15). The DEIR should provide additional analysis to support its conclusions that "the proposed Project is considered a compatible land use with existing and proposed land uses bordering the Project site. No significant land use compatibility impacts would be associated with the Project" (DEIR, p. 4.1-16).

Cumulative Impacts. Additional facts and analysis are needed to support the conclusion that "because the proposed project would result in a new community park that is compatible with surrounding land uses and is anticipated by these relevant planning documents, the Project's contribution to cumulative land use and planning impacts is less than significant" (DEIR, p. 4.1-17). The DEIR should also discuss cumulative land use impacts in light of the proposed Banning Ranch project.

General Plan Consistency Analysis

Land Use Element Goal LU 2. With respect to the goal of providing “a living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique,” the DEIR includes a conclusory statement that merely describes the Project without providing any analysis about the Project’s consistency with that goal. Additional facts and analysis are needed

Land Use Element Policy 2.6. Instead of simply describing the Project, the DEIR should include some analysis of how the Project will “provide uses that serve visitors to Newport Beach’s ocean, harbor, open spaces, and other recreational assets, while integrating them to protect neighborhoods and residents.”

Land Use Element Goal LU 3. This goal is for a “development pattern that retains and complements the City’s residential neighborhoods, commercial and industrial districts, open spaces and natural environment.” Again, the DEIR simply includes a conclusory statement about its compatibility with surrounding uses. The DEIR should contain specific facts and analysis about how the Project complements uses adjacent to the Project. This comment applies as well to Land Use Element Goal LU 5.6, LU Policy 5.6.1 (Compatible Development), and LU Policy 6.1.1 (Siting of New Development), where additional facts and analysis are also needed to support the conclusions.

LU Policy 6.2.5. This policy states that new uses “shall be designed to ensure compatibility with adjoining residential (sic) addressing such issues as noise, lighting and parking. The DEIR states that “compatibility with noise and parking are discussed below” and provides some descriptive information about the Project, but it does not contain sufficient analysis about whether the Project has been designed to ensure compatibility with adjoining residential uses. Additional facts and analysis should be provided.

LU Policy 6.3.2. The DEIR states that “the proposed Sunset Ridge Park uses would not preclude the future development of the Newport Banning Ranch property consistent with either the General Plan OS or RV land use designations.” The DEIR should discuss whether the proposed access road through the Banning Ranch site would affect development of Banning Ranch, and whether it would affect the City’s policy of supporting the active pursuit of the acquisition of Banning Ranch as permanent open space.

LU Policy 6.5.3. This policy is to “restore and enhance wetlands and wildlife habitats.” The DEIR only states that a biological assessment and jurisdictional delineation have been prepared and that permits will be obtained from regulatory agencies. This section of the DEIR should contain facts or analysis specifically addressing the policy of restoring and enhancing habitats.

NR Policy 1.2 (Use of Water Conserving Device). The DEIR mentions that the City's Water Conservation Ordinance requires an approved water use plan (DEIR, p. 4.1-43). The DEIR should state whether a water use plan been proposed for this Project. In addition, other than simply referring to the City's ordinance, the DEIR should contain some analysis about how the Project will "establish and actively promote use of water conserving devices and practices."

Natural Resources Element Goal NR 6 (Reduced mobile source emissions). The DEIR concludes that "the Project would reduce mobile emissions during construction as well as mobile emission sources." This DEIR should contain additional facts and analysis to support this conclusion.

Natural Resources Element Goal NR 20 (Preservation of significant visual resources). The DEIR concludes that "no public views would be adversely impacted with the Project." The DEIR should contain additional facts and analysis to support this conclusion, particularly given the Project's proximity to Newport Crest.

Coastal Land Use Plan Policy 2.1.9-1. With respect to this policy, this section of the DEIR merely includes some descriptive information about the Project but does not give any analysis about how the Project "shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations." Additional facts and analysis are needed.

Inconsistency Regarding California Gnatcatcher. On page 4.1-68, the DEIR states that "this habitat is not occupied by the California gnatcatcher." However, on page 4.1.81, the DEIR states "the Project site contains one pair of coastal California gnatcatchers." This inconsistency should be resolved.

4.2 AESTHETICS

The DEIR acknowledges that the "residents of the Newport Crest Condominium development located immediately to the north have expansive views of the Project site and the Pacific Ocean located approximately ½ mile further to the south." See Aesthetics," p. 4.2-3. The DEIR clearly acknowledges that "[i]mplementation of the proposed Sunset Ridge Park would alter the existing visual character and use of the Project site, and the *views from the surrounding land uses would be changed.*" See Aesthetics," p. 4.2-8.

Additionally, in the Executive Summary, under 1.6 AREAS OF CONTROVERSY AND ISSUES TO BE RESOLVED, the issue of impacts on public and private views is raised. The DEIR acknowledges that it must address "[w]hether the Project would adversely affect public and private views." See Executive Summary, page 1-5.

Further, under the classification of "Potentially Significant Impact," the NOP promised that "[t]he character of the existing aesthetic environment and visual resources, including

a discussion of views within the site and views of the site from *surrounding areas*, will be addressed in the EIR.” NOP, page 17.

However, there is no discussion in the DEIR of effects/impacts on the private views. The DEIR must be revised to include the promised/required discussion of the resolution of this identified “controversy/issue” as promised in the DEIR itself.

Section 15123(b)(3) of the CEQA Guidelines requires that an EIR contain a discussion of issues to be resolved. The Executive Summary states, “[t]he EIR has taken into consideration the comments received from the public, agencies, and jurisdictions” concerning the controversy/issue about adverse affects on public and private views. Some even opened their homes to the City to enable access and determination of the view issues. Yet, there is no discussion, at all, of the adverse effects/impact on the *private* views of the community of Newport Crest (the residential community to the north of, and abutting, the Project), which is significantly and extensively affected by the Project.

Notably, the DEIR presents numerous visual simulated views from every angle surrounding the Project *except* from the north, where Newport Crest is located. Such visual simulations would otherwise provide the data needed for a genuine discussion/resolution of the issue.

The only mention that might be construed as addressing private views is the statement in the DEIR that:

The Project would not adversely alter existing views of site or surrounding area; the Project allows for the development of a park with active and passive uses consistent with the General Plan. The Project would not degrade the visual character of the site or surrounding areas, nor would it impede views of or from the Project site (*Less than significant impact*). See Executive Summary, Threshold 4.2-2, pp. 1-8 through 1-9,

In the absence of any discussion of the private views, it appears the above-quoted DEIR passage at most *implicitly* disposes of that issue by doing no more than stating that the “active and passive uses” are “consistent with the General Plan.” However, evaluation of the adverse effects is and must be based on data, on the actual design of the Park, structures and all.

It must be emphasized that the issue of private views was raised by Newport Crest homeowners, a number of whom regularly attended study sessions, City Council Meetings and meetings of the Parks, Beaches and Recreation Commission concerning the Sunset Ridge Project. As found in one of the many letters that were written in response

to the NOP, of which some were copied into the DEIR's Appendix A, these views were raised and a significantly important area of concern:

We were assured by the City that every effort be made not to block/affect our ocean view [that we paid dearly for] would the shade structures for the overlook area and the picnic areas low enough to keep that promise? See Appendix A.

In other letters responding to the NOP, other Newport Crest homeowners ask that the DEIR address the following:

The impact the overlook area with a shade structure would have on the homes in Newport Crest. The impact the baseball backstop along third baseline would have on homes in Newport Crest. See Appendix A.

A viewshed analysis of the bluff inland of Coast Highway that will be altered by the grading for the access road should be contained in the EIR. It is not necessary that Coast Highway be a Scenic Highway. The view of the bluff itself is a scenic resource that is addressed by Section 30251 of the Coastal Act. The EIR should address the ramifications of section 30251 as it pertains to this project. See Appendix A.

Nothing in the DEIR addresses these legitimate points and concerns. The DEIR should be revised to include discussion of these concerns.

The DEIR concludes that there is no impact caused by the proposed lighting for the Project site. However, the basis on which this determination is made consists of data that is not based in fact (that anything in the area already causes similar lighting), and incomplete "Standard Conditions and Requirements." Further, the DEIR is incomplete until it is revised to include assessments as to Lighting based on actual or simulated impacts on the Newport Crest and other affected communities. The DEIR should be revised to include more data upon which a complete evaluation can be made.

On Lighting, the DEIR provides no data whatsoever. It states:

All outdoor lighting would be *appropriately* shielded and oriented in order to prevent light spillage on *adjacent, off-site land uses*. Outdoor lighting associated with the restroom facilities and parking lot *shall not adversely impact residential land uses to the north*, but shall provide sufficient illumination for access and security purposes. See "Project Design Features," p. 4.2-5.

The DEIR conclusion concerning the level of impact caused by Lighting is based in part on the above, which is not data or analysis, but a 'design feature' that the DEIR does not say is necessarily going to implemented. Further, the terms, "appropriately" and "not adversely impact," are not defined.

This is especially confusing due to the accompanying discussion, under "Standard Conditions and Requirements," which identifies the standard as: "shall not be *excessively illuminated*," or it should not create an "*unacceptable negative impact*." Under section SC 4.2-2, the DEIR states that the City will prepare a photometric study for approval by the Public Works Director and/or Planning Director, and that the "survey shall show that lighting values *are "1" or less* at all property lines. The DEIR does not identify the criteria for any of these standards. See pp. 4.2-5 – 4.2-6. The criteria should be disclosed in the DEIR.

The DEIR also states that the assessment of the level of lighting is "subjective" (see "Methodology 4.2.5" at p. 4.2-6) and that it will ultimately be up to the Public Works Director and/or Planning Director to make that subjective call. The current conclusion that there is NO IMPACT, then, is technically not accurate. In point of fact, the assessment on Lighting has been deferred to another time, after the photometric study. See section SC 4.2-2 at p. 4.2-6. Will the City issue a DEIR on Lighting once it has more data and/or design details so that it is put to the proper procedure and evaluation? If not, will the public be privy to the study and be invited for comment?

Without providing any data, the DEIR also claims that there is no impact because the Lighting "would not affect nighttime views as the Project site is in an urban environment that is currently subject to similar lighting." Given that none of the expansive Project site currently has lighting, this statement, without any data to support it, is incomplete. What data support this statement?

Finally, the Methodology indicates that the assessments of the aesthetic/visual changes do not include any views from the north toward the Project site. See p. 4.2-6. Great concern is triggered by the fact that the views of the Project site from the residential communities to the north (i.e., Newport Crest) are not taken into consideration. Though the DEIR purports to be taking Lighting impacts on the northern neighbors into consideration, *it at the same time excludes them from the analysis*.

There was no discussion of the impact to all views that will result from litter and refuse left behind by visitors to the Park. Is there a budget for hourly maintenance of the expansive area? If not, how is the Project going to be maintained?

4.3 TRANSPORTATION

Ingress / Egress Road - Has the dedication (easement) been obtained from the owner of the Newport Banning Ranch property? Have any steps been taken in this regard? Are there any potential or perceived obstacles to obtaining this necessary aspect of the traffic plan?

With respect to the new signal intersection at West Coast Highway, are there any potential or perceived obstacles in obtaining the approval of CalTrans and/or Coastal Commission?

The proposed road ventures straight north before looping back down toward the parking area. Why is that path necessary? The road would be much shorter, and thereby possibly create more actual open park space, if it went straight from West Coast Highway to the parking area, diagonally. Also, the longer the road, the greater the risk of illegal parking as well as loitering at the dark, northern edge of the road late at night.

Parking - With two soccer fields that will be used simultaneously, are 97 spaces sufficient? Please provide the parking study to support this number of spaces.

4.4 AIR QUALITY

The DEIR states that all 34,000 cubic yards (cy) of excess material excavated from the site “would go to identified locations in the adjacent Banning Ranch property”. There are no locations shown and no acknowledgement that an easement would be required from the Banning Ranch owner as was identified for the access road. What approvals and controls apply to the disposal of 34,000 cy of excavated material in Banning Ranch?

The assumption of disposing excavation material on Banning Ranch conflicts with the analysis of alternative disposal sites on Page 4.4- 31. Please clarify.

Page 4.4-32: The DEIR states (and Table 4.4-9 indicates) that when the grading work is within 50 meters (164 feet) of sensitive receptors (Do these include children and people with compromised immune systems?), the maximum daily estimated PM(10) (State or Federal requirement?) and PM(2.5) emissions would exceed the SCAQMD threshold, and that approximately 25% of the Project is located within 164 feet of the Newport Crest Condominium development. The second paragraph of this page states that due to this fact, the Project would require implementation of SCAQMD Rule 403 dust control measures and that Rule 403 represents the only feasible mitigation measure for dust control, however that any reduction cannot be quantified, and, as such, the local PM(10) and PM(2.5) impact would be significant and unavoidable near Newport Crest during the mass grading period. However, this second paragraph on this page states that Newport Crest is at a higher elevation than the Project, and the first paragraph of Section 4.4.3 on page 4.4-11 states, that on general, the dominate land/sea breezes-winds are onshore during the day and reverse to offshore at night. The Project is on a ridge that has direct exposure to wind off the ocean. However, no analysis of the strength of the wind at the

project was provided (other than the before referenced general Costa Mesa comments) or discussion on its possible effects on particulates. There is also no discussion concerning a mitigation measure that takes into account the prevailing winds and the elevation of Newport Crest, and one should be addressed.

Page 4.4-37: In the first paragraph of Section 4.4.8 on this page, it states that there are no known projects within one-half mile of the Project where major construction would occur concurrently with the proposed Project. A reference to the Banning Ranch project and its status/schedule should be made here.

Page 4.4-38: In the "Standard Conditions and Requirements" subsection of Section 4.4.9, entitled "Mitigation Program", only SCAQMD Rule 402 and 403 will be required during construction and included as notes on the Project Managers' specifications (air pollutant emissions not be a nuisance offsite, and fugitive dust be controlled, respectively). On page 4.4-39, the DEIR states that "no additional measures are feasible", without an analysis of confining grading to favorable wind conditions. In this regard, note that SCAQMD's May 12, 2009 response to the NOP specifically states that "in the event the Project generates significant adverse air quality impact, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during the project construction and operation to minimize and eliminate significant adverse air quality impacts." Please address these exceptional mitigation measures and when they will be employed.

Section 4.4 of the DEIR did not address the following which were raised in letters/emails submitted on the NOP:

The May 14, 2009 NOP letter from the California Department of Conservation, Division of Oil, Gas and Geothermal Resources states that if construction will be over an abandoned well, adequate gas venting system should be placed over the well. This letter also states there are three plugged and abandoned wells within or in proximity to the Project. Air emissions from possible gas venting systems were not addressed in Section 4.4 of the DEIR.

Both the June 8, 2009 NOP letter from the Newport Crest Homeowners Association and the June 3, 2009 NOP email from Gary Garber, a Newport Crest Resident, expressed concern about the excavation of dirt at the Project, and Mr. Garber questioned whether or not the subject soil has been tested for contamination. Contamination of the soils that may end up as dust during construction was not addressed in Section 4.4.

4.5 NOISE

Bottom of p. 4.5-13 thru top of p. 4.5-14 and Exhibit 4.5-3 – Land Use Compatibility
Exhibit 4.5-3 was provided to show that existing CNEL (Community Noise Equivalent Level) ambient noise level tests for current worst case conditions on an active portion of the Project site from the nearest main sources of noise and cumulative future anticipated ambient noise increases will not exceed the 65dBA CNEL ambient noise level considered

acceptable for park use per the City's land use compatibility guidelines (see Table 4.5.1 on page 4.5-4) thus justifying the Project as a compatible land use.

Noise level contour lines are shown on the Exhibit indicating the extent of future cumulative 60 and 65 dBA CNEL ambient noise on the Project. These results were based on recent typical noise levels as measured from what will be the southern edge of the southern soccer field to the center line of the nearest section of West Coast Highway.

Data in the DEIR do not support the conclusion stated above. The CNEL ambient noise data measurement referred to in the DEIR appears to have been made from only this single point yet the data contour lines shown in the Exhibit extend to the west beyond the Project and to the east to the northeastern most corner of the Project. It seems reasonable that multiple data measuring points along both West Coast Highway and Superior Avenue would be needed to construct the noise level contour lines shown in the Exhibit.

It is also not made clear what future assumptions about ambient noise level increases were used to develop the contour lines which represent both current and future CNEL ambient noise levels on the active portions of the Project site. While there is discussion in the DEIR of potential future traffic noise impacts at sensitive receptor locations at the northern edge of the Project (see Table 4.5-11), these assumptions do not include noise sources associated with the active portions of the Project.

Please provide a more detailed explanation of how the CNEL ambient noise contour lines were developed.

4.6 BIOLOGICAL RESOURCES

p.4.6-7: There is only one drainage feature on the Project site (the concrete trapezoidal flood control channel) in which water is expected to occur and only following storm events. This channel does not carry a permanent flow of water and no low flows or vegetation was present in this channel during the surveys which limits the potential for amphibian species to occur. Therefore, no amphibian species are expected to occur on the Project site.

Please describe the analysis completed regarding flows and vegetation that would support amphibian species. Have studies been done under varying conditions to confirm this finding?

p.4.6-9: Birds, bats, and urban-tolerant wildlife species (e.g., coyotes, opossums, and raccoons) would be able to move through the urban areas from the Reserves to the Project site. However, most terrestrial wildlife species would not be able to move from Newport Bay and the Bolsa Chica Ecological Reserve, through the urban matrix, and to the Project site. Regional movement through the Project site would not occur because much of the Project site borders existing development. However, local wildlife movement may occur between the open space in Newport Banning Ranch and the Project site.

The DEIR states that Regional movement would not be possible. What analysis was done to make this determination?

p.4.6-21: Special Status Wildlife Species-San Diego Fairy Shrimp

San Diego fairy shrimp (*Branchinecta sandiegonensis*) and Riverside fairy shrimp (*Streptocephalus woottoni*) are not expected to occur on the Project site due to lack of suitable habitat. The Project site is located outside of designated critical habitat areas for these species.

Please identify the suitable habitat for presence of the Special Status Wildlife Species under discussion: San Diego Fairy Shrimp, Fish, Amphibians, Reptiles, and Birds.

p.4.6-25: Special Status Plants

California boxthorn, *Lycium californicum*, a CNPS List 4.2 species, was observed in the southern coastal bluff scrub located in the central, preserved portion of the Project site. Impacts on this species would be considered adverse but less than significant due to the low status of this species and the relative abundance throughout its range.

Impact Summary: Less Than Significant.

The Project would not have a substantial adverse effect on any special status plant species.

Please provide a map to show the distribution of California Boxthorn, so that the areas impacted are known. What % of existing habitat for the California Boxthorn will be removed and where?

p.4.6-25: General Habitat Loss and Wildlife Loss

Removing or altering habitats on the Project site would result in the loss of small mammals, reptiles, amphibians, and other slow-moving animals that live in the proposed Project's direct impact area. More mobile wildlife species that are now using the Project site would be forced to move into the remaining areas of open space, which would consequently increase competition for available resources in those areas. This situation would result in the loss of individuals that cannot successfully compete.

The loss of native and non-native habitats that provide wildlife habitat is considered an adverse impact. However, the loss of habitat would not be expected to reduce wildlife populations below self-sustaining levels in the region. Therefore, this impact would be considered adverse, but less than significant.

Please provide an analysis of the potentially affected species, and the impacts to their self-sustaining levels. Would any of the species approach thresholds that could cause extirpation if unusual, but not impossible, environmental events occur, e.g. disease, fire, presence of a new predator?

Threshold 4.6-6: The DEIR states, "Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? The Project site occurs within the Santa Ana River Mouth Existing Use Area of the Central/Coastal Subregion

NCCP/HCP. Existing Use Areas are comprised of areas with important populations of Identified Species but which are geographically removed from the Reserve System. The NCCP/ HCP does not authorize Incidental Take within the Existing Use Areas; such activities must be submitted to the USFWS for review and approval, consistent with existing federal law. The Project would not conflict with the provisions of an adopted HCP/ NCCP because it does not impact areas identified as part of the Central/Coastal Subregion Reserve System nor does it utilize the Take allocations associated with projects in the Subregion that are outside the Existing Use Areas.
Impact Summary: No impact would occur.”

Please provide a diagram showing the relevant Central/Coastal Subregion Reserve System NCCP/HCP areas under discussion.

p.4.6-33, MM 4.6-4 and 4.6-5: Implementation of the Project would result in the loss of 0.41 acre of coastal sage scrub habitat. Permanent impacts on coastal sage scrub vegetation must be mitigated at a two-to-one (2:1) ratio on the Project site or in suitable off-site locations in the Newport Beach/ Costa Mesa area. Please identify appropriate areas for mitigation on site under discussion, and in other City locations. To what extent does the current Sunset Ridge Park landscaping plan promote mitigation on site, and maintain / reflect the natural character of the site, consistent with General Plan Natural Resources policy regarding coastal sage scrub?

4.7 CULTURAL & PALEONTOLOGICAL RESOURCES

Pursuant to THE SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION PROGRAM, Table 1-1, MM 4.7-1, 4.7-2, pages 1-22,23,24,25, harvesting of archaeological, paleontological artifacts, fossil remains, reports, maps, field notes, photographs etc. will be recorded and identified and noted in the Paleontological Resource Impact Mitigation Report and accessioned in the collections of a designated/accredited museum such as the Natural History Museum of Los Angeles or The San Diego Museum of Natural History.

Is it possible to note in the DEIR that consideration may be given to placing potential artifacts, fossils etc. into local collections at Cal State Fullerton or the University of California at Irvine?

4.8 GEOLOGY AND SOILS

Page 4.8-5, Section 4.8.7, regarding the need for Fill: The DEIR needs to clarify what the “Fill” material is exactly. The developer needs to make sure the Fill material is clean and tested if necessary before being picked up, delivered and used at the project site- not only for the general public, and parking areas, but especially for the children at the sport fields.

No discussion is included regarding the specifics of the needed compaction numbers of the fill when it's brought to the site and installed. These need to be discussed to assure stability of the fill locations at project completion.

Also, there is no discussion of the details of the construction of the proposed playing fields. What standards/specifications are being employed to:

1. assure safe top soil for youth sports
2. assure safe and durable playing surface turf
3. assure proper drainage with no erosion

4.9 HAZARDS AND HAZARDOUS MATERIALS

History of the area: In the report, Hazards... section, page 4.9-3, there is a brief history of the Newport Banning Ranch, of which the proposed Sunset Ridge Park is a neighbor and a proposed user of part of the Ranch's former oil operations area. Some noteworthy information from this history: Oil operations in the area began over 2 generations ago, in 1944. Predating the Coastal Commission, it was exempt from its regulations, by Coastal Commission action in 1973. It is still, in parts, an active oil operation, including 470 producing and abandoned oil well sites and 16 wells operated by the City of Newport Beach. The proposed park would be accessed by a road through part of the Banning Ranch, as an easement. This proposed easement area has two abandoned (remediated) oil wells within it and the proposed park access road would transit former oil field access roads which "may contain gravel, crude oil hydrocarbons, tank bottoms or other structures/materials that were used in the past as road based materials associated with oil field operations". (Report page 4.9-3)

The proposed process for clean up: The primary potential hazard material at the site is petroleum hydrocarbons, as indicated above. Remediation typically includes, but is not limited to, underground capping of former oil wells and hauling away potentially polluted top soil. The Environmental Data Resources, Inc. (EDR) report, cited as the source for this report, estimates that over 90,000 cubic yards of soil will need to be relocated on site, and over 30,000 cubic yards imported as fill. The movement of both of these soils and the polluted soil's disposition is also a potential health hazard. Is there a health hazards analysis to assure that this phase of the project is conducted safely?

Since 2001, two separate Environmental Assessments (EAs) have been done on the Banning Ranch. They differentiated between Potential Environment Concerns (PEC), finding 23, and Recognized Environment Concerns (REC) finding 34. Of the 34 RECs, one is within the boundaries of the Sunset Ridge project. This REC, #27, was found to have "impacted soil", but the 2001 study stated "the amount of soil that would need to be removed was not determined" (Report, page 4.9-4, para #4). Given this, it is reasonable to conclude that the amount of soil movement, both out and in, may well be over the totals indicated in the above paragraph. This would affect both the time and money spent on this phase of the project. Please clarify the details of the "impacted soils" handling procedures with emphasis on the health hazards associated with these operations.

It is equally unclear if there are still pipes remaining from the wells that have been abandoned, and, if so, how many. "...all known active pipes were removed. However, it is possible that older subsurface pipes or other equipment could be present that have not been recorded. Records and aerial photos do not show the presence of any oil sumps in the area." Later, same paragraph (Report, page 4.9-7, para. #4): "Should any subsurface equipment or crude oil hydrocarbons be discovered, the equipment and contaminated soil would need to be removed". Aren't there other investigative steps that can be taken, other than the "Records and aerial photos", to discover any existing oil sumps?? Have engineers, trained in this discipline, not walked and checked out the area? Where are their reports, if they have?

There are too many of the hazards and hazardous reports findings, important to the overall public safety involving hazardous materials, left to estimates that appear to be based on dated and vague information. The result (were the estimates to be too low and too conservative in any required mitigation), could well lead to a project that is much longer in preparation and construction and/or a public hazard risk. A prudent recommendation would be to undertake more recent and intense investigations of the site to resolve all or most of these potential hazards.

4.10 HYDROLOGY AND WATER QUALITY

Page 4.10-18 P1 5th Sentence RE: Exported Materials—would this excavation adversely affect the hydrology of Banning Ranch? Are there any BMPs in place for both the exportation of these materials and the vegetation that is to be removed to facilitate the exportation?

RE: same as above: What is the quality of the vegetation to be removed? If of high native quality is there any way to preserve or replant said materials?

Page 4.10-19: Water Quality Treatment BMPs P2 3rd Sentence: *Water quality treatment system design will "continue to evolve during project design"*. This is too vague to be useful. What BMP's are being considered and how are they expected to evolve? Does the project expect to publish new BMP's at the end of the project? If so, how do these find their way into common usage for future projects.

Page 4.10-22 P2 3rd Sentence: "..... BMPs would likely have a positive effect on environmental resources..." The EIR doesn't specify why or how or give any quantitative or qualitative reasoning why the BMPs would have a positive effect.

Page 4.10-22 P4 5th Sentence: ... "*Detained flows is expected to be minor and would not result in creation or exacerbation of downstream risk of flooding*". Where is the analysis to support this very important assertion?

Page 4.10-26 SC 4.10-4: Are there any checks in place to determine if “good housekeeping” practices are maintained and if yes, are there any repercussions if they are not being maintained? What standards are being applied?

4.11 PUBLIC SERVICES AND UTILITIES

What consideration has been given to incorporating renewable/clean energy technologies in this project? The following should be considered: energy efficient lighting, astronomical timers, low flow and/or reclaimed water fixtures and irrigation.

Please present an analysis justifying the adequacy of public restroom facilities.

EQAC appreciates the opportunity to comment on this important project for the City of Newport Beach. We hope that our comments are constructive and help in development of the best project for the City and the residents.

Brown, Janet

From: Paul Malkemus [pmalkemus@gmail.com]
Sent: Friday, December 11, 2009 3:08 PM
To: Brown, Janet
Subject: Sunset Ridge Park DEIR Comments

To: Janet Johnson Brown, Associate Planner
From: Paul Malkemus, 7 Aries Ct Newport Beach CA 92663
Subject: Comments on Sunset Ridge Park DEIR

Let me begin by stating that I completely agree with all of the comments that were submitted by the City Council appointed Environmental Quality Affairs Citizen's Advisory Committee (EQAC) dated November 17, 2009. These comments were presented and discussed at the regularly scheduled EQAC meeting Monday, November 16, 2009.

Additionally, a specific area that needs to be addressed is the newly added plan to use two stockpiling sites and a "temporary" 40' wide road (labeled haul route exhibit 4.6-2) that cuts through the Banning Ranch property in close proximity to businesses, residences and 1 school. This road will be used to transport approximately 34,000 cubic yards of material to 2 designated stock pile locations, one of which is located adjacent to an existing private school. The school has over 500 students ranging from pre-1st grade (ages 4 ½) – Jr. High School. 34,000 cubic yards of material could equate to approximately 8,000 truck trips assuming that an average dump truck is capable of hauling approximately 8 cubic yards.

Questions are - what kinds of mitigation measures are to be implemented during the construction of this road as well as what measures are to be taken during the stockpile transportation process? As stated above the location of this road is relatively close to residential, business and school areas. Of particular concern would be residences in the Newport Crest development. What mitigation measures will be implemented to deal with airborne particulate matter (dirt, dust and debris) during this process? Prevailing winds blow most commonly from the west/northwest so this could cause some air quality issues particularly for those Newport Crest residents on the Northwestern boundary of that development as shown in Exhibit 3-3. Along with potential air quality issues, there could also be problems with dirt accumulation at areas along this same boundary. Many of homes in this area do not have air conditioning and rely on ocean breezes to provide cooling. The means windows and doors are generally open to ocean breezes. How will this be mitigated?

When the transportation and stockpiling efforts associated with this project is completed what mitigation methods will be used to restore those areas? Will the stockpiles and road remain bare dirt? Will they be seeded or will there be other measures implemented to bring them

back to their natural state?

There is no mention of potential noise associated with this construction aspect of the project. What mitigation measures will be taken to deal with potential noise issues associated with the temporary road and stockpiling aspect of this project?

Another troubling aspect of this road and stockpile effort is associated with wildlife in the area. There are no mentions of any impacts on wildlife associated with construction of the road and/or stockpiling efforts. The location of road bisects an area that is used by many bird, mammal, reptile and amphibian species. Living adjacent to this area I have seen coyotes, raccoon, opossum, skunk, fox, blue heron, owls, red-tailed-hawk, Cooper's hawk, osprey, countless humming birds, gopher snakes, king snakes, countless lizards and have heard frogs calling on many, many occasions. The area is used as a travel corridor for many of these animals as well as for hunting. Gnatcatchers sightings have occurred in the area of the proposed temporary road (Exhibit 4.6-4) as well as burrowing owl holes.

Another observation regarding the haul route or temporary road – this did not appear to be part of the project as documented by the Notice of Preparation (NOP). This means that this aspect was added to the project scope sometime between the NOP and the completion of the DEIR.

Was there adequate time to examine potential environmental impacts caused by this additional component? Was there proper notification? Was the same address list used for notification purposes or was the list expanded to include those businesses, residences and schools that are within the required proximity based upon the addition of this element to scope of the project?

Lastly, it is my understanding that the reason for the temporary road (haul route) and stockpiling is due to the extensive amount of grading required to reduce the elevation of playing fields. The primary reason for lowering the elevation is lessen the view plane impacts of the residents living in Newport Crest directly adjacent to the park (south boundary of Newport Crest development Exhibit 3-11). The primary cause of these impacts is the backstop and fencing required for the pony league level baseball playing field. Why aren't lower level baseball fields (T-Ball, etc) being investigated or offered as an alternative. Baseball fields that could make use of movable/removable backstops could entirely eliminate the need for stockpiling and the haul the route. Participation in youth baseball has been declining steadily (as much as 2% per year) since its peak in 1987. Comments that I submitted during the NOP process asked that the City provide baseball field use statistics and analysis that might confirm or justify the true specific need in terms of this type of playing field. They have yet to be provided and were not included in the DEIR. Why were these not included?

Thank you for your consideration,

Paul W Malkemus
7 Aries Ct
Newport Beach CA 92663

Brown, Janet

From: Kris Madison [kmadison@optimumpm.com]
Sent: Friday, December 11, 2009 12:14 PM
To: Brown, Janet
Cc: GINNY LOMBARDI ; MARK GONZALEZ; MGONZALEZ@AGMG.COM; MIKE ROSENTHAL; m@kazulu.com; Sharon Boles; STEVE PORTER
Subject: Draft EIR ~ Sunset Ridge Park
Attachments: SKMBT_C55009121113110.pdf

Ms. Brown,


I am emailing Newport Crest Homeowners Association Board of Director's response to you now to meet the deadline, but additional signatures are forethcoming. Hard copy to follow in the mail.

Thank you,

Kris J. Madison, CCAM
Certified Community Association Manager
Optimum Property Management, Inc. (CMF)
A Certified Management Firm
17731 Irvine Boulevard, Suite 212
Phone: 714/508-9070 * Fax: 714/665-3000
Newport Crest HOA On-site Office:
201 Intrepid Street, Newport Beach, 92663
On-site Office Phone: 949/631-0925
On-site Office Fax: 949/631-5433

*"Great minds discuss ideas; Average minds discuss events; Small minds discuss people".
Eleanor Roosevelt, US diplomat & reformer (1884 -1962)*

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NEWPORT CREST

NEWPORT BEACH

Janet Johnson-Brown
Associate Planner
City of Newport Beach, Planning Department
3300 Newport Blvd.
P.O. Box 1768
Newport Beach, Ca. 92658-8915
Dec. 8, 2009

The Newport Crest Homeowners Association's Board of Directors has several concerns regarding the adequacy of the Draft EIR for the Sunset Ridge Park development. Newport Crest is the residential condominium project adjoining the northern perimeter of the proposed park development.

1. Air Quality and Climate Change.

The following statements are included in Table 1-1 (Summary of Significant Impacts and Mitigation Program) of the Draft EIR, with respect to Section 4.4 (Air Quality and Climate Change):

"During the 3-month mass grading phase, NO_x (nitrogen oxide) emissions could exceed the South Coast AQMD CEQA significant thresholds on days when, and if, soil is exported to distant off-site soils locations. The temporary impact would be significant and unavoidable because mitigation could exacerbate noise impacts by extending the construction schedule."

"During the periods of mass grading when work would be concentrated within 164' of the Newport Crest Condominium development, particulate emissions from the Project site have the potential for short-term exceedance of the 24-hour PM 10 and PM 2.5 ambient air quality standards at the nearest residences. The local construction impact would be temporary. (*Significant and unavoidable impact*)".

"During the construction period, construction activities would expose nearby residents (sensitive receptors) to pollutant concentrations. Exposure to carbon monoxide (CO), NO₂, and toxic air contaminants (TACs) would be less than significant. However, exposure to PM 10 and PM 2.5 emissions would exceed thresholds at times during the mass grading phase. Long-term impacts would be less than significant. (*Significant and unavoidable impact*)"

The Draft EIR is lacking in sufficiency with regard to the impact on the surrounding properties and residents with respect to air quality. We have the following questions:

1. What is the definition of "sensitive receptors"?
Does it include children, the elderly, people with compromised immune systems, pets?
2. What mitigation measures will be implemented besides SCAQMD Rules 402 and 403 to mitigate the impact of the emissions on "sensitive receptors"?

HOMEOWNERS ASSOCIATION

201 Intrepid Street • Newport Beach, CA 92663 • 949.631.0925 • Fax 949.631.5433

www.NewportCrest.org

3. What impact could the emissions have on pets? Is this addressed in the DEIR?

4. What mitigation measures should residents take to minimize the impact of the emissions?

For example: Should persons with respiratory problems, cancer, immune systems disorders, etc., consult with their physicians regarding exposure to the emissions?
Should these people plan to be out of their homes during this time?

5. Should the Newport Crest landscapers and construction workers (and any other outside workers) take extra precautions during this phase?
If so, what precautions should be taken?

6. Will the City monitor PM10 levels (Rule 403 d, 3. A, B,) and notify Newport Crest management when the levels exceed 50 micrograms per cubic meter?

The Draft EIR must be revised to consider alternative mitigations, including:

1. Installing filtering devices in homes to protect residents.
2. Cleaning the homes, decks and common areas in Newport Crest of any contaminated debris.
3. Relocating "sensitive receptors" during the mass grading phase.
4. Constructing fencing or another structure to help contain and deflect the contaminated air from Newport Crest. (Rule 403 Table 1: Best Available Control Measures, Earth-moving activities)

2. Environmental Impacts

The following statements appear in Section 4.2.7 of the Draft EIR (Environmental Impacts):

"As part of the proposed project, the on-site existing sound wall on the top of the slope along Superior Avenue would be removed."

"The existing on-site wall along the top of slope along Superior Avenue would be removed and replaced with a bermed slope. The existing wall is approximately six feet high and extends from the Newport Crest Condominiums approximately 150 feet to the south."

The Draft EIR is lacking in sufficiency with regard to the environmental impacts on the surrounding properties and residents with respect to noise, view and their ability to use and enjoy their properties without unreasonable interference as a consequence of the project. CEQA requires a robust analysis of cumulative impacts when the project's incremental effects could be cumulatively considerable. We have the following questions:

1. How high is the new bermed slope?

2. What sound studies have been done to insure the new bermed slope would be as effective or more effective than the existing sound wall in deflecting noise from Superior Avenue away from the homes in Newport Crest?
3. What is the impact to the views of the new bermed slope on the homes immediately adjacent to it?
4. What is the rationale in removing the existing wall?

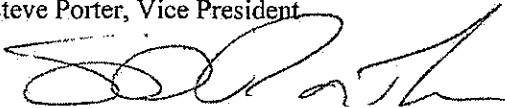
We hereby object to approval of the project in its present form. We respectfully request that a revised Environmental Impact Report be prepared to adequately address the deficiencies and comments discussed above, and to adequately address the deficiencies discussed in the comments raised by others.

Thank you,

NEWPORT CREST HOMEOWNERS ASSOCIATION
BOARD OF DIRECTORS

Mark Gonzalez, President

Steve Porter, Vice President



Ginny Lombardi, Secretary



Mike Rosenthal, Treasurer

Sharon Boles, Member-At-Large



Brown, Janet

From: Kevin Nelson [knelson@web-conferencing-central.com]
Sent: Friday, December 11, 2009 12:47 PM
To: Jim Mansfield
Cc: Brown, Janet; Terry Welsh; Ray, Steve; Koken, Debby [HMA]; Bruce Bartram
Subject: My final on sunset ridge comments
Attachments: Sunset Ridge DEIR Comments Dec 11, 2009.doc

Thanks Jim.

Attached is the final on my comments.

Kevin Nelson
Web Conferencing Central
949-631-0274
knelson@web-conferencing-central.com

-----Original Message-----

From: "Jim Mansfield" <jtmansfield@ca.rr.com>
Sent: Friday, December 11, 2009 11:17am
To: jbrown@city.newport-beach.ca.us
Cc: "Terry Welsh" <terrymwelsh@hotmail.com>, "Ray, Steve" <steveray4surfcity@hotmail.com>, "Nelson, Kevin" <knelson@web-conferencing-central.com>, "Koken, Debby [HMA]" <dkoken@hmausa.com>, "Bruce Bartram" <b.bartram@verizon.net>
Subject: Comments on the Draft Environmental Impact Report for Sunset Ridge Park Project

Dear Ms Brown -

Per the instructions contained in the Notice of Availability, DEIR, Sunset Ridge Park Project, I am submitting comments on the DEIR as contained in the attached document.

Also, per your instructions, I will drop a hardcopy of these comments by the Newport Beach Planning Office before close of business today.
(The attachment was created using Microsoft Word 2007 - .docx format.)

James T. Mansfield

Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Subject: Comments on the Draft Environmental Impact Report for Sunset Ridge Park Project

Dear Ms. Brown:

The following are my comments regarding the Sunset Ridge Park DEIR.
Please enter these comments into the DEIR comments record.

For the purposes of my comments, it is necessary to define some key characteristics of the Banning Ranch environment so as to define the potential impacts of the project described in the DEIR.

The unique qualities of the Banning Ranch environment are:

- Uninterrupted Views to the South, North and West
- Native California habitat and species
- A functional ecosystem
- Almost total lack of on-property generated noise
- An area of limited light pollution
- Lack of structures (other than a number of fairly dispersed oil wells, which minimally impinge on the above aspects)
- Open space in which mans footprint is minimal

These qualities are real, measurable and consistent across the entire span of Banning Ranch. They are also an exceedingly rare resource in the entire Southern California basin outside of mountainous areas. And, unless public policy in regards to development undergoes significant change, these qualities will become ever harder to find and difficult if not impossible to mitigate or restore.

They will be affected by the types of uses and facilities chosen for Sunset Ridge and therefore should be given a more thorough analysis in the DEIR.

Impacts:

1. The Sunset Ridge DEIR does not adequately address the effects of the construction phase of Sunset Ridge and the many months of earthmoving activity on the bird and rodent species of Banning Ranch. The project area cuts across the heart of the ecosystem habitat in traversing the mesa to the soil dumping grounds. For instance, on any given day in a short period of time it is possible to observe Redtail Hawks foraging over the exact area of this project. The hawks are hunting the extensive squirrel population that might be severely disrupted by massive earthmoving activities. In addition, the dumping grounds are within yards of the main arroyo.
2. The Sunset Ridge DEIR does not adequately address the noise impacts of a large road onto this relatively quiet environment.
3. The DEIR does not address the effects of light onto what is now an area of very limited light pollution.
4. The DEIR does not address the aesthetic effects of the first major road into this environment.
5. The DEIR does not address the continuing disruption an active park and a large road will have on rarer and bird species by scaring them away and disrupting foraging and hunting activities. In the past these species perhaps had other nearby land areas to occupy. Since this is no longer the case, any disruptions or intrusions to what is essentially a last refuge are greatly magnified.

18-Section 6.0_Alternatives to the Proposed Project

1. The alternative use for the Sunset Ridge as a natural setting low-impact gateway to a future Banning Ranch Park and Preserve was not adequately studied in the DEIR. This kind of use would be designed to encourage pedestrian and bicycle use of Sunset Ridge and might consist solely of a small grass area, bike racks, restored habitat and trails leading into the Banning Preserve. The promotion of non-motorized transportation will become more important as the requirements to limit greenhouse gases become more urgent and widespread. As this comment letter is being written, governments around the world are meeting in Copenhagen to reach agreements on cutting GHG emissions. Undoubtedly, these cuts will require significant changes in our lifestyles and use of transportation. A design for Sunset Ridge that fully envisions this future is one of the many contributions that we, locally, will have to make to this effort.

When the Banning Ranch Preserve is created, it will be necessary to create an entry for public use, and entry from Sunset Ridge represents the lowest impact entry point on the South side of Banning Ranch.

Since the preservation of open space is the preference in the Newport Beach General Plan and the stated goal of the Banning Ranch Conservancy, this eventuality must be

addressed by the DEIR in looking at alternative uses of Sunset Ridge.

17-Section 5.0_Long Term Implications of the Proposed Project

1. Given the significance and variety of impacts the project creates, the following statement in the DEIR is not supported by the facts and should invalidate the document:

"Implementation of the standard conditions and requirements and mitigation measures provided in Sections 4.1 through 4.11 would reduce these impacts to levels considered less than significant with the exception of short-term construction-related air quality and noise impacts."

2. In section 5.3 on growth Inducing Impacts of the Proposed Action the DIER states:

"A project can also remove infrastructure constraints, provide new access, or otherwise encourage growth which is not assumed as planned growth in the General Plans or growth projections for the affected local jurisdictions."

The DEIR must address the cumulative impacts of the park access road. It provides new access and therefore enables and presupposes growth on the Banning Ranch property. If the road park access road is built, it is logical to assume that it eventually may be used for routing traffic through to 19th street and other side streets. This is the definition of cumulative, as well as violating the established principle of "piecemeal" in which the initial stage of a project is proposed without consideration of the logical outcome of that initial action.

3. The road shown in the DEIR is much larger than required for park access, and the DEIR makes no explanation for this fact.

27-Appendix F Cultural and Paleontological Resources Technical

The DEIR does not adequately examine the following facts:

-On page 10 of this section it is stated that exploratory holes were dug in search of historical artifacts and/or other culturally significant indicators. The DEIR should show exactly where the shovel test pits were dug.

-Given the fact that the entire Banning Ranch and Sunset Ridge properties are located in what would have been the most desirable location for native peoples to make use of ocean resources, Santa Ana River resources, Newport Bay resources, as well as providing a natural viewpoint for defense and hunting, this property should undergo a full and complete site survey by a panel of archaeologists. A few shovel test pits do not provide for an adequate search on a site of this potential importance.

-Were these shovel test pits dug in the areas where excavated soil will be placed thereby destroying the possibility of finding artifacts in that area.

-Some of the shovel test pits appear to be outside of the actual project boundaries.
Therefore, of what use are they?

24-Appendix C_Air Quality Impact Report

The DEIR fails to fully examine the effects of construction equipment on the defining environmental crisis of our generation: climate change

1. By any measure the emissions produced by heavy equipment operating for many months during the excavation and transportation of 34,000 cubic yards of soil should be considered significant.

2. In light of new EPA regulations on green house gases - see <http://www.epa.gov/climatechange/endangerment.html> , the DEIR does not adequately add or analyze the emissions generated by moving 34, 000 cubic yards of soil and other construction activity to the promotion of motorized vehicular traffic generated over the life of the project. Taken together, the emissions cost becomes more significant in relation to the benefits of the project as currently designed.

07-Section 4.2_Aesthetics

1. The DEIR fails to consider the view and aesthetic impacts to users of a future Banning Ranch Preserve.

2. The DEIR does not adequately assess the impacts to views, noise etc from the road on Newport Crest residents.

15-Section 4.10_Hydrology and Water Quality

In this section on Exhibit 4.10-7, a number of bioswales and other water quality modifications are described.

Many of these modifications near the access road appear to be located in areas where existing gnatcatcher habitat, native plants and wetlands indicators have been located.
(Please view Hamilton Biological comments)

1. The DEIR does not adequately address the possible destruction or degradation of this key habitat that will be required to build the hydrological modifications.

2. The DEIR does not address the effects of polluted runoff generated by the project on the actual site and its species.

Brown, Janet

From: BrinkmanDK@aol.com
Sent: Friday, December 11, 2009 12:52 PM
To: Brown, Janet
Cc: Alford, Patrick
Subject: Sunset Ridge Park

Ms. Brown,

My name is Debra Brinkman and I have lived at 5115 Lido Sands Drive in the Lido Sands Community for over 10 years. First, my opinion is that I support the idea of a park but not a sports center. I would like to see the area designed as a true "green park" which would be both beautiful, green and calming and would provide scenic views while providing walk/bike paths etc. for those that use the park.

Additionally, it is the idea of another traffic light, such a short distance away from a major intersection that concerns me the most and to which I am strongly opposed. The traffic at the intersection of PCH and Superior/ Balboa is already very dangerous, heavily congested and is even worse in the spring and summer months. To put in a second light so close to an already major intersection, for ingress and egress to the park, will make matters worse. It will create more congestion, noise and pollution. My suggestion is to address the current intersection at PCH and Superior/Balboa which I believe those most familiar with the intersection would agree *needs* addressing. A five point intersection, with an entry to the park, would provide the City with an opportunity to finally improve the intersection and traffic controls while providing a safe entry to the park. I realize that whatever type of park is decided upon, it will need an entry point. But, the same could be said of every business and restaurant on PCH and we do not have traffic light in front everyone of those establishments. A park entry that utilized an existing intersection seems to me a more cost effective solution and an environmentally sound one as well. I believe it will also help to control and improve the overall traffic safety on PCH in both directions which would be a secondary bonus. The overall benefits derived from the the re-designing of the PCH and Superior/Balboa intersection to a five point intersection would far outweigh the placing of a second traffic signal on PCH such a short distance away.

Thank you very much or allowing me to opportunity to express my views on the this matter.

Debra Brinkman
5115 Lido Sands Drive
Newport Beach, CA 92663
949.642.4052
brinkmandk@aol.com

Brown, Janet

From: robert orbe [rorbe@sbcglobal.net]
Sent: Friday, December 11, 2009 12:54 PM
To: Brown, Janet
Subject: Draft Environmental Impact Report – 4.2 Aesthetics (LIGHTING) for Sunset Ridge Park Project

December 11, 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach , Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Re: Draft Environmental Impact Report – 4.2 Aesthetics for Sunset Ridge Park Project

Ms. Brown:

I seriously object to this project as proposed. It is dangerous in multiple ways:

1. The PCH / Superior area has a history of death and destruction. How do we think that we can invite kids on bikes and foot to come navigate this intersection safely? Being caddy-corner to kid enticing places like Jack in the Box is cruel.
2. The baseball diamond it too big for this park. A home run ball is in Superior with only a 350 foot hit! How was this not an immediate deal breaker is beyond any logic. Just because you think 11-14 year olds can't hit a ball that far doesn't mean someone else can't and won't. It is a batters' goal to "hit it out of the park." If I lived on the front row and you were building this monstrosity in from of my view I'd hire a lawyer.
(Plus, the baseball diamond forces the other structures into poor locations.)
3. The entrance on PCH is in a bike lane, a bus stop, and in a 50 mph zone! Good luck with that one! I don't know which is worse, putting in a traffic light so close to Superior or a right-in-right-out drive that makes everyone make a U-turn somewhere...it doesn't matter which is worse, they are both nuts!

I look forward to hearing what you and the City Council have to say on this on this matter.

Robert Orbe
14 Goodwill Ct
Newport Beach

Brown, Janet

From: robert orbe [rorbe@sbcglobal.net]
Sent: Friday, December 11, 2009 2:24 PM
To: Brown, Janet
Cc: Curry, Keith; Daigle, Leslie; Kiff, Dave; Rosansky, Steven; Selich, Edward; Gardner, Nancy; Henn, Michael; don2webb@earthlink.net
Subject: Draft Environmental Impact Report – 4.2 Aesthetics for Sunset Ridge Park Project

December 11, 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach , Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Re: Draft Environmental Impact Report – 4.2 Aesthetics for Sunset Ridge Park Project

Ms. Brown:

I seriously object to this project as proposed. It is dangerous in multiple ways:

1. The PCH / Superior area has a history of death and destruction. How do we think that we can invite kids on bikes and foot to come navigate this intersection safely? Being caddy-corner to kid enticing places like Jack in the Box is cruel.
2. The baseball diamond is too big for this park. A home run ball is in Superior with only a 350 foot hit! How was this not an immediate deal breaker is beyond any logic. Just because you think 11-14 year olds can't hit a ball that far doesn't mean someone else can't and won't. It is a batter's goal to "hit it out of the park." If I lived on the front row and you were building this monstrosity in front of my view I'd hire a lawyer. (Plus, the baseball diamond forces the other structures into poor locations.)
3. The entrance on PCH is in a bike lane, a bus stop, and in a 50 mph zone! Good luck with that one! I don't know which is worse, putting in a traffic light so close to Superior or a right-in-right-out drive that makes everyone make a U-turn somewhere...it doesn't matter which is worse, they are both nuts!

I look forward to hearing what you and the City Council have to say on this on this matter.

Robert Orbe
14 Goodwill Ct
Newport Beach

RECEIVED BY
PLANNING DEPARTMENT

December 11, 2009

DEC 11 2009

1857 Rhodes Drive
Costa Mesa, CA 92626

CITY OF NEWPORT BEACH

Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Subject: Comments on the Draft Environmental Impact Report for Sunset Ridge Park Project

Dear Ms. Brown:

The following are my comments regarding the Sunset Ridge Park DEIR.
Please enter these comments into the DEIR comments record.

1) The DEIR (sections 1.5.1, 4.3, and 6.4.1) does not adequately address alternative entrances to the Sunset Ridge Park.

The DEIR superficially addresses the alternative of entering the Park from southbound Superior Avenue.

The DEIR states "Adjacent to the site in the southbound direction, Superior Avenue is curved and declines in elevation at an approximate 8 percent grade. A signal could not be provided along the park site on Superior Avenue to slow vehicular traffic to allow for safe access into the site. Further, a park access entrance and road in this location would traverse the Scenic Easement which precludes permanent structures within the easement."

More specific justification needs to be provided as to why a signal (such as a caution light and lower speed limit) could not be provided in this area.

Also, has the City looked into getting a variance on the Scenic Easement to build this access road? If not, why not? This needs to be explained in much greater detail.

The advantages of a Superior Avenue access road are so compelling that a much more complete vetting of this alternative is needed. Advantages include the following:

- 1) It could shorten the access road considerably (over the currently proposed access road), lowering the road building costs dramatically.
- 2) It would have much less impact on both traffic and pedestrian flow than the proposed West Coast Highway access road.
- 3) It has the potential to reduce the impact on the native habitat – and resulting mitigation requirements.
- 4) If combined with a pedestrian bridge over Superior Avenue, it would:
 - a. allow the existing 60-space parking lot east of Superior to be used for overflow parking for the new Park,
 - b. allow for safer pedestrian flow at this busy intersection, and
 - c. provide contiguous pedestrian access to both Sunset Ridge and Sunset View Parks .
- 5) It would considerably reduce the environmental, legal, and construction complications that will arise with the proposed road plan through Banning Ranch, including CalTrans approval for work on West Coast Highway and complicated negotiations involving the Banning Ranch and its environment. (For example: Based on Exhibit 3-4, it would avoid oil wells issues.)
- 6) It could place the Public View Point much closer to parking, for the enjoyment of those with handicaps.
- 7) The shorter access road would concentrate vehicle (and playground) noise, lighting, trash, and potential vandalism in a smaller and more public footprint, close to Superior Avenue and West Coast Highway. It could also allow the use of the more public parking area past dusk for greater park enjoyment.
- 8) If the Banning Ranch is eventually designated as Park/Open Space, the proposed access road would divide the two parklands (Sunset Ridge and Banning Ranch) – a potentially undesirable scenario. Access from Superior would avoid this situation.

2) The DEIR argues that Superior access to the Park would reduce the useable Park space (section 6.4.1) but does not state why the extra 5.2 acres of Banning Ranch property could not still become part of the Park.

It seems strange that the extra 5.2 acres of Banning Ranch property will become available for the Park if the West Coast Highway access road is built, but will not be available if another access road plan is adopted. The reasons for this assumption need to be fully explained in the DEIR.

3) The traffic analysis justifying the access road and traffic light is faulty and needs to be refined.

I believe that page 4.3-14 of the DEIR comes to the conclusion that – based on the analysis of Table 4.3-9 – "*The intersection of the park access road at West Coast Highway would, therefore, warrant signalization under future General Plan conditions.*" However, Table 4.3-5 "Cumulative Projects" includes a fully built out Newport Banning Ranch project, as currently envisioned by Newport Banning Ranch LLC! (p 4.3-9).

At this time the Newport Banning Ranch development project has not even gotten to the DEIR stage. There are several other possible outcomes to this development plan – all of which would substantially reduce the traffic into Banning Ranch and Sunset Park (if, in fact, entrance to the Banning Ranch property ultimately ends up there at all).

Hence, I propose that further traffic evaluation for the access road needs to be done that assumes alternatives for the future of Banning Ranch – including the possibility of it becoming Park/Open Space.

4) I see no explanation as to how "22 parallel parking spaces along the park access road" (page 4.3-16) would be accommodated in a safe manner.

I am surprised that a plan for future safe use of a park would include a stop-gap measure like parking along an access road. Typically such parking is discouraged at parks and ball fields because of the safety issues. Hence, further details are needed as to where, exactly, this parking would be placed and how children could get from these cars to the Park without walking on the access road.


5) The DEIR failed to consider an additional – very attractive – alternative: The parallel development of both Alternatives B and C.

Section 6.5.2 of the DEIR discusses Alternative B, an alternative park site on a portion of Banning Ranch. Section 6.5.3 discusses Alternative C, development of Sunset Ridge as a passive park. I believe an additional alternative – the parallel consideration of both alternatives B and C needs to be fully explored. Advantages to this approach include the following:

- a) It allows full utilization of Sunset Ridge's scenic and natural beauty by those park-goers who will most appreciate it: picnickers, walkers, joggers, etc.
- b) It protects adjacent neighborhoods to the north from the adverse effects of an active park.
- c) It places the soccer and baseball fields in a park area that can be fully dedicated to these activities – probably allowing more intense utilization of the available area for this purpose.

Thank you for consideration of these comments.

Sincerely,


James T. Mansfield

Brown, Janet

From: Chris Blasco [chris@wellssupply.com]
Sent: Friday, December 11, 2009 8:41 AM
To: Brown, Janet
Subject: Banning Ranch EIR

Dear Ms. Brown, I am in possession of a draft copy of the EIR (\$75.00, over 1000 pages). I am **against the project** for a variety of reasons. Most notably; The Banning Ranch has been an active oil field for over 75 years. In the EIR, the phrase "oil field roads" is used dozens of times, so let there be no debate on this point... This is an oil field. The initial phase of construction will generate a significant and unavoidable amount of toxins in the grading and earth moving. I will be forced to file a law suit against the city and the developer to prevent this from happening. I could go on and on, there's hardly a page of the draft that I don't take exception to. I think the site would be better used as a passive park. I live in the area and so I witness the thousands of visitors that come to the area daily in the summer months for recreation. A park on this site would be very popular, and enjoy great use from the local residents too. I will be attending the City council meeting in January to express my views. Regards, Chris Blasco 15 Odyssey Ct. Newport Beach CA 92663

Brown, Janet

From: White, Kathy --- WW Acct Mgr-Corp Accts--- FTA [kathy.white@fedex.com]
Sent: Friday, December 11, 2009 8:22 AM
To: Brown, Janet
Cc: Curry, Keith; Daigle, Leslie; Kiff, Dave; Rosansky, Steven; Selich, Edward; Gardner, Nancy; Henn, Michael; don2webb@earthlink.net; don_bruner@hotmail.com; Ginny Lombardi; P A SULLIVAN
Subject: RE: Draft Environmental Impact Report - 4.5 Noise for Sunset Ridge Park Project

Dear Ms. Brown,

I concur with Gary Garber's comments dated November 29, 2009 regarding Draft Environmental Impact Report - 4.5 Noise for Sunset Ridge Park Project and would like my comment on record please.
Thank you, Kathy White

--- On Sun, 11/29/09, Gary Garber <garbergary@yahoo.com> wrote:

From: Gary Garber <garbergary@yahoo.com>
Subject: Draft Environmental Impact Report - 4.5 Noise for Sunset Ridge Park Project
To: "Janet Brown" <jbrown@newportbeachca.gov>
Cc: "Keith Curry" <curryk@pfm.com>, "Leslie Daigle" <lesliejdaigle@aol.com>, "Nancy Gardner" <gardnerncy@aol.com>, "Michael Henn" <mfhenn@verizon.net>, "Steve Rosansky" <parahdigm@aol.com>, "Ed Selich" <edselich@roadrunner.com>, "Don Webb" <don2webb@earthlink.net>
Date: Sunday, November 29, 2009, 12:18 PM

November 29, 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach , Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Re: Draft Environmental Impact Report - 4.5 Noise for Sunset Ridge Park Project

Ms. Brown:

Please find attached a PDF Copy of my November 29, 2009 letter to you regarding my response to Section 4.5 Noise of the DEIR for Sunset Ridge Park Project.

I seriously object to the approval of this project in its present form. The comments in the PDF copy of my November 29, 2009 letter and all references contained therein are hereby incorporated into official record of proceeding of this project and its successors.

I look forward to receiving your timely response from you and the City Council on this matter.

Gary A. Garber
8 Landfall Court
Newport Beach

Brown, Janet

From: Terry Welsh [terrymwelsh@hotmail.com]
Sent: Thursday, December 10, 2009 11:24 PM
To: Brown, Janet
Subject: Sunset Ridge draft EIR comments

Janet, here are my comments on the draft EIR for Sunset Ridge

I will also send an attachment on a separate email.

Thank you.

Terry Welsh
President, Banning Ranch Conservancy
Chairperson, Sierra Club Banning Ranch Park and Preserve Task Force

Draft EIR Comments for Sunset Ridge

1. **Opening Statement:**

The entrance road for the planned Sunset Ridge Park project, as described in the draft EIR, passes through Banning Ranch.

It is easy to come to the conclusion that the main purpose of this road passing through Banning Ranch is not to serve Sunset Ridge, but rather to be the first stage of a larger road serving the planned Banning Ranch development and the first stage of a planned larger road traversing the Banning Ranch mesa and connecting with 19th St in Costa Mesa (i.e. Bluff Road).

To create a draft EIR that focuses solely on Sunset Ridge Park, the entrance road for Sunset Ridge passing through Banning Ranch should be replaced with a road that does not involve the Banning Ranch property.

The draft EIR does not adequately describe alternative entrances to the Sunset Ridge Park.

The draft EIR should be re-written with the entrance to the Sunset Ridge Park located at a site other than Banning Ranch.

2. **The future of Banning Ranch as open space does not include a road entering off of PCH and crossing the mesa:**

The community effort to preserve Banning Ranch as open space is a long one, dating back to years even before the Taylor Woodrow proposal in the 1990s. The Sierra Club Banning Ranch Park and Preserve Task Force was formed in 1999. In 2008, The Banning Ranch Conservancy, a non-profit 501(c)3 organization was formed with the following mission:

The preservation, acquisition, conservation and maintenance of the entire Banning Ranch as a permanent public open space, park and coastal nature preserve.

Many citizens involved in the community effort to preserve Banning Ranch as open space attended the multiple meetings of the General Plan Advisory Committee during 2005 – 2006. The result was a Newport Beach General Plan passed by voters in 2006 that describes, in its first paragraph for the Policy Overview for Banning Ranch, the following:

The General Plan prioritizes the acquisition of Banning Ranch as an open space amenity for the community and region. Oil operations would be consolidated, wetlands restored, nature education and interpretative facilities provided, and an active park developed containing play fields and other facilities to serve residents of adjoining neighborhoods.

It is clear that there is no mention in this first paragraph of the Policy Overview for Banning Ranch of a large road extending off of PCH and traversing the Banning Ranch mesa.

On a personal note, I can tell you from being involved with, and leading, since 1999, the community effort to preserve Banning Ranch as open space, and attending and chairing numerous meetings and speaking with hundreds of like-minded activists that NONE of them have EVER expressed a desire to see a large road built across the Banning Ranch mesa.

To conclude, the future of Banning Ranch as open space does not include a road entering off of PCH and traversing the mesa.

3. The draft EIR does not adequately explain why the Scenic Easement would prohibit an entrance from Superior Ave. or other sites.

The draft EIR rejects an entrance from Superior Ave. as an alternative worth further consideration for reasons including the following:

Further, a park access entrance and road in this location would traverse the Scenic Easement which precludes permanent structures within the easement. For these reasons, this alternative is not considered.

With this single sentence, the draft EIR suggests there is no way to build a road on the Scenic Easement. Yet there is no further explanation as to why a road would violate the Scenic Easement. There is no explanation as to why a pedestrian staircase or a sign on the corner of Superior Ave. and PCH (both would be considered permanent structures) can be built, yet a road can not be built. The terms of the scenic easement should be spelled out as well as the history of why the scenic easement was included in the terms of the sale of the property. Additionally, a description of the process of how the scenic easement can be altered or re-visited needs to be included, if a road or entrance through the scenic easement is to be considered. Additionally, the draft EIR needs to mention whether there are any future plans by the City to build or expand any roads (such as PCH) on the scenic easement, and how the City will negotiate the scenic easement in these cases.

4. The draft EIR does not explain why a stoplight is needed for the entrance of Sunset Ridge Park.

The proposed plans for Sunset Ridge Park include a stoplight on PCH. In fact, the inability of the City to build a stoplight on Superior Ave is one of the reasons why plans for an alternative entrance on Superior Ave are not considered further:

A signal could not be provided along the park site on Superior Avenue to slow vehicular traffic to allow for safe access into the site.

Yet the draft EIR doesn't adequately explain why a signal is needed at either the proposed planned entrance on PCH or any other alternative entrance. A review of the City's 60 or so public parks (many of which are larger than Sunset Ridge Park and have more sports amenities and considerably larger parking lots) shows NONE of these parks having their own designated stoplights at their entrances. By the draft EIR's own study of traffic on 4.3-7, the Sunset Ridge project is expected to only generate 143 daily trips.

This alone surely does not justify the huge expenditures of a stoplight on PCH or the inconvenience to the commuters on PCH.

Furthermore, the draft EIR doesn't account for, or explain why there are NUMEROUS side streets and parking lot entrances along this stretch of PCH, and indeed, along much of PCH through-out Newport Beach that do NOT have designated stoplights. The majority of these side streets and parking lot entrances handle much more traffic than a relatively small park such as Sunset Ridge Park, even with its two soccer fields, would be expected to handle. The draft EIR needs to be more specific on the traffic requirements for Sunset Ridge Park and why these requirements necessitate a stoplight along PCH, while the many side streets and parking lots mentioned above do not.

Additionally, the draft EIR bases its traffic expectations for the area on the concept that the amount of traffic at the proposed park entrance will be the same whether Banning Ranch is preserved as open space, or whether Banning Ranch is developed. Please refer to Section 4.3 – 14 where the traffic expectations for the proposed park entrance on Banning Ranch at PCH are 45,000 daily trips **EVEN IF BANNING RANCH IS PRESERVED AS OPEN SPACE**. This assumes that there will be a Bluff Road extending to 19th St. While this Bluff Road may exist in the Newport Beach General Plan's Circulation Element, there is no strong evidence that such a road will ever be built. Cities across the nation have plans for roads that are never built. It is not wise to expend large amounts of money building stoplights on PCH for these "ideas and concepts" that exist only on paper. Furthermore, there is every indication that Bluff Road will never be built. The City needs to cite stronger evidence about the feasibility of actually building Bluff Road, before it spends millions on this expensive first leg of Bluff Road that will only end up serving Sunset Ridge Park, a relatively small sports park.

Although no formal City-sanctioned design for the planned future Banning Ranch Park and Preserve has been drafted (work on such a design based on input from the City and the conservation community is expected to begin in 2010), the current "guiding document" known as the Banning Ranch Park and Preserve "Vision Board" has no paved roads coming off PCH at the area described in the Sunset Ridge Park Plan. As mentioned above (see section 2: The future of Banning Ranch as open space does not include a road entering off of PCH and crossing the mesa), there is little intention or appetite on the part of the Banning Ranch preservation community for such a large road traversing Banning Ranch. Before the draft EIR can say that, even with a preserved Banning Ranch, 45,000 daily trips are expected for the Sunset Ridge park entrance on Banning Ranch, the City must conduct several public meetings, and sit down with the community effort to preserve Banning Ranch including whatever entity (private or public) that becomes the ultimate custodian of Banning Ranch Park and Preserve and develop a thorough and complete study and plan for the future Banning Ranch Park and Preserve. If one were to look at the immediately adjacent Talbert Nature Preserve, or Fairview Park, one could probably get a better idea of the amount of visitors and car trips generated by these two areas and compare it to the future Banning Ranch Park and Preserve. It would be much, much less than 45,000 daily trips. Probably more like 100 – 200 daily trips.

Finally, a thorough discussion on why the proposed PCH entrance for Sunset Ridge needs to be so large (two separate roads of two lanes each, divided by a large landscaped median). These studies need to include comparison with all other Newport Beach parks of similar or larger sizes.

5. The draft EIR suggests that the use of an alternative entrance such as Superior Ave would result in a net loss of citywide park space.

As such, the overall size of the Project site inclusive of road improvements would be 13.7 acres because the Newport Banning Ranch property would not be a part of this alternative.

The reduction in acreage from 18.9 acres to 13.7 acres would require a reduction in usable

active and passive park uses because all vehicular access to the park would need to be located on the City's property. The City of Newport Beach General Plan's Recreation Element identifies a citywide park deficiency. Exclusive of beach recreation acreage, there is a citywide deficiency of 67.7 acres, 53.4 acres of which is in Service Area 1, West Newport. With the inclusion of beach acreage, there is not a citywide deficit. However, even with the inclusion of beach recreation acreage, a 19.4-acre deficiency occurs in West Newport; the Sunset Ridge Park site is located in West Newport. This alternative would reduce the amount of active park facilities that would be provided by the proposed Project in order to accommodate the access road on the site.

What the draft EIR does not mention is that by using an alternative entrance, the 5.2 acres of Banning Ranch would BECOME available as park space, based on the City's General Plan priority use for Banning Ranch.

6. The draft EIR does not specify how much grading, if any, would be required for the use of an alternative entrance, such as Superior Ave, or other entrance.

While the reduction in acreage would reduce the significant but mitigatable biological impacts that would occur with the Proposed Project, it is anticipated that this alternative would require similar or greater grading quantities in order to accommodate all of park uses as well as an access road.

The draft EIR does not provide any studies showing how much grading would be required for an alternative entrance. If the grading required for an alternative entrance is equal to the amount using the Banning Ranch entrance, then combined with the reduction in significant but mitigatable biological impacts, an alternative entrance worthy of further consideration.

Even if the amount of grading at an alternative entrance is more than would be required for the Banning Ranch entrance, the draft EIR needs to estimate the amount of grading that would be generated on Banning Ranch should the Banning Ranch entrance lead to, as expected, a large development of Banning Ranch.

And finally, it must be remembered that any grading done on Sunset Ridge to allow an alternative entrance off Superior Ave, would be a tiny fraction of the grading that would be involved in developing Banning Ranch. So remember that allowing a Sunset Ridge Park entrance road that follows the route of the planned Banning Ranch development will facilitate development of Banning Ranch and lead to immense amounts of grading that will dwarf any potential grading at Sunset Ridge.

For this reason, any expected grading of the planned Banning Ranch development should be included in the amount of grading should the Sunset Ridge Park include the Banning Ranch entrance.

7. The draft EIR downplays the biological benefits of an alternative entrance on Superior.

On the biological benefits of an alternative entrance at Superior Ave, the draft EIR states:

....the reduction in acreage would reduce the significant but mitigatable biological impacts that would occur with the Proposed Project.

In fact, the most biologically significant area of the whole project area is the portion of the project located on the Banning Ranch property, which is declared critical habitat for the California gnatcatcher.

The elimination of the Banning Ranch area from the project plan WOULD COMPLETELY ELIMINATE THE

8. The omission of discussion of the large public parking lot on the corner of Superior Ave and PCH renders inadequate the description of the project site as does it render inadequate the discussion of alternative projects.

Failure to include the already existing 60-space (rough estimate) public parking lot on Superior Ave and PCH in the description of the project site and failure to account for these usually vacant parking spaces in the discussion of alternative projects is unacceptable. Studies on the hourly capacity of this Superior and PCH parking lot for different times of the year need to be included and these studies need to be correlated with expected parking needs of Sunset Ridge Park.

Utilization of these usually vacant parking spaces on Superior and PCH would eliminate the need for both the Banning Ranch access road, PCH stoplight, parking lot on the Sunset Ridge site and will result in the savings of millions of dollars. Additionally, the use of this lot would eliminate the significant effects of a Banning Ranch road traversing the critical gnatcatcher habitat of Banning Ranch.

9. Failure to mention a possible pedestrian bridge spanning Superior Ave from the Superior Ave public parking lot to Sunset Ridge renders inadequate any discussion of alternative projects.

In the past, Newport Beach entertained ideas of a pedestrian bridge linking Sunset Ridge to the public park parcels on the South side of Superior Ave. These old plans need to be part of the discussion on alternative projects.

10. The draft EIR suggests the grade of Superior is too steep for an entrance to Sunset Ridge

Adjacent to the site in the southbound direction, Superior Avenue is curved and declines in elevation at an approximate eight percent grade. From the northeastern portion of the site near the Newport Crest Condominium development to the intersection of Superior Avenue at West Coast Highway, the elevation drops from approximately 80 feet above mean sea level (msl) to approximately 10 feet above msl. A signal could not be provided along the park site on Superior Avenue to slow vehicular traffic to allow for safe access into the site.

The draft EIR needs to discuss the entrance road to the public parking lot on the opposite side of Superior Ave (see point #8 above). This entrance is on the steepest portion of Superior Ave, and has served the public parking well for many years. Furthermore, there are many, many examples of streets of similar grade with side streets and exits/entrances both with and without stoplights. These need to be referenced.

11. All minutes and records of negotiations and discussions between the City and the owners of Banning Ranch concerning the use of Banning Ranch property for the planned entrance road, and indeed, any discussions

between the City and the owners of Banning Ranch concerning the development of Banning Ranch need to be included in the draft EIR

The project boundary includes a Northward extension onto the Banning Ranch mesa, containing a road where trucks would supposedly deposit dirt excavated from Sunset Ridge. Again, this proposed truck road correlates well with proposed roads in the development plans for Banning Ranch, as well as correlating with the proposed Bluff Rd extending to 19th. St. **Again the full details of the negotiations between the City and the owners of Banning Ranch need to be made public.**

It is not clear why the dirt deposit areas are to be located at these described sites on Banning Ranch. **This will likely become clear if the ENTIRE negotiations between the City and the owners of Banning Ranch are made public.**

Additionally, it is not clear from the draft EIR what agreements are in place between the City and the owners of Banning Ranch to compensate the City for the expenditures involved in the construction of this large entrance road. **This will likely become clear if the ENTIRE negotiations between the City and the owners of Banning Ranch are made public.**

If there is an agreement by the owners of Banning Ranch to eventually compensate the City for the expenditures of the Sunset Ridge Park entrance that serves as an entrance road to a future Banning Ranch development, these agreements could prejudice the City against fully supporting efforts to preserve Banning Ranch as open space as described in first paragraph for the Policy Overview for Banning Ranch in the City's General Plan. The City may favor development of Banning Ranch in order to recoup the expenses of building the Sunset Ridge Park entrance. **Again the full details of the negotiations between the City and the owners of Banning Ranch need to be made public.**

12. Dumping excavated dirt from Sunset Ridge onto Banning Ranch is not consistent with the future Banning Ranch Park and Preserve.

The City's General Plan's first paragraph for the Policy Overview for Banning Ranch does not mention dumping excavated dirt onto Banning Ranch. The City need to complete a final and thorough design of Banning Ranch Park and Preserve before the City can even consider such dumping. It is highly unlikely that the design for the future Banning Ranch Park and Preserve would include a site to dump dirt.

13. Construction of a road entering off PCH and climbing onto the Banning Ranch mesa (in the name of serving Sunset Ridge Park) could jeopardize efforts at obtaining Measure M funding for the purchase of Banning Ranch

The City of Newport Beach has an historic opportunity to preserve Banning Ranch, the last large parcel of unprotected coastal open space remaining in Orange County. Banning Ranch is not only rich in wildlife and habitat, but also serves as a connection between publicly owned open spaces on three sides. Banning Ranch also sits at the mouth of the Santa Ana River, the largest watershed in Southern California.

The citizens of Newport Beach recognize this historic opportunity, and their desire is stated in the first paragraph of the policy Overview for Banning Ranch in the General Plan. The City has been working towards this goal for many years with community groups. Everyone involved knows the effort will take many years, a large amount of money and lots of work.

While the economy is currently slowed, a wonderful funding opportunity has presented itself to the City in the form of Measure M. This half cent sales tax, approved by over two thirds of County voters, pays for transportation projects throughout the County. A small portion of the Measure M revenue goes to a fund to be spent on acquiring open space.

In early 2009, Banning Ranch Conservancy, with the full support of the NB City council, applied for Measure M funding. This funding, if awarded, could account for over half of the ultimate purchase price of Banning Ranch. The committee deciding which open space acquisition projects will get Measure M funding will not look favorably at spending millions of dollars on Banning Ranch if the committee feels there is not an equally strong commitment on the City's part to preserve Banning Ranch as open space.

Terry Welsh
President, Banning Ranch Conservancy
Chairperson, Banning Ranch Park and Preserve Task Force

Brown, Janet

From: Koken, Debby [HMA] [dkoken@hmausa.com]
Sent: Thursday, December 10, 2009 9:13 PM
To: Brown, Janet
Subject: Comments on the Draft Environmental Impact Report for Sunset Ridge Park Project

Janet Johnson Brown
City of Newport Beach Planning Dept.
3300 Newport Blvd.
Newport Beach, CA 92658

Comments on the Draft Environmental Impact Report for Sunset Ridge Park Project

The proposed road to access Sunset Ridge Park through Banning Ranch is unnecessarily wide for the purpose. A four-lane road with a traffic light on Pacific Coast Highway is not needed to access two soccer fields. On page 4.3-7, the draft EIR contains a traffic study that shows the Sunset Ridge project is expected to generate only 143 daily trips. It is clear that this road is planned not to serve Sunset Ridge, but as the first stage of a highway called "Bluff Road" through Banning Ranch and connecting with 19th Street in Costa Mesa, to serve the planned Banning Ranch development.

By including this over-built road, the Sunset Ridge Park draft EIR creates a situation in which the cumulative impacts of the Sunset Ridge construction and the separately proposed Banning Ranch development are examined in a piecemeal fashion, making it impossible to judge the total impact of the two projects.

These two draft EIRs should be reviewed as a single project in order to avoid illegal "piecemeal" review.

The draft EIR should include a comparison study of the many other parks in Newport Beach, many of which have far larger sports facilities, which do not have or need a four-lane access road, dedicated traffic light, or parking lot. That might lead to the conclusion that Sunset Ridge Park also does not need a four-lane access road with a traffic light on PCH or a dedicated parking lot.

In addition, the Sunset Ridge draft EIR does not adequately describe alternative entrances to the Sunset Ridge Park.

The alternative of an entrance on Superior Ave. is rejected for example, because "the Scenic Easement [which] precludes permanent structures." However, the proposal includes other permanent structures such as a pedestrian staircase and a billboard within the Scenic Easement on the corner of Superior Ave. and PCH. Why can these permanent structures be built, but not a road? I am sure it is perfectly possible to negotiate exceptions to the scenic easement, as the City will no doubt do in the future when they wish to expand PCH to accommodate increased traffic.

The draft EIR also suggests, as a reason to reject the alternative of an entrance on Superior, that a traffic signal could not be built on Superior to slow traffic to allow safe access. However, there is no explanation of why a signal could not be built. It is not enough to make a statement; a thorough study must be conducted and all details must be included in the draft EIR.

The draft EIR states on page 6-4 that the use of an “on-site” entrance instead of the proposed road on Banning Ranch would result in a loss of park space for Newport Beach; if the entrance is built on the park property itself there would be a reduction in net usable park acreage from 18.9 to 13.7 acres because “vehicular access to the park would be located on City property.” The draft EIR does not recommend this because the City of Newport Beach has a park deficiency of 67.7 acres, most of which is in West Newport, where Sunset Ridge and Banning Ranch are located.

However, the draft EIR does not include any review or study of the availability of Banning Ranch as park space. The Newport Beach General Plan, passed by voters in 2006, “*prioritizes the acquisition of Banning Ranch as an open space amenity for the community and region.*”

The draft EIR needs to include a study of whether Banning Ranch is more likely to be developed instead of preserved as parkland, if the base for a major highway is constructed as the current Sunset Ridge EIR proposes. If Banning Ranch is preserved as parkland in accordance with the City’s General Plan, the Newport Beach park deficiency will completely disappear.

On page 6-7, the draft EIR states that “potentially significant impacts related to biological resources identified for the proposed Project would not occur under Alternative A” (the no-project alternative). However, the EIR minimizes the fact that most of the biological impacts can be eliminated by locating the park entrance on Superior. The roadway as proposed lies in the most biologically significant portion of Banning Ranch, where coastal sage scrub provides critical habitat for the endangered California Gnatcatcher. The biological value of this area has not been sufficiently studied and alternatives are not adequately reviewed.

The draft EIR does not mention the existing parking lot on the northeast corner of Superior Ave and PCH. This parking lot was not taken into consideration in the review of alternative projects.

Utilization of this existing public lot for Sunset Ridge parking would eliminate the need for the Banning Ranch access road and its biological impacts on gnatcatcher habitat. It would also eliminate the need for a parking lot on the Sunset Ridge site, which would open more land in the park itself for recreational use. Finally, it would eliminate the need for a traffic light on PCH, with its impacts on traffic. A pedestrian bridge could be built across Superior Avenue to improve park access – the City has already given consideration to such a project. Failure to research these possibilities shows the serious inadequacy of the draft EIR.

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