

Comments & Questions on dEIR-Vicki Hernandez

DATE: November 6, 2011
TO: Patrick J. Alford
Planning Manager City of Newport Beach,
Community Development Department
3300 Newport Boulevard P.O. Box 1768
Newport Beach, California 92658-8915
FROM: Vicki Hernandez
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SUBJECT: Newport Banning Ranch DEIR

Dear Patrick,

I object to the Newport Banning Ranch project as proposed. Please include my comments and questions below in the records of any and all proceedings relating to this project and its successors.

- I object to the length and repetitive nature of the dEIR. A total of over 7,234 pages does NOT create a document written in plain, readable language. Why is there so much cut-and-paste repetition in this dEIR? This seems like a tactic to confuse and discourage the public from reading the document and giving input on it. Is it? Does this document follow the CEQA policies and procedures required for an EIR?

Cumulative Impact Analysis (5.0)

Section 15355 of the State CEQA Guidelines defines cumulative impacts as:

Two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

- (a) The individual effects may be changes resulting from a single project or a number of separate projects.
- (b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

- Page 5-6 states “Several subareas within the City, including the Newport Banning Ranch property, were determined to have special planning considerations and were subject to additional evaluation in the General Plan and General Plan EIR.”
 - What are these special considerations and additional evaluation? This is not immediately clear to me, given the 7,000 pages of the dEIR.
- Page 5-23 states “A quantification of cumulative impacts is not feasible for some impact topics such as visual resources...Much of the cumulative evaluation is a qualitative judgment regarding the combined effects of the relationship among the projects and projected regional growth.”

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- What does the Banning Ranch Project have to do with other probable future projects? This project is unique in being the last large undeveloped coastal space in Orange County. Other projects do not have this unique status.
- Page 5-30, The *City of Newport Beach General Plan* states that “if the Newport Banning Ranch Project site is 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.”
 - The Banning Ranch Conservancy plans to purchase this open space. Are you aware of these plans?
 - What is the plan for a school to be included in the Newport Banning Ranch Project? This is not immediately clear to me, given the 7,000 pages of the dEIR.
- Page 5-30 also states “In certifying the General Plan Final EIR and approving the General Plan project, the City Council approved a Statement of Overriding Considerations, which notes that there are specific economic, social, and other public benefits that outweigh the significant unavoidable impacts associated with ...development of the Newport Banning Ranch site.”
 - What are these specific public benefits?
 - Building 1,375 residential units, a commercial area and a 75 room resort will have a massive negative impact on the native fauna and flora of Banning Ranch, and on neighboring communities. The cumulative effects of air, light and noise pollution, increased traffic, 9 years of construction, loss of habitat, and destruction of native environments will not benefit the environment, wildlife or neighboring communities.
 - The Newport Banning Ranch Project WILL benefit the developers, however.
- Page 5-32 states “Land use incompatibility can occur where differences between nearby uses result in significant noise levels and significant traffic levels, among other factors, such that significant unavoidable direct and indirect impacts impede use of the existing land uses as they were intended.”
 - Does “land uses as they were intended” mean leaving this area, which is 100% under the sphere of influence of the Coastal Commission, as open space?
 - Page 5-33 Primary Use: “Open Space, including significant active community parklands that serve adjoining residential neighborhoods if the site is acquired through public funding.”
- Page 5-34 states “With implementation of the Mitigation Program, the proposed Project would not result in significant topographic or aesthetic impacts.”
 - My comment is that 1,375 residential units, 7,500 square feet (sf) of commercial uses and a 75-room resort inn on an existing open space which is home to threatened and endangered species will have a negative and enduring aesthetic impact.
- How is it possible to state on page 5-36 “Although the proposed Project—combined with past, present and reasonably foreseeable future projects—would change the visual character of the Project site, the proposed Project is consistent with the General Plan and no significant cumulative visual impacts are anticipated.” I walk along the

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Santa Ana River regularly, and I guarantee that the Newport Banning Ranch Project will have an adverse and long-lasting aesthetic impact on this open space.

- Page 5-37 states “The Project site is located in a seismically active area with faults within the proposed development site that could not be proven to be inactive.”
 - How wise is it to plan a massive development when we now know that this is a potential disaster area for seismic activity--building code requirements or not?
- Page 5-39 describes Project-specific impacts associated with water resources:
 - “increase the amount of runoff and the concentration of pollutants in storm water runoff.”
 - “reduce the potential for groundwater percolation”
 - “involve changes to existing drainage patterns and would cause increases in erosion of the Project site or surrounding areas”
 - Doesn't this create a cumulative negative impact due to Southern California's overall scarce water supply?

5.4.6 BIOLOGICAL RESOURCES

- Page 5-48, The proposed Project would impact special status plant species
- Tarplant - How will the Mitigation Program create impacts at a “level considered less than significant?”
- The Project would result in potentially significant impacts associated with the loss of suitable foraging and/or nesting habitat for the light-footed clapper rail, western snowy plover, Belding's savannah sparrow, tricolored blackbird, least bittern, Clark's marsh wren, long-billed curlew, and large-billed savannah sparrow.
 - What is the Mitigation Program to reduce the impacts to these birds?
 - How can the impacts be mitigated, given the long-term major construction planned for the Project and the extensive grading required?
- The coastal California gnatcatcher is a Threatened species.
 - What are the Measures that will be provided to mitigate this impact to a less than significant level?
 - How can the impacts be mitigated, given the long-term major construction planned for the Project and the extensive grading required?
- Page 5-49, The coastal cactus wren is a California Species of Special Concern. Banning Ranch has one of the largest populations of cactus wren in Orange County. I am involved in restoration of native plants to areas destroyed by fire. My experience has been that restoration does not occur overnight! Prickly Pear cactus takes YEARS to grow large enough for cactus wrens to nest.
 - How can the impacts of the Project be mitigated, given the long-term major construction planned for the Project and the extensive grading required?
- The least Bell's vireo is a federally and State-listed Endangered species.

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- What is the Mitigation Program to reduce the impacts to these birds?
- How can the impacts be mitigated, given the long-term major construction planned for the Project and the extensive grading required?
- The burrowing owl is a California Species of Special Concern.
 - What is the Mitigation Program to reduce the impacts to these birds?
 - How can the impacts be mitigated, given the long-term major construction planned for the Project and the extensive grading required?
- The cooper's hawk, northern harrier, and white-tailed kite have the potential to nest on the Project site. The loss of an active nest of these species by the proposed Project would be considered a violation of the *California Fish and Game Code*.
 - What is the Mitigation Program to reduce the impacts to these nesting birds?
 - How can the impacts be mitigated, given the long-term major construction planned for the Project and the extensive grading required?
- The Project would have significant indirect impacts found to be potentially significant due to the invasion of native areas by Project ornamental landscape species.
 - Why is the Project not considering using California native plants in all its landscaping, should the Project be approved?
- The proposed Project would result in significant traffic noise impacts on these sensitive biological resources
 - What is the Mitigation Program to reduce the impact of traffic noise to these birds?
- Page 5-50, "The Project would significantly impact approximately 14.44 acres of special status riparian habitat. "Most natural riparian vegetation in Southern California has been lost to or degraded by land use." (P. 4.6-43)
 - How can the claim be made that the cumulative impact is less than significant?
 - Does Exhibit 4.6-3c indicate a riparian area (Drainage C)--the largest in the Project Boundary passing right through the proposed Project?
- "The Project would result in the loss of 14.18 acres of coastal sage scrub designated as special status; this is a significant impact"
 - What is the Mitigation Program that purports to reduce these impacts to a level considered less than significant?
- The loss of grassland function for foraging raptors resulting from the Project is considered significant.
 - What is the Mitigation Program that would reduce these the significant impacts to these resources to a level considered less than significant?
- VERNAL POOLS: The proposed Project would both result in 0.06 acre of temporarily impacts and 0.07 acre of permanent impacts to occupied vernal pool habitat (Page 4.6-34). Areas with vernal pools and ephemeral pools are considered to be special status due to the presence of fairy shrimp. Habitat loss and fragmentation is the

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largest threat to vernal pool species. It is estimated that 95 percent of vernal pool habitat in Southern California has been lost (USFWS 2005d). 4.6-43

- Are there more vernal pools in the area to be located on Banning Ranch? I wonder if all vernal pools have been found? Can further studies be conducted?
- **Wildlife Movement**-Page 5-50, "The proposed Project would impact the movement of any native resident or migratory wildlife corridors and use of native wildlife nursery sites (Threshold 4.6-4)." Page 4.6-21, Wildlife corridors link together areas of suitable wildlife habitat that are otherwise separated by rugged terrain, changes in vegetation, or human disturbance. The fragmentation of open space areas by urbanization creates isolated "islands" of wildlife habitat.
 - Isn't this the opportunity to preserve for posterity wildlife corridors joining Banning Ranch with Fairview Park, the Talbert Marsh restoration site, Canyon Park, the Santa Ana River, and the US Army Corps of Engineers restoration area?
 - Shouldn't we maintain all these open spaces as a migration stopover site by bird species migrating along the coastline? (4.6-22)
 - Given all this richness of wildlife and native vegetation, shouldn't we all halt the dense urban development that has engulfed Orange County in the past half century? This is our last chance to save the hundreds of Threatened and Endangered species that have been highlighted in this dEIR. A development of 1,375 residential units, 7,500 (sf) of commercial uses and a 75-room resort inn, plus the roads leading in, out and through the site, will disrupt wildlife movement, no matter how closely built the residences are.
- "Most natural riparian vegetation in Southern California has been lost to or degraded by land use." (P. 4.6-43)
 - What criteria are used to conclude that the cumulative impact of the Newport Banning Ranch Project is negligible?
 - Does Exhibit 4.6-3c indicate a riparian area--the largest in the Project Boundary "Drainage C" passing right through the proposed Project?
- Page 5-53 "Section 4.6 of the EIR addresses the impacts to biological resources that would result from implementing the proposed Project. Coastal sage scrub, grassland, and riparian habitat, including habitats for Threatened, Endangered, and Special Status Species (such as coastal California gnatcatcher) would be lost. These regional resources are becoming more limited as growth and development occurs throughout Southern California."
 - Why are the City of Newport Beach and the developers of this Project proceeding with this development plan, knowing that it will destroy a good portion of of this habitat, and knowing that these biological resources are becoming more and more scarce due to the growth and development your are proposing in this EIR?
- Page 5-54 states "The Newport Beach General Plan determines that General Plan implementation would not contribute considerably to the decline of sensitive natural communities; therefore, the General Plan contribution to this impact would not be cumulatively considerable, and would result in a less than significant impact."

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- What criteria are being used to determine that implementation of the Project “would not contribute considerably to the decline of sensitive natural communities? After reading section 4.6, I come to the conclusion that the Project (1,375 residential units, 7,500 square feet (sf) of commercial uses, a 75-room resort inn, plus roads throughout) would contribute greatly to the decline of sensitive habitats and species.
- Page 5-60 states that the traffic findings are “*Significant and Unavoidable – City of Costa Mesa Intersections*”
 - What is the city of Costa Mesa’s response to this major traffic impact to its streets and intersections?
- Page 5-61 “*Less than Significant Impact – Freeway Mainline Segments*: Under this scenario, the Project would not significantly impact any freeway segments.”
 - Has the possible impact on the 55 Freeway been studied? The 405 Freeway?
- Page 5-65 Traffic Impact Analysis “The proposed Project, when combined with development in the region, would have a significant cumulative air quality impact because the contribution to regional pollutant concentrations would be cumulatively considerable.”
 - What is the Project planners’ and the city of Newport Beach’s response to this?
- Page 5-68 The proposed Project—in combination with other past, present, and reasonably foreseeable future projects—would make a cumulatively considerable contribution to the global GHG inventory and would have a cumulatively significant impact on global climate change.
 - What is the Project planners’ and the city of Newport Beach’s response to this?
- Page 5-82 states “The proposed Project’s contribution to the cumulative impact on water supply is considered less than significant.”
 - What is meant by the “relatively minimal water demands of the proposed Project in the context of regional water supplies...?” How can the demands for water of 1375 residences, 7500 sf of retail space and a 75-room resort be defined as “minimal”?