

November 6, 2011

Patrick J. Alford, Planning Manager  
City of Newport Beach, Community Development Dept.  
3300 Newport Blvd.  
P. O. Box 1768  
Newport Beach, CA 92658-8915



Re: Responses to the Newport Banning Ranch DEIR

Dear Patrick:

I am a resident of Newport Beach. My home overlooks the Banning Ranch property and I would be directly impacted by the proposed development. I found the DEIR to be overwhelming in length and complexity, and I was dismayed at the overall proposal! I reviewed portions of the DEIR to gain a better understanding of the proposed project and its impacts. As a result, I have several questions. I will attempt to be brief.

#### **4.1.7 Environmental Impacts; Land Use Section – Exhibits 4.1-2b and 4.1-2g**

At the Costa Mesa City Council joint study session held on October 20, 2011, it was stated by the applicant that North Bluff Road was relocated outward to a distance of 355 feet from the California Seabreeze Community to minimize the impact to that community, as depicted in Exhibit 4.1-2b. **Why was this not done for the Newport Crest Community??** As depicted in Exhibit 4.1-2g, Bluff Road is within 22 feet of the Newport Crest Community. Additionally, Bluff Road is a four-lane divided road, versus the two-lane undivided North Bluff Road. Further, the artist's rendering in the exhibits is misleading by illustrating one car for the four-lane road and two cars for the two-lane road.

- **Does the applicant truly believe that building a four-lane road 22 feet from an existing residence is acceptable??**
- **Has such a major new roadway ever been built in Orange County in such close proximity to existing residences?? When and where??**

#### **4.12.1 Introduction; Noise Section – page 4.12-1**

The document states that Appendix I contains the noise model data associated with the noise calculations presented in this section. Appendix I is 225 pages with no table of contents and no index. And, it discusses intersections that don't correlate with the measurement locations presented in the Noise Section.

- **What is the correlation between the information presented in Appendix I and the information presented in the Noise Section??**
- **What do any of the roadways listed in the result summary table have to do with measurement location #2??**

Appendix I does not answer these and many other questions.

#### **4.12.5 Existing Conditions; Existing Noise Conditions – page 4.12-10**

The document states that seven short-term (approximately 15-minute) noise level measurements were collected at Noise Measurement Locations #'s 1, 2, 3, 5, 6, 8 and 10 (as shown in Exhibit 4.12-1). The primary source of noise for measurement location #2 was listed as "aircraft overflights". Having lived immediately adjacent to measurement location #2 for seven years, I question the integrity and accuracy of the results provided in Table 4.12-6.

- **What dates, days of the week and times were the seven measurements taken??**
- **What was the length of the fluctuations in noise levels during each of those periods??**
- **What were the specific causes of noise during each of those periods??**
- **How was the CNEL calculated?? Were brief increases in noise factored in equally with the longer periods of minimum noise levels??**

My questions are directed at all of the measurements, but my comments are specific to the area in the vicinity of measurement location #2, of which I am most familiar. This is a very quiet area. Very quiet. Any sources of noise are brief and sporadic, such as a police helicopter passing overhead. **Is it fair to compare occasional increases in noise levels occurring for less than 30 seconds in duration to the non-stop and continuous increase in noise levels that will occur from the proposed Bluff Road?**

#### **4.12.6 Project Design Features and Standard Conditions; SC 4.12-3 – page 4.12-13**

The document states that the new residential and hotel units will be designed to ensure that interior noise levels do not exceed 45 dBA CNEL. The developer can control the interior noise levels of the new units, yet takes no responsibility for reducing the noise impacts on existing homes.

- **Why is the applicant designing a project that locates Bluff Road so close to existing homes when the new homes can be built to minimize noise impacts??**
- **Why is the applicant not placing more of the planned open space provided in the project adjacent to the existing homes to provide a natural buffer and to help minimize the impacts to these homes??**

#### **4.12.8 Environmental Impacts; Impact Analysis – page 4.12-23**

The document states that the Without Project scenario "assumes" construction of the on-site roadways. **Why??** This DEIR should be analyzing the overall impacts of the entire proposed project, which includes the roadways!

- **What is the impact of the entire project compared to the existing conditions??**
- **If this DEIR is not analyzing the roadways, when will the impacts of the roadways be analyzed and available to the public for review??**

Any impact analyses should compare the impacts of the project to the Alternative A (No Project) scenario, not to a hypothetical Without Project scenario.



#### **4.12.8 Environmental Impacts; Table 4.12-13 – page 4.12-26**

The document states that the assumed ambient level for Receptor ID N1-1 is 49 dba CNEL. This is higher than the information presented in Table 4.12-6.

- **Why is a higher noise level assumed for purposes of determining the effectiveness of mitigation measures??**

Again, the impacts of the project and any impact analyses should compare the total project impacts to true current, existing conditions.

#### **4.12.8 Environmental Impacts; Impact Analysis – page 4.12-27**

The document states that noise barriers could be installed around the second floor balconies of Newport Crest homes and that this measure is feasible. Is the applicant suggesting that we close in our open balconies with walls??

- **Specifically, what “barriers” is the DEIR referring to and who determines if they are feasible??**

#### **4.12.8 Environmental Impacts; page 4.12-27**

The document states that future traffic noise to Newport Crest could be reduced by the realignment of Bluff Road, but that it is not feasible due to greater impacts on open space and biological resources, as well as the need of additional grading. No studies are sited.

- **Where is the backup for these statements??**
- **How was it determined that the impacts would be greater??**

#### **4.12.9 – Mitigation Program; MM 4.12-6 – page 4.12-42**

The document states that a noise barrier shall reduce future ground floor and second floor residential noise levels at the Crest. Newport Crest units are three levels. The lowest levels have no windows, are partially below grade and contain the garages. The second levels are the kitchen/living room levels and the third levels are the bedroom levels. Additionally, the second levels are split levels.

- **What is the applicant doing to mitigate noise to the third level of the Crest units??**
- **Which elevation of the second level are the measurements referring to??**

#### **4.12.9 Mitigation Program; MM 4.12-7 – page 4.12-42**

The document states that an offer will be made for the installation of dual pane windows/sliding doors on the façade facing the Banning Ranch property.....to owners of residences with rear elevations directly adjacent to the Banning Ranch property.

- **Which residences specifically (addresses) will be receiving this offer??**
- **Who will pay for the Acoustical Engineer that will determine which residences will be impacted??**
- **When will the determination by the Acoustical Engineer be made??**
- **What does “cumulative increase over existing conditions” mean??**

- **Why do the lengthy “provisions and guidelines” outlined in the DEIR place the burden for this mitigation measure on the homeowners and the Crest association, and not the applicant??**
- **Why is the Association being “reimbursed” for the costs of the work, and the applicant is not offering to deposit funds as is being done for Mitigation Measure 4.12-5??**
- **Does “windows/sliding doors” actually mean windows and sliding doors, or just sliding doors??**

I believe that many more residences will be impacted than is being acknowledged in the DEIR. **Additionally, how does the applicant plan to mitigate the cooling and ventilation problems that will arise from the apparent need to close sliding doors??**

### **7.3.2 Elimination/Reduction of Significant Impacts; Aesthetic and Visual Resources – page 7-4**

Several times throughout the document, it is stated that the project would result in night lighting impacts that are considered “significant and unavoidable”, but that the City Council approved a Statement of Overriding Considerations, which notes that there are specific benefits that outweigh the significant and unavoidable impacts associated with the project.

- **Specifically, what are the benefits that outweigh the significant and unavoidable impacts??**
- **Why is the Statement of Overriding Considerations not included in the DEIR document for easy reference by the reader??**

### **7.5 Alternatives for Analysis – page 7-11**

None of the proposed alternatives consider the realignment of Bluff Road. None of the proposed alternatives consider the lowering of Bluff Road to reduce noise impacts.

- **Why has the realignment of Bluff Road not been given serious consideration by the Applicant??**
- **Why was the realignment of Bluff Road not analyzed as a feasible alternative??**

In summary, mischaracterizing the existing conditions and then comparing them to a project that “assumes” the roadways will be built anyway is not adequately analyzing the impacts of this proposed project. Additionally, Bluff Road realignments should be analyzed and included as alternatives in the DEIR.

Thank you for your consideration and time in responding to my questions. If you need clarification or additional information, I can be reached at (949) 650-2584.

Sincerely,



Cathy Malkemus  
Newport Crest Resident