

November 8, 2011

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

Dear Patrick,

We object to the approval of the Newport Banning Ranch project in its present form. The comments below and all references contained therein are hereby incorporated into the City's official record of proceedings of this project and its successors.

General

- 1. The NBR DEIR prepared by Bonterra Consulting is a massive, unreadable, complicated document of over 7,000 pages, the majority which are Appendices. This raises concerns that the City of Newport Beach did not conduct an independent analysis of the DEIR prior to release.

Please list the name and title of City experts who independently reviewed each section of the NBR DEIR (reference PRC €21082.1, CEQA , Guidelines € 1084 (e)).

- 2. Nowhere in the Newport Banning Ranch DEIR is the Coastline Community College Newport Beach Learning Center referenced, which began construction well in advance of the release of the NBR DEIR on September 9, 2011, located at 15th Street and Monrovia Avenue, and contiguous to the Newport Banning Ranch property. This college will be fully operational when the Newport Banning Ranch project begins.

Was the Coastline Community College notified of the release of the Newport Banning Ranch DEIR on September 9, 2011? Should they have been notified?

- 3. The Coastline Community College Newport Beach Learning Center which is under construction and located on Monrovia and 15th Street was not included as a 'surrounding noise-sensitive receptor area adjacent to the project site' in DEIR Section 4.12-10, nor included in Exhibit 4.12-3, 'Proposed Site Development and Surrounding Land Uses'. It will be open and operating when the NBR project begins. The Noise analysis does not include this 'noise-sensitive' receptor.

We object to this omission of Coastline Community College Newport Beach Learning Center in this section and other appropriate sections throughout the NBR DEIR. A revised DEIR needs be prepared to include an analysis of the environmental impacts on the people attending the Coastline Community College Newport Learning Center on a daily basis.

- 4. The NBR DEIR is inconsistent in stating the approximate project implementation timeline. In the Noise section, Section 4.12-14 the timeline is stated as approximately nine years. In the Aesthetics section, Section 4.2-17 it is stated as approximately 13 years.

Four years is a large amount of time difference in light of the significant impacts this project will have during construction. Is the project duration nine or 13 years? Please explain the inconsistency.

Section 1.0, Executive Summary

5. In Section 1.0, Executive Summary, Sub-section 1.4, 'Project Objectives', Project Objective #3, #4, and #5 describe development 'up to 1,375 residential units', 'up to 75 overnight accommodations', and 'up to 75,000 square feet of commercial uses'.

The chart below presents density statistics of Orange County developments on coastal property. The density of the proposed Newport Banning Ranch is extreme in comparison.

| Site | Acres | Residential Units |
|--------------------------------|-------|-------------------|
| • Marblehead (San Clemente) | 248 | 313 |
| • Dana Point Headlands | 121 | 118 |
| • Bolsa Chica | 2000 | 349 |
| • Crystal Cove (Newport Coast) | 980 | 635 |
| • Newport Banning Ranch | 412 | 1,375 |

Why does the NBR project need to be built to the maximum allowed development? Where in the NBR DEIR is the quantifiable justification for building out this land to the maximum allowed development described? Why can't the project scope be reduced, for example, by half this size and still achieve the 'Project Objectives'? Please provide an explanation.

6. In Section 1.0, Executive Summary, Sub-section 1.4, 'Project Objectives', Project Objective #16 reads, 'Provide compatibility between the Project and existing adjacent land uses'. The NBR DEIR does not include how this project objective is met.

Please define the scope of 'compatibility'. This is a term that is open to interpretation. In the context of the NBR DEIR, does 'compatibility' take into consideration the health and safety of people living in the 'existing adjacent land uses'?

Please describe how this project objective is met in light of the significant impacts to adjacent land uses sited throughout the NBR DEIR including those sited in the Section below?

- Light (DEIR Section 7.0 Alternatives, page 7-4)**
- Traffic (DEIR Section 7.0 Alternatives, page 7-4 to 7-5)**
- Air Quality (DEIR Section 7.0 Alternatives, page 7-5)**
- Noise (DEIR Section 7.0 Alternatives, page 7-6)**

7. Section 1.0 Executive Summary, Sub-section 1.5, Project Alternatives, does not include a Project Alternative that assures 'less than significant' impacts for 'significant unavoidable' impacts identified in the DEIR (such as noise, lighting and air quality) for Newport Crest residents during the nine-year long development and ongoing after project completion.

At the October 17, 2011 EQAC meeting where EQAC reviewed and discussed their comments, EQAC stated that the DEIR failed to examine an additional Project Alternative that better 'significant unavoidable' impacts on Newport Crest to 'less than significant'.

Please ensure that the Project Alternatives section(s) of the DEIR is expanded in the revised NBR DEIR to include an additional Project Alternative such as described above and requested of EQAC at the October 17, 2011 meeting with appropriate supporting analysis, data, and documentation.

8. Section 1.0, Executive Summary, page 1-28: Regarding Threshold 4.3-1 and 4.3-2 as follows:

Threshold 4.3-1: 'Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death from rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?'

Threshold 4.3-2: 'Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?'

Where in the NBR DEIR is there an analysis and supporting data that proves that people in proposed NBR project and surrounding communities can safely evacuate NBR and surrounding communities in the event of a natural disaster such as an earthquake or tsunami?

9. Section 1.0, Executive Summary, Section 4.3, Geology and Soils page 1-28, MM 4.3-1 and MM 4.3-2 read as follows:

MM 4.3-1' The Applicant shall submit to the City of Newport Beach Community Development Department, Building Division Manager, a site-specific, design-level geotechnical investigation prepared by a registered geotechnical engineer. The investigation shall comply with all applicable State and local code requirements.'

MM 4.3-2 'Prior to the approval of any applicable final tract map, the Applicant shall have completed by a qualified geologist, additional geotechnical trenching and field investigations and shall provide a supplemental geotechnical report to confirm the adequacy of Project development fault setback limits.'

What obligation does the City have to proactively notify Newport Beach residents of the results of the investigation and report referenced in these mitigation measures? What local, state and/or federal regulations are in place to ensure that the public is adequately notified of these studies in a timely manner?

10. Section 1.0, Executive Summary, Section 4.3, Geology and Soils, page 1-28, reference the 'Environmental Impacts/Level of Significance Before Mitigation' which corresponds with Threshold 4.3-1 and 4.3-2 which reads as follows:

'The Project site is in a seismically active area with faults within the proposed development area that could not be proven to be inactive. Habitable structures on the Project site near these faults are subject to fault setback zones and seismic design parameters that would appropriately address seismic building standards. Impacts associated with surface fault rupture and seismic shaking would be mitigated to a level considered less than significant with the incorporation of fault setback zones (which may be refined after additional trenching data becomes available). **Potentially Significant Impact'**

Why is the 'Level of Significance After Mitigation' 'Less Than Significant' when the impact is stated as 'Potentially Significant Impact'? Shouldn't the 'Level of Significance After Mitigation' be 'Significant Impact' until analysis and reports are available to prove otherwise?

Please provide a justification for stating the 'Level of Significance After Mitigation' as 'Less than Significant' considering data doesn't yet exist to prove this out.

11. Section 1.0, Executive Summary, Section 4.4, Hydrology and Water Quality, page 1-31, SC 4.4-5 reads:

‘A list of “good housekeeping” practices shall be incorporated into the long-term post-construction operation of the site to minimize the likelihood that pollutants could impair water quality. The WQMP shall list and describe all structural and non-structural BMPs.’

What are ‘good housekeeping practices’? Please provide an example of a list of ‘good practices’ that were implemented post-construction for a completed project comparable in size and scope to the proposed NBR development in order to provide evidence that sufficient safeguards will in fact be in place to minimize likelihood pollutants impairing water quality.

12. Section 1.0, Executive Summary, Section 4.5, Hazards and Hazardous Materials, page 1-34 Threshold 4.5-3 reads:

‘Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?’ (underlined for emphasis)

The ‘Environmental Impacts/Level of Significance Before Mitigation’ corresponding with Threshold 4.5-3 reads: ‘There would be a less than significant impact to the existing schools within ¼-mile of the Project site and/or from offsite haul routes during on-site remedial activities and proposed Project construction. There would be no impact to existing schools within ¼-mile of the Project site from proposed Project operations as continued oil operations are proposed to be limited to two consolidated oil facilities located along the southwestern portion of the Project site. **Less Than Significant Impact**’

The Coastline Community College Newport Beach Learning Center located at 15th Street and Monrovia has been planned/proposed for years, and under construction for several months, and will be fully operational when the NBR project begins. This school is within ¼ mile of project remedial activities so the impact statement above is erroneous. The DEIR fails to address the impacts of this Threshold to Coastline Community College Newport Beach Learning Center. Please update this section of the NBR DEIR to address impacts.

Section 3.0, Project Description, Exhibit 3-18 and Table 3-3, Proposed Implementation Plan

13. Section 3.0, Project Description, Exhibit 3-18 and Table 3-3, Proposed Implementation Plan lays out the proposed implementation plan for 3 Sequencing Areas as follows:

Sequencing Area 1

| Schedule | Start | Finish |
|----------------------------|--------------|--------------------|
| Site Remediation | 2/2015 | Prior to Occupancy |
| Grading and Improvements | 8/2015 | 5/2016 |
| Construct Models and Homes | 2/2016 | 9/2016 |
| Occupancy | 10/2016 | 10/2018 |

Sequencing Area 2:

| Schedule | Start | Finish |
|----------------------------|--------------|--------------------|
| Site Remediation | 2/2015 | Prior to Occupancy |
| Grading and Improvements | 8/2017 | 5/2018 |
| Construct Models and Homes | 2/2018 | 9/2018 |
| Occupancy | 10/2018 | 1/2021 |

Sequencing Area 3:

| Schedule | Start | Finish |
|-------------------------------------------------------------------------|--------------|---------------|
| Site Remediation | Complete | Complete |
| Improvements | 8/2019 | 5/2020 |
| Construct Models and Homes | 2/2020 | 9/2020 |
| Occupancy | 10/2020 | 12/2024 |
| Upland and Lowland Open Space Restoration/ Oil Operations Consolidation | 2/2015 | 12/2024 |

This timeline is misleading and difficult to understand because some ‘Schedule’ phases are described as ‘Complete’ for Start and Finish, some state ‘Prior to Occupancy’ for Finish, and others have actual Start and Finish dates.

To clarify when the Schedule phases are expected to COMPLETE, please include a third column to the each Sequencing Area table labeled ‘Complete’ and indicate when the Schedule phase is Complete by checking the cell or inserting the ‘Complete’ date.

What is the scope and definition of ‘Improvements’ stated under ‘Schedule’ in Sequencing Area 3?

Section 4.12, Noise

14. Section 4.12, Noise, page 4.12-15 to 4.12-16 states that construction noise would result in temporary substantial noise (underlined for emphasis) increases at Carden Hall School, Newport Crest, California Seabreeze, Parkview Circle, Newport Shores, etc.

The discussion goes on to describe mitigation measures such as including barriers that would not be effective beyond first floor of residents in the impacted communities. Other impacts from grading and construction as described in this section of the DEIR include lost views, and prevention of air circulation such as flow of ocean breezes. Mitigation measures itemized include proper maintenance of machinery, and notification to residents and schools about construction noise levels which will be made in advance so people can plan their activities to avoid the disruption created by the noise.

We have grave concerns that the NBR DEIR characterizes these significant unavoidable impacts as ‘temporary’. Section 3.0, Project Description, Exhibit 3-18, Table 3-3, Proposed Implementation Plan provides the proposed timeline for Sequencing Areas 1, 2, and 3.

Looking at the Start and Finish dates for the 3 Sequencing Areas combined, the durations of ‘Schedule’ activity e.g., remediation, grading and improvement, construction is multiple years in duration which is hardly ‘temporary’.

What rationale is being used by City and Applicant to justify that surrounding residents and schools should accept that they 'plan their activities to avoid disruption created by noise', put up with ineffective noise barriers, lost views and potential loss of ventilation from ocean breezes due to noise barrier, and contaminated air for several years? (Underlined for emphasis)

The City and Applicant need to evaluate other alternatives to mitigate the years-long effect of these significant impacts to residents, schools and business adjacent to the proposed NBR project.

Furthermore: Mitigation Measure MM 4.12-1, Section 1, Executive Summary, page 1-52 reads: 'Grading plans and specifications shall include temporary noise barriers for all grading, hauling, and other heavy equipment operations that would occur within 300 feet of sensitive off-site receptors and would occur for more than 20 days'.

NBR DEIR Section 4.12, page 4.12-16 states that 'Noise reduction by a barrier depends upon the barrier interrupting the line of sight between the noise source and the receiver. Therefore, the barriers prescribed by MM 4.12-1 would provide noise reduction for exterior and first floor receptors, but would provide little or no noise reduction for second floor or higher receptors.' (Underlined for emphasis)

This mitigation measure does not resolve the problem for second and third floor receptors which exist in many communities contiguous to and surrounding the project. Why weren't second and third floor receptors analyzed for impact in the DEIR?

The NBR DEIR needs to be revised to consider other effective mitigation measures during construction and grading to minimize these noise impacts over several years to second and third floor receptors.

This section goes on to state: 'Although feasible, the implementation of MM 4.12-1 could result in temporary impacts not related to noise. The barriers may block residents' views, may prevent the normal air circulation, such as the flow of ocean breezes, and may be aesthetically undesirable. Implementation of MM 4.12-1 could also provide benefits by abating dust movement that might escape the dust control measures described in Section 4.10, Air Quality.' (underlined for emphasis).

This leads one to believe that the dust control measures described in Section 4.10 aren't effective, and that the DEIR relies on other mitigation measures to resolve the dust movement impact.

Please expand on under what scenario dust control measures would be ineffective and how noise barriers described in MM 4.12-1 would 'abate' dust movement that escapes another mitigation measure?

15. NBR DEIR Table 4.12-12 "Future Noise Levels at Newport Crest Residences" shows exterior noise levels with mitigation measures including 6 to 8 ft. walls at the Newport Crest Rear Property Line. However, on Pg. 4.12-25 it is stated: "Based on the data in Table 4.12-13 and the above analysis, MM 4.12-6 requires the construction of noise barriers that would reduce ground floor exterior noise levels to 60 dBA CNEL or less and second floor exterior noise levels to 65 dBA CNEL or less. Assuming a typical 20 dBA exterior-to-interior noise reduction with windows closed, the interior noise levels from exterior sources would not exceed 45 dBA CNEL for rooms facing Bluff Road/15th Street. The interior noise levels for the Newport Crest Condominiums would not exceed the State interior noise level standard for the siting of new attached residences. MM 4.12-6 requires a detailed acoustical analysis that would occur after the final design of Bluff Road."

That the NBR DEIR assumes "windows closed" due to exterior noise to reduce interior noise at Newport Crest is unacceptable and unreasonable. How could the City and Applicant expect that residents in a premier beach community keep their 'windows closed' to reduce interior noise from exterior noise sources generated by the proposed NBR development? Please explain this rationale.

Why isn't the City and Applicant including other alternatives including reduction in overall project size? An additional analysis to mitigate exterior noise needs to be conducted and included in a revised draft DEIR.

The description of second floor balcony sound barriers for Newport Crest is vague. Please provide an acoustical analysis data model that includes sound barrier styles, materials and general description. Waiting for an acoustical analysis is not realistic. Please conduct research and produce data that gives people an idea of materials used for these types of sound barriers.

16. Page 4/12-25 and Table 4/12-13 discusses various sizes and locations of sound barrier walls along Newport Crest perimeter to reduce noise caused Bluff Road traffic.

Why does Bluff Road need to be a 4-lane 50 mph highway? According to the City of Newport Beach's General Plan Circulation Element Pgs. 7.4-7.5, a primary arterial highway (such as Bluff Road) is usually a four-lane divided highway with a daily capacity ranging from 35,000 to 50,000 with a typical daily capacity of 40,000 vehicles per day.

Why wasn't an alternate less impactful road design considered which would have significantly less noise impact on surrounding communities?

Why can't Bluff Road be designed below grade with the 12' sound barrier wall located at Bluff Road which would be less noise intrusive to Newport Crest and other adjacent residents and schools? Was this 'below grade' road alignment analyzed? If not, why not?

17. The NBR DEIR Noise Section states that NBR residential and hotel units will be built with air conditioning provided by the NBR developers. On Pg.4.12-13 it states: "Prior to granting of a building permit, the Developer/Applicant shall submit to the City of Newport Beach Community Development, Building Division Manager or his/her designee for review and approval architectural plans and an accompanying noise study that demonstrates that interior noise levels in the habitable rooms of residential units due to exterior transportation noise sources would be 45 CNEL or less. Where closed windows are required to achieve the 45 dBA CNEL limit, Project plans and specifications shall include ventilation plans as required by the California Building Code."

From the above, the NBR developers will cover costs for air conditioning for their noise affected residential units. Why isn't the Applicant offering to pay for air conditioning for affected Newport Crest units, and only offering sound wall barriers and double plane windows?

18. In a 2007 study conducted by 'Medscape News Today', entitled 'Noise Pollution, A Modern Plague: Adverse Effects of Noise', seven categories of adverse health effects of noise pollution on humans is discussed:

- Hearing Impairment
- Interference with Spoken Communication

- Sleep Disturbances
- Cardiovascular Disturbances
- Disturbances in Mental Health
- Impaired Task Performance
- Negative Social Behavior and Annoyance Reactions

Here is the link to this study: http://www.medscape.com/viewarticle/554566_3.

The NBR DEIR does not address the health and well-being of people impacted by the effects of noise resulting from grading and construction activities during this nine-year long NBR development project and the ongoing traffic volume noise from Bluff Road, such as those health effects listed above.

This is unacceptable and the City and Applicant need to provide more reasonable, realistic and health conscious mitigation to reduce the impact of construction activity noise and ongoing traffic volume noise from Bluff Road on all people (adults and children) impacted, and also consider the implication of ignoring people's health in the proposed design of this project.

Section 4.2 Aesthetics and Visual Resources

19. Section 4.2 Aesthetics and Visual Resources, Exhibit 4.2-5a, View 3, Resort Colony: Resort Flats:

What existing buildings and/or communities will be visually blocked by the proposed Resort Colony and/or lose their existing views?

20. At the October 17, 2011 EQAC meeting where EQAC reviewed and discussed their comments, EQAC stated that the DEIR failed to adequately address the negative visual impacts that the NBR project will have on surrounding communities including lost ocean views from Newport Crest. Additionally, EQAC commented that the Urban City will include 730 units at a height of 60 feet which is taller than most residential structures in the City of Newport Beach.

EQAC requested that the Applicant provide site line view simulations to incorporate impacts to surrounding communities such as Newport Crest. Please ensure that this documentation is completed by the Applicant in the revised DEIR as requested by EQAC.

21. At the October 17, 2011 EQAC meeting where EQAC reviewed and discussed their comments, EQAC questioned why Bluff Road needs to be 4 lanes wide where traffic will be fast, generate noise impacts and create visual impacts.

Why does Bluff Road need to be so close to the Newport Crest community? North Bluff Road is located over 300 feet from California Seabreeze, and North Bluff Road is a smaller less traveled road than Bluff Road. Bluff Road is as close as 22' to Newport Crest (see Exhibit 4.1-2g, Central Community Park Interface with Newport Crest' enclosed at end of this document).

The NBR DEIR failed to examine an alternate road to Bluff Road to reduce the impacts to surrounding communities. EQAC asked that an alternate road plan to Bluff Road be designed. Please include an alternative Bluff Road plan into the revised NBR DEIR as requested by EQAC.

22. Section 4.2 Aesthetics and Visual Resources, page 4.2-17, Grading and Construction, paragraph 3 starting with sentence:

'To the extent feasible, all grading would be balanced on site. However, an estimated 25,000 cy of export is assumed for removing remediated materials that are not suitable for retention on site.'

What are the facts and analysis that this assumption of 25,000 cy of export is based on? In the project timeline, when will the Applicant know for certain what the estimated amount of export will be? What are the parameters and criteria that this final cubic yards of export estimate will be based on?

The last sentence in this section reads: 'During construction, there would be views of construction equipment, ongoing construction activities, and stockpiles of building materials on the Project site. Views of construction activities are typical for projects located in an urban environment with surrounding development'.

This project is several years in duration and it is unacceptable to 'conclude' that this is 'typical' for projects located in an urban environment. The DEIR should examine other alternatives to 'stockpiling' etc. given the length of this project and impacts to surrounding communities.

Please also provide examples of comparable projects with data, analysis, and visuals that make the NBR project 'typical' in comparison i.e., prove out the stated conclusion.

Section 4.8 Recreation and Trails

23. Section 4.8, Recreation, page 4.8-11, the North Central Park is addressed as follows:

'The North Community Park area (Site Planning Area 7c) is proposed east of North Bluff Road between 15th Street and 16th Street. As depicted on Exhibit 4.8-3, North Community Park Development Plan, the 13.5-net-acre North Central Park area is proposed to include the following recreational uses:

- 6 tennis courts (lighted),
- 3 soccer fields (lighted),
- 1 basketball court (lighted),
- 1 youth baseball fields and 1 youth/adult softball field overlaid on the 3 soccer fields
- (noted above),
- Potential picnic area or skateboard park,
- 2 tot lots, and
- 1 Fitness/par course. (Underlined for emphasis)

In addition to the identified proposed uses, the North Community Park is proposed to include public restroom facilities, trails, and seating areas. Approximately 274 off-street public parking spaces would be provided in 2 locations within the North Community Park area. A small parking area (approximately 19 spaces) would be constructed with ingress/egress from 16th Street. The remainder of the parking (approximately 155 spaces) would be provided along the western boundary of the park with ingress/egress from North Bluff Road.' (underlined for emphasis)

Furthermore, Section 4.8-12, Recreation, paragraph 1 describes the Central and South Community Park Areas as follows:

'The Central and South Community Park areas would be located east of Bluff Road and 15th Street. These components of the Community Park would not have improved ball fields or courts and could function as a continuation of the City's approved but not constructed Sunset Ridge Park. As depicted on Exhibit 4.8-4, Central Community Park Development Plan, the 4.4-net-acre Central Community Park area (Site Planning Area 7b) would include picnic areas and open turf areas (no improved play fields or courts). A parking area (approximately 25 parking spaces) would be provided as part of the Central Community Park area to replace the off-site office building's parking spaces that would be removed to allow for the extension of 15th Street between Monrovia Avenue and the Project site. This parking would be in addition to the Community Park public parking and is proposed to be accessible to park users during nonbusiness hours.' (underlined for emphasis)

Then, Section 4.2 Aesthetics and Visual Resources, page 4.2-39, beginning with paragraph 2 reads:

'Residences near the active areas of the proposed Community Park may also be adversely impacted by night lighting. As a result, the proposed Project would result in a land use incompatibility with respect to long-term noise and air quality impacts and night illumination on those Newport Crest residences immediately contiguous to the Project site.' (Underlined for emphasis)

Exhibits NBR DEIR 4.1-2f, 4.1-2g, 4.1-2h, and 4.8-3 are included at the end of this document for reference and emphasis.

Based on these exhibits the project comes right to the border of Newport Crest with zero buffer between the Crest and the Community Park. Then the 4-lane primary highway, Bluff Road, then the North Community Park, including the sports fields, restrooms, and surrounding parking lots.

Where in Newport Beach is there a comparable residential project with roads and public parks of the size and magnitude of the proposed NBR that abuts right up to other prior existing residential propert(ies)? Please provide example(s) of these comparable existing residential communities where public parks abut/border other residential communities.

The NBR DEIR fails to examine other alternatives to better the 'significant unavoidable impacts' sited above in the DEIR to 'less than significant' for Newport Crest and other surrounding communities, residents, schools and businesses.

The NBR DEIR needs to be revised to include other park and roadway alternatives that reduce the 'significant unavoidable impacts' of light, noise and air quality to 'less than significant'. Effective mitigation measures and alternatives (e.g., more open space, reduced scope of active sports park, reduced parking, reduced roadway system) all need to be considered.

Furthermore, there is no reference or project design consideration that addresses the health and safety of surrounding residences with the introduction major safety risk factors associated with public parks, parking lots/parking, public restrooms, and roadways in such close proximity to existing residential communities.

The NBR DEIR also needs to be revised to reflect park and roadway design(s) that include safety and protection elements against the threat of home invasion and related criminal incidents that will occur

with the introduction of parks, roads, restrooms and parking lots that border right up to the Newport Crest property and other surrounding schools, communities, and businesses.

24. Section 4.8, Recreation, page 4.8-6, third paragraph states:

'As identified in the City's General Plan, the fastest growing recreational demand in Newport Beach is the need for additional sports fields. The City has identified a citywide park deficiency of 67.7 acres, 53.4 acres of which is in Service Area 1, West Newport (this number excludes beach recreation acreage; with the inclusion of beach acreage, there is not a citywide deficit). With the beach inclusion, there still remains a 19.4-acre park deficiency in the West Newport Service Area. (Underlined for emphasis)The Project site is located in Service Area 1. Table 4.8-1 identifies parkland in the City of Newport Beach including West Newport. The City's General Plan identifies three planned parks—Newport Coast, West Newport, and Newport Center—which would help alleviate the deficiency. Of the three parks, a park in Newport Coast (Coastal Peak Park) has been completed and a park in West Newport (Sunset Ridge Park) and a park in Newport Center Civic Center) have been approved but not constructed.'

Why is beach recreation acreage excluded from the 'City identified park deficiency of 67.7 acres'? If beach acreage doesn't 'qualify' as park acreage in the scheme of Newport Beach park acreage analysis why is it mentioned at all?

25. Section 4.8, Recreation, page 4.8-11, the North Central Park is addressed as follows:

'The North Community Park area (Site Planning Area 7c) is proposed east of North Bluff Road between 15th Street and 16th Street. As depicted on Exhibit 4.8-3, North Community Park Development Plan, the 13.5-net-acre North Central Park area is proposed to include the following recreational uses:

- 6 tennis courts (lighted),
- 3 soccer fields (lighted),
- 1 basketball court (lighted),
- 1 youth baseball fields and 1 youth/adult softball field overlaid on the 3 soccer fields
- (noted above),
- Potential picnic area or skateboard park,
- 2 tot lots, and
- 1 Fitness/par course. (Underlined for emphasis)

In addition to the identified proposed uses, the North Community Park is proposed to include public restroom facilities, trails, and seating areas. Approximately 274 off-street public parking spaces would be provided in 2 locations within the North Community Park area. A small parking area (approximately 19 spaces) would be constructed with ingress/egress from 16th Street. The remainder of the parking (approximately 155 spaces) would be provided along the western boundary of the park with ingress/egress from North Bluff Road.' (underlined for emphasis)

The list of recreational uses above seems extreme. Where is the analysis and supporting data that demonstrates the need for all of these 'recreational uses' for this one park? Why hasn't a reduced park design with fewer recreational uses been considered in light of the significant unavoidable impacts this park will have on surrounding communities?

Section 4.8-9 to 10, starting with sub-section 4.8.7, Environmental Impacts 3rd to last paragraph reads:

'Consistent with the City of Newport Beach Subdivision Code (Chapter 19.52), which requires 5 acres of parkland for every 1,000 residents, the park requirement for the Project would be 15.06 acres as shown in Table 4.8-2.

In addition to compliance with the City's Park Dedication Ordinance, the General Plan specifically addresses the need for a Community Park to be located on the Project site. Land Use Policy 6.5.2 of the City's General Plan states that the Newport Banning Ranch property must: Accommodate a community park of 20 to 30 acres that contains active playfields that may be lighted and is of sufficient acreage to serve adjoining neighborhoods and residents of Banning Ranch, if developed.

Therefore, while the City's Park Dedication Ordinance would require 15.06 acres of park or the payment of in-lieu fees, the City's General Plan requires a 20- to 30-acre community park on the Newport Banning Ranch property, although the General Plan does not obligate the Applicant to develop a park exceeding Park Dedication Ordinance requirements. However, the General Plan requires that sufficient acreage be available on the property to comply with the General Plan. (underlined for emphasis)

Parks

The Project proposes to meet its parkland obligations through the provision of approximately 51.4 gross (42.1 net) acres of public parks, including an approximately 26.8-gross-acre (21.7-net-acre) Community Park; an approximately 20.9-gross-acre (17.5-net-acre) Bluff Park; approximately 3.7 gross (2.9 net) acres of Interpretive Parks; and bicycle, multi-use, and pedestrian trails (refer to PDFs 4.8-1, 4.8-2, and 4.8-3). The proposed parks are depicted on Exhibit 4.8-2, Parklands, and are identified on Table 4.8-3.'

Based on what is presented above, the Applicant is only obligated to include approximately 15 acres of public parks on NBR but will meet its parkland obligation through provisioning approximately 51.4 acres.

Why can't the Central and North Community Parks that border Newport Crest be designated passive open space nature preserves? This is approximately 10 acres less than 51.4 being offered by the Applicant so the Applicant would still be within Park Dedication Ordinance Requirements?

26. Section 4.8, Recreation

At least three sources for 'park requirements' are referenced in the NBR DEIR and which are used to baseline the Applicant/developer's 'obligation' to provide park space on the project. The three sources referenced are:

- Park Dedication Ordinance Requirements;
- Quimby parkland requirements;
- City of Newport Beach General Park Requirement.

It is unclear as to what the developer/Applicant is truly 'obligated' to provide in terms of park acreage requirements on the proposed NBR project.

In easy to read and understandable terms, please explain the scope and definition of each of these 'requirements' sources above.

Please also clarify the baseline/'must-have' park acreage requirement that the developers are obligated to supply for the proposed NBR project.

There is no mention of 'passive' vs. 'active' park requirements in the NBR DEIR. 'Passive' and 'Active' are terms that are open interpretation. Please define each term to better understand the make-up of park space on the proposed NBR project.

Are the requirements for 'passive' vs. 'active' park space delineated in the three sources mentioned above? If not delineated in the three sources above, what are the criteria used for including 'active' vs. 'passive' parks in the proposed NBR project.

What is the obligation of the developer/Applicant to develop 'passive' and 'active' parks on the proposed NBR project, or is it at the discretion of the developer/Applicant?

27. Section 4.8, Recreation, page 4.18-15, top of page reads:

'As depicted on Exhibit 4.8-18, Pedestrian and Bicycle Bridge, the bridge is proposed as a steel truss structure without supports or piers in West Coast Highway. The bridge span is approximately 260 feet long with a minimum vertical clearance over West Coast Highway of approximately 20 feet. The northern (inland) landing structure of the bridge would be in South Bluff Park and would connect (by a ramp) directly to the multi-use trail within South Bluff Park.

The southern landing structure for the pedestrian and bicycle bridge would be within a structural pier located within the existing boundaries of the City's 4.6-acre West Newport Park. This landing would have a public elevator; walkways would be constructed to connect the landing to Seashore Drive to the south allowing pedestrians and bicyclists to continue on existing public roadways to access the beach.'

Additionally, Section 4.8, Recreation, page 4.18-15, paragraph 3 reads:

'The proposed Project would exceed its Quimby parkland requirement of 15.06 acres with the provision of the 26.8-gross-acre (21.7-net-acre) Community Park. In total, the Project would include approximately 51.4 gross (42.1 net) acres of parkland that would be available for public use. The permanent is placement of 1,050 square feet (sf) of parkland at West Newport Park associated with the bicycle and pedestrian bridge would be mitigated by the Project's exceedance of mandated park requirements.' (Underlined for emphasis)

There is not any analysis or supporting data that justifies the construction of this bridge and landing structure with an elevator. What about the 3 signals (2 existing and one proposed as part of the NBR project) along West Coast Highway, including Superior, the proposed Bluff Road, and Prospect Avenue for pedestrian and bicycle use? Please provide analysis and supporting data that justifies the need for a pedestrian bridge to include parameters such as current and projected foot and bicycle traffic to substantiate the analysis.

The Applicant 'concludes' that the construction of a pedestrian bridge and landing structure and displacement of 1,050 square feet of existing West Newport Park is reconciled by the Project's exceedance of mandated park requirements. Again, what is analysis and data that supports this conclusion?

Additionally, there is no mention of the impacts that the construction of this bridge and landing structure will have on surrounding adjacent communities, residents and businesses other than inability to use West Newport Park tennis courts during construction. Please provide an impact study that takes into consideration noise, air quality, traffic, lighting, etc. during construction and after completion of the pedestrian bridge and landing structure.

What are the aesthetic impacts that will result during construction of this bridge and landing structure, and for how long? Where will construction vehicles and equipment be located?

28. Section 4.8, Recreation, page 4.17, Sub-Section 'Beaches' at top of page reads:

'Because public access to the coastline is limited, the Project would increase usage of the local beaches by providing direct access to the beach from the Project site and points north of the Project and introducing more people into the region'. (Underlined for emphasis)

What analysis and supporting data substantiates this statement that: 1) ..public access to the coastline is limited; 2) the (NBR) Project would increase usage of the local beaches by providing direct access to the beach from the Project site?

Also, does the Applicant believe that introducing more people into the region is a benefit to Newport Beach? Why?

29. Section 4.8, Recreation, page 4.8-19, Table 4.8-4, 'City of Newport Beach General Plan Consistency Analysis'.

Under column heading 'City of Newport Beach General Plan Relevant Goals, Policies, and Programs', LU Policy 6.2.5 Neighborhood Supporting Uses Reads: 'A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, (underlined for emphasis) sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life'.

Then under column heading 'Consistency Analysis' for LU 6.2.5 reads:

'The Project is consistent with this policy. As depicted on Exhibit 3.3 in Section 3.0, and Exhibit 4.8-2, the proposed public parks are near proposed residential areas and existing off-site residential areas, including but not limited to the Newport Crest Condominiums and Newport Knolls Condominiums. The proposed off-street multi-use trails, on-street bike trails, and pedestrian paths would provide a means to travel through the Project site and to off-site locations without the use of a vehicle. Please also refer to Section 4.1, Land Use and Related Planning Programs.'

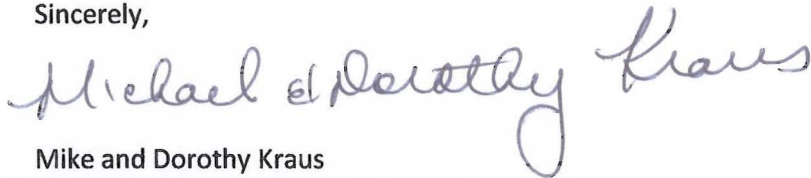
We object that the proposed NBR project is consistent with LU Policy 6.2.5 because it does not enhance the Newport Crest condominium neighborhood given the significant unavoidable impact that the Community Park will have on the residents of Newport Crest in the form of noise and lights sited in the NBR DEIR. Please explain why the Applicant and the City believe that this project is consistent with LU Policy 6.2.5 given the impacts.

In closing, we wish to express our disappointment and consternation that the City of Newport Beach has so blatantly dismissed the negative impacts that the proposed NBR project will have on adjacent communities such as Newport Crest. Throughout the NBR DEIR, the Applicant chooses to 'explain away' the serious health and safety impacts that will result from this project, and other impacts such as traffic, noise, and lights that will do nothing to enhance the quality of life or appeal of this wonderful and unique coastal city.

Therefore, we respectfully request of the City of Newport Beach that the NBR DEIR be re-written to reflect additional alternatives that will lessen or eliminate these impacts, and that another 60 day review period is granted for public review and comments.

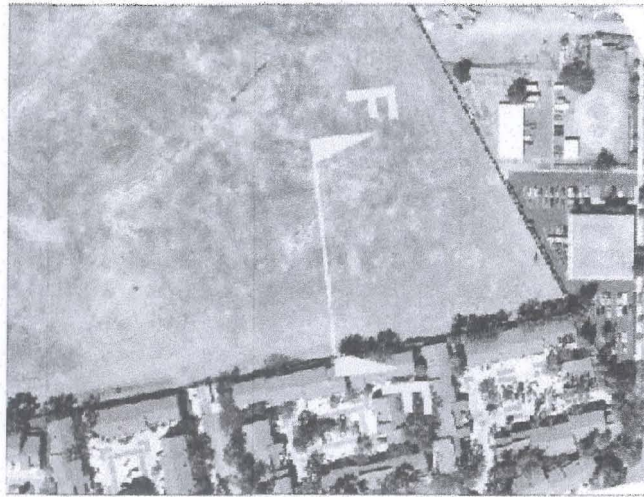
Thank you very much.

Sincerely,

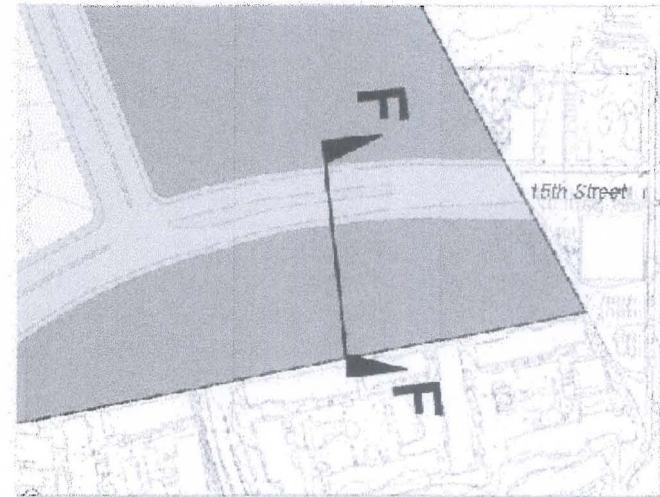
A handwritten signature in blue ink that reads "Michael & Dorothy Kraus". The signature is written in a cursive style with a large, looped "y" at the end of "Dorothy".

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

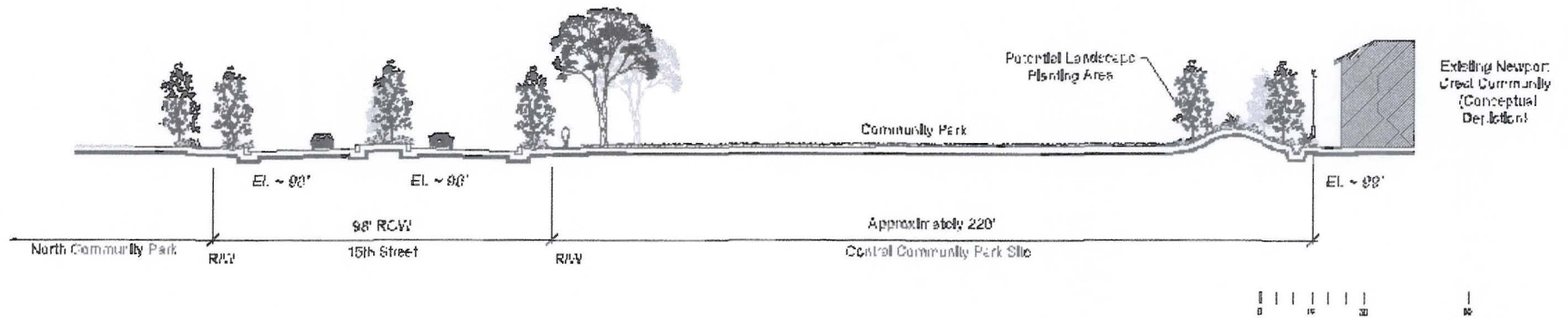
Enclosures



Aerial Photograph of Existing Conditions



Master Development Plan of Proposed Project



Source: FORMA 2011

Northerly Interface with Newport Crest Condominiums

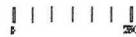
Exhibit 4.1-2f

Newport Banning Ranch EIR

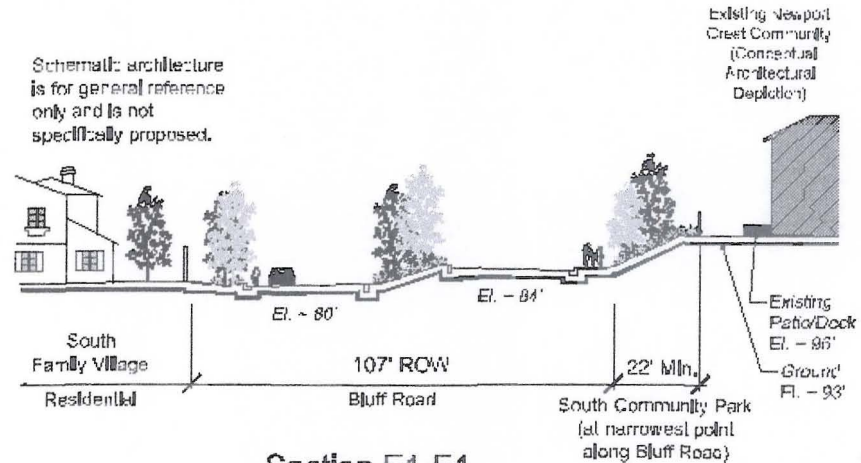
Borterra
CONSULTING



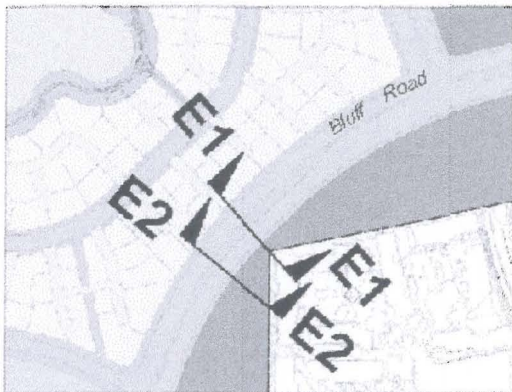
Aerial Photograph of Existing Conditions



Schematic architecture is for general reference only and is not specifically proposed.



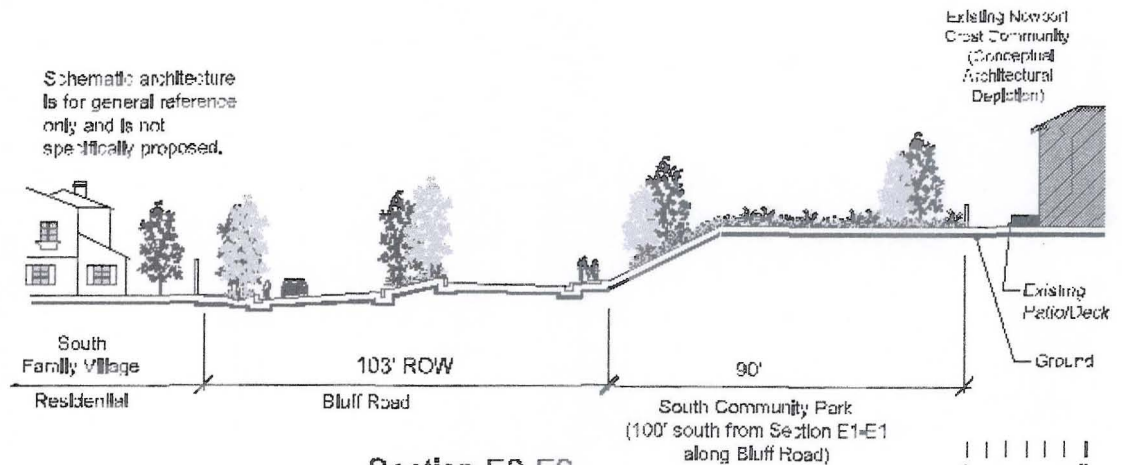
Section E1-E1



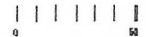
Master Development Plan of Proposed Project



Schematic architecture is for general reference only and is not specifically proposed.



Section E2-E2



Source: FORMA 2011

Central Community Park Interface with Newport Crest Condominiums

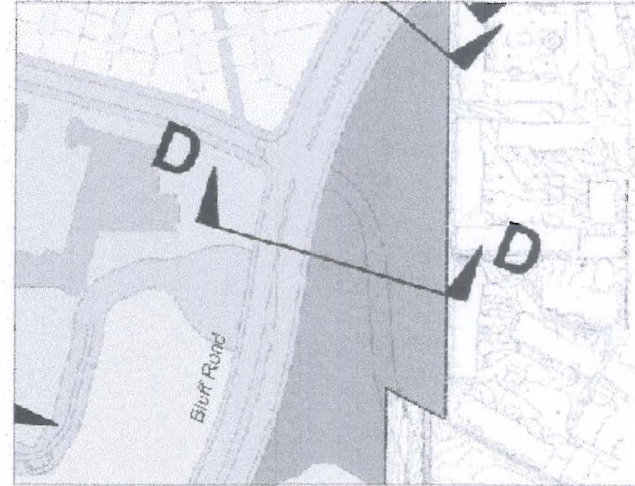
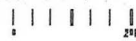
Exhibit 4.1-2g

Newport Banning Ranch BR

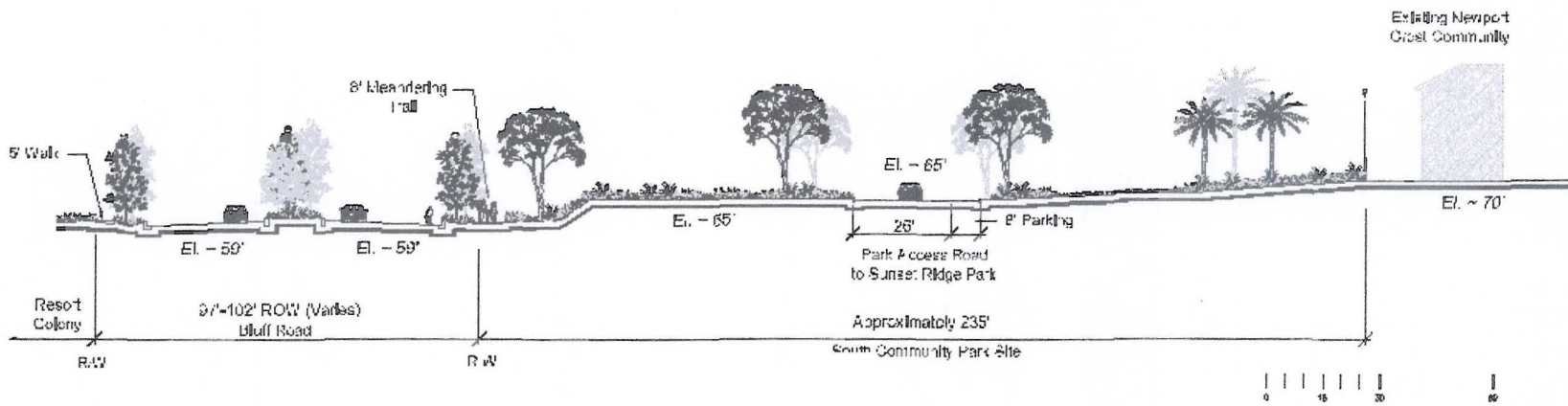
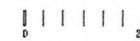




Aerial Photograph of Existing Conditions



Master Development Plan of Proposed Project



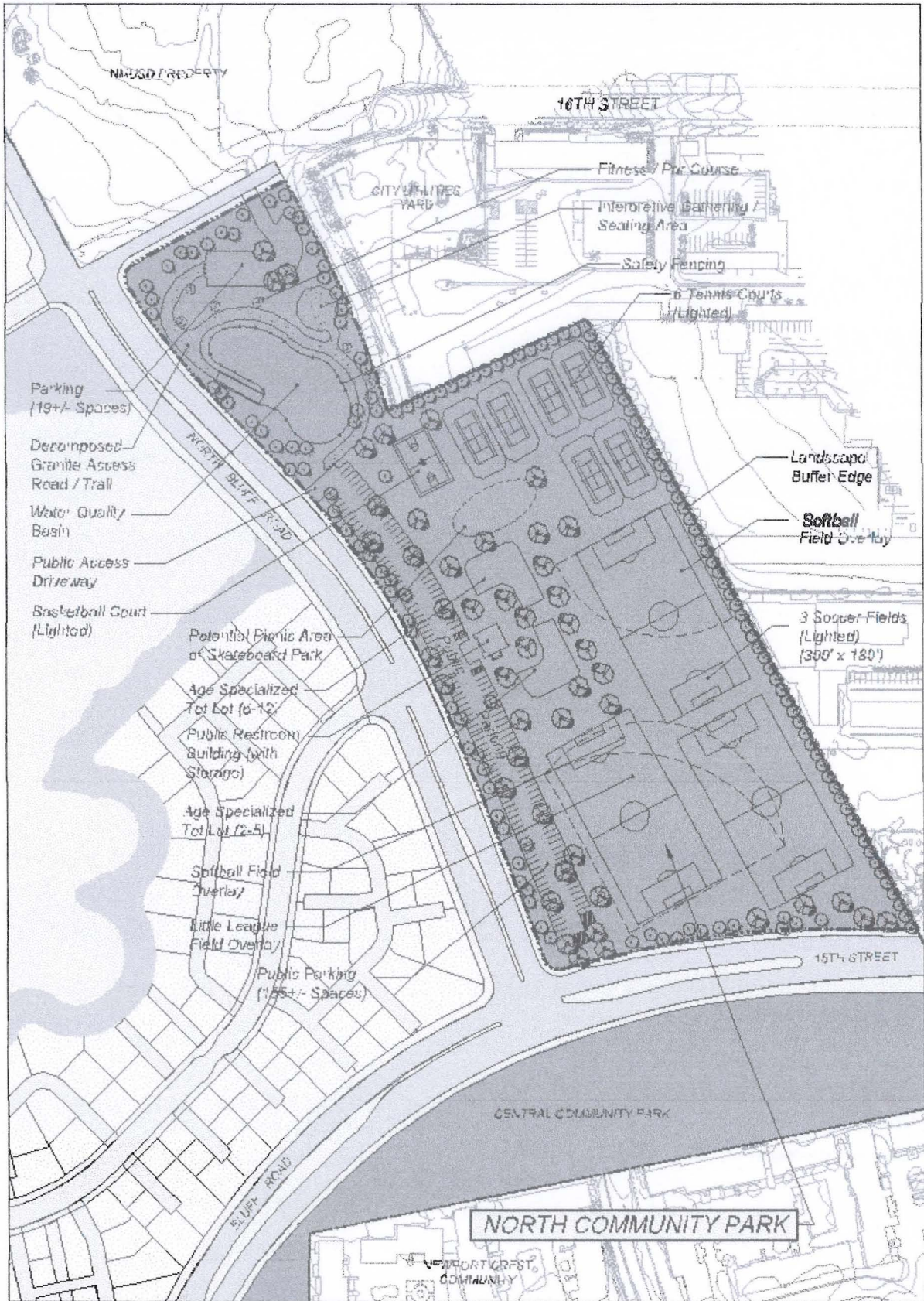
Source: FORMA 2011

Southern Community Park Interface with Newport Crest Condominiums

Exhibit 4.1-2h

Newport Banning Ranch EIR





Source: FORMA 2011

North Community Park Development Plan

Exhibit 4.8-3

Newport Banning Ranch EIR



Bonterra
CONSULTING