



RESPONSES TO COMMENTS SUNSET RIDGE PARK PROJECT

SCH. NO. 2009051036
VOLUME III



Prepared for | City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92663

Prepared by | BonTerra Consulting
151 Kalmus Drive, Suite E-200
Costa Mesa, California 92626

March 2010

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SECTION 1.0 INTRODUCTION

The purpose of this document is to present public comments and responses to comments received on Draft Environmental Impact Report (EIR) (State Clearinghouse Number 2009051036) for the Sunset Ridge Park Project located in the City of Newport Beach, California. The Draft EIR was released for public review and comment by the City of Newport Beach on October 27, 2009. The public review period ended on December 11, 2009. The Draft EIR public review period was subsequently extended from January 8, 2010 to February 23, 2010. No changes were made to the Draft EIR associated with this additional review period timeframe.

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Newport Beach, as the lead agency, has evaluated all substantive comments received on the Sunset Ridge Park Draft EIR, and has prepared written responses to these comments. This document has been prepared in accordance with CEQA and represents the independent judgment of the lead agency.

The Final EIR for the Project consists of the Draft EIR and its technical appendices; the Responses to Comments included herein; other written documentation prepared during the EIR process; and those documents which may be modified by the City Council at the time of certification. The City Council will also consider adoption of a Mitigation Monitoring and Reporting Program (MMRP), a Statement of Findings of Fact, and a Statement of Overriding Considerations as part of the approval process for the proposed Project.

This Response to Comments document is organized as follows:

Section 1 provides a brief introduction to this document.

Section 2 identifies the Draft EIR commenters.

Section 3 provides responses to substantive comments received on the Draft EIR. Responses are provided in the form of individual responses to comment letters received. Comment letters are followed immediately by the responses to each letter.

Section 4 presents clarifications to the Draft EIR, identifying revisions to the text of the document.

SECTION 2.0 LIST OF RESPONDENTS

In accordance with CEQA Guidelines Section 15132, the following is a list of persons, organizations, and public agencies that submitted comments on the Draft EIR received as of close of the public review period on December 11, 2009 and subsequent review period on February 23, 2010. Comments have been numbered and responses have been developed with corresponding numbers.

2.1 COMMENTS RECEIVED ASSOCIATED WITH THE DRAFT EIR REVIEW PERIOD ENDING DECEMBER 11, 2009

Letter No.	Respondent	Date of Correspondence	Follows Page No.
State Agencies			
S1	California Department of Transportation, District 12	December 9, 2009	3-7
S2	State of California Governor's Office of Planning and Research	December 14, 2009	3-9
S3	State of California Governor's Office of Planning and Research	December 15, 2009	3-10
Regional Agencies/Special Districts			
R1	South Coast Air Quality Management District	December 17, 2009	3-12
R2	Orange County Transportation Authority (OCTA)	December 2, 2009	3-13
R3	Regional Water Quality Control Board	December 29, 2009	3-14
Local Agencies and Committees			
L1	City of Newport Beach Environmental Quality Affairs Citizens' Advisory Committee (EQAC)	November 17, 2009	3-17
L2	City of Costa Mesa	December 10, 2009	3-41
Businesses			
B1	Southern California Gas Company	November 4, 2009	3-43
Organizations/Other			
O1	Gabrieleño Band of Mission Indians	November 12, 2009	3-45
O2	Lido Sands Community Association	December 2, 2009	3-46
O3	California Cultural Resources Preservation Alliance	December 7, 2009	3-47
O4	Newport Crest Homeowners Association	December 8, 2009	3-48
O5	Friends of Harbors, Beaches, and Parks	December 8, 2009	3-52
O6	SWAPE	December 10, 2009	3-54
Individuals			
P1	Bruce Bartram	November 9, 2009	3-57
P2	Bruce Bartram	November 16, 2009	3-58
P3	Bruce Bartram	November 17, 2009	3-59
P4	Bruce Bartram	November 23, 2009	3-60

Letter No.	Respondent	Date of Correspondence	Follows Page No.
P5	Bruce Bartram	December 2, 2009	3-61
P6	Bruce Bartram	December 4, 2009	3-62
P7	Bruce Bartram	December 11, 2009	3-63
P8	Gary Garber	November 5, 2009	3-64
P9	Gary Garber	November 12, 2009	3-67
P10	Gary Garber	November 15, 2009	3-68
P11	Gary Garber	November 28, 2009	3-69
P12	Gary Garber	November 29, 2009	3-71
P13	Gary Garber	November 29, 2009	3-73
P14	Gary Garber	December 1, 2009	3-75
P15	Gary Garber	December 6, 2009	3-76
P16	Gary Garber	December 11, 2009	3-78
P17	Lisa Lawrence	November 2, 2009	3-79
P18	Lisa Lawrence	November 13, 2009	3-80
P19	Lisa Lawrence	November 13, 2009	3-81
P20	Aline Monin-Doremus	November 9, 2009	3-82
P21	Ross Ribaud	November 9, 2009	3-84
P22	Frank Peters	November 9, 2009	3-86
P23	Sami Mankarious	November 16, 2009	3-87
P24	Piotr Pramowski	November 23, 2009	3-88
P25	Kondace M. Garber	November 28, 2009	3-89
P26	Ramzy and Sami Mankarious	December 5, 2009	3-93
P27	Christine Fisher	December 7, 2009	3-95
P28	Gerard Proccacino	December 8, 2009	3-97
P29	Matthew Lawrence	December 9, 2009	3-100
P30	Ginny Lombardi	December 9, 2009	3-101
P31	Deborah Lucas	December 9, 2009	3-103
P32	Christy Flesvig	December 9, 2009	3-104
P33	Kathy White	December 10, 2009	3-108
P34	Debby Koken	December 10, 2009	3-109
P35	Don Bruner	December 10, 2009	3-113
P36	Robert A. Hamilton	December 10, 2009	3-114
P37	Ted Barry	December 10, 2009	3-122
P38	Terry Welsh	December 10, 2009	3-123
P39	Paul Malkemus	December 11, 2009	3-127
P40	Sandra Genis	December 11, 2009	3-133
P41	Don Bruner	December 11, 2009	3-152
P42	Don Bruner	December 11, 2009	3-153
P43	Don Skrede	December 11, 2009	3-154
P44	Matthew Erwin	December 11, 2009	3-156
P44	Kathy White	December 11, 2009	3-157
P46	Linda Vas	December 11, 2009	3-158
P47	Waldemar R. Moosmann	December 11, 2009	3-161
P48	Sharon Ann Boles	December 11, 2009	3-165
P49	Dorothy Kraus	December 11, 2009	3-167
P50	Dorothy Kraus	December 11, 2009	3-168
P51	Debra Brinkman	December 11, 2009	3-169
P52	V. & B. Jones	December 11, 2009	3-170
P53	Chris Bunyan	December 11, 2009	3-171
P54	Kevin Nelson	December 11, 2009	3-173

Letter No.	Respondent	Date of Correspondence	Follows Page No.
P55	Chris Blasco	December 11, 2009	3-179
P56	Robert Orbe	December 11, 2009	3-181
P57	James T. Mansfield	December 11, 2009	3-182
P58	Terry Koken	December 11, 2009	3-185
P59	Kathy White	December 11, 2009	3-186

2.2 COMMENTS RECEIVED ASSOCIATED WITH THE DRAFT EIR REVIEW PERIOD ENDING FEBRUARY 23, 2010

Letter No.	Respondent	Date of Correspondence	Follows Page No.
A	Alex Kassouf	January 14, 2010	3-188
B	Cheryl Johnston	February 22, 2010.....	3-189
C	Chris Bunyan	February 21, 2010.....	3-190
D	Chris Sarris	January 12, 2010	3-192
E	Jeff Braun	January 12, 2010	3-193
F	Mark Bartholio	February 22, 2010.....	3-194
G	Mitch Faigen	January 12, 2010	3-195
H	Rudy Alvarez	February 19, 2010.....	3-196
I1	Dorothy Kraus	January 31, 2010	3-197
I2	Dorothy Kraus	February 21, 2010.....	3-200
I3	Dorothy Kraus	February 22, 2010.....	3-201
J1	Bruce Bartram	February 17, 2010.....	3-202
J2	Bruce Bartram	February 19, 2010.....	3-204
J3	Bruce Bartram	February 22, 2010.....	3-205
J4	Bruce Bartram	February 22, 2010.....	3-206
K	Debby Koken	February 22, 2010.....	3-207
L	Christopher McEvoy	February 22, 2010.....	3-208
M	Dave Sutherland	February 18, 2010.....	3-210
N	Kevin Nelson	February 22, 2010.....	3-214
O1	Patricia Barnes	February 22, 2010.....	3-221
O2	Patricia Barnes	February 22, 2010.....	3-222
P	Paul Malkemus	February 22, 2010.....	3-223
Q	Steve Ray	February 22, 2010.....	3-224
R	Ted Barry	January 12, 2010	3-226
S	Terry Welsh	February 21, 2010.....	3-227
T	Waldemar Moosmann	February 22, 2010.....	3-228
U	Susie and Doug Gastineau	January 19, 2010	3-229
V	Robin O'Connor and Patrick Copps	February 20, 2010.....	3-230
W	Carol Jean Gehlke	January 22, 2010	3-231
X	John Rapillo	January 19, 2010	3-232
Y	Brian Burnett	February 22, 2010.....	3-233

SECTION 3.0 RESPONSES TO ENVIRONMENTAL COMMENTS

This section includes responses to all substantive environmental issues raised in comments received on the Sunset Ridge Park Draft EIR (Draft EIR). Comments received during the public review period on the Draft EIR raised a wide array of issues. Many of the comments were on common issues or concerns. For this reason, topical responses have been prepared. This approach reduces redundancy throughout the responses to comments document and provides the reader with a comprehensive response to the broader issue. For these Topical Responses, subheadings have been provided to allow the reader to focus on a specific issue or read the broader response, which may go beyond the specific focus of his or her comment. No topical response was provided where no comments or only very minimal comments were provided on the Draft EIR. After the Topical Responses, responses are provided for each of the comments received. This section is formatted so that the respective comment letters are followed immediately by the corresponding responses.

TOPICAL RESPONSES

TOPICAL RESPONSE 1 PARK ACCESS ROAD LOCATION

The *City of Newport Beach General Plan's* Circulation Element and the Orange County Master Plan of Arterial Highways (MPAH) depict a north-south roadway through the Newport Banning Ranch property extending from West Coast Highway to 19th Street. The City's Circulation Element designates this roadway as a Primary Road¹. However, the Sunset Ridge Park Project would only construct a segment of this road and it would only be constructed as a two-lane (one lane in each direction). It would not be constructed as a Primary Road as a part of this proposed Project.

The location of the park access road from West Coast Highway through the Newport Banning Ranch property to serve the proposed Sunset Ridge Park site is in the general location shown on both the City's Circulation Element and the Orange County MPAH. Therefore, the proposed access for Sunset Ridge Park is proposed in this location because whether the Newport Banning Ranch property is developed in the future or whether it is acquired for open space, a Primary Road would be constructed through the Newport Banning Ranch property from West Coast Highway to 19th Street.

As a part of the proposed Sunset Ridge Park Project, a two-lane (one lane in each direction) park access road would be constructed from West Coast Highway through the Newport Banning Ranch property to the park. The access road would intersect West Coast Highway approximately 980 feet west of Superior Avenue. The north-south leg of the access road would be constructed as a part of the Sunset Ridge Park Project as a 28-foot-wide, undivided, two-lane roadway. The road would extend north from West Coast Highway for approximately 850 feet and then follow a northwest-to-southeast alignment for approximately 550 feet where it would terminate at the Project parking lot. This leg of the park access road would vary in width from 28 feet to 44 feet, with up to 22 parallel parking spaces along the southeasterly segment of the access road

At West Coast Highway, the access road right-of-way would be 83 feet: a 26-foot inbound width, a 31-foot center median, and a 26-foot outbound width. The inbound width would accommodate right-in turning movements from westbound West Coast Highway and left-in turning movements from the proposed signalized intersection. The outbound lane would accommodate a right-out turning movement onto westbound West Coast Highway and a left-out turning movement onto eastbound West Coast Highway.

The General Plan was adopted by the City Council on July 25, 2006, and approved by the voters on November 6, 2006. The General Plan designates the Newport Banning Ranch property as Open Space/Residential Village (OS/RV). The OS/RV land use designation provides land use regulations and development standards for both the Primary Use (Open Space) and an Alternative Use (Residential Village) 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.

¹ Primary Road—A primary road/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) (Newport Beach 2006).

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 could 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 Road extending from West Coast Highway to a connection with an east/west arterial roadway.

If, however, the Newport Banning Ranch 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 property 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 dwelling units (du), 75,000 square feet (sf) 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 Primary Road is assumed for both the Open Space and the Residential Village designations of the Newport Banning Ranch property.

Under either land use scenario for the Newport Banning Ranch property, a Primary Road is planned from West Coast Highway to 19th Street.

TOPICAL RESPONSE 2 PROPOSED NEWPORT BANNING RANCH PROJECT

Some commenters have suggested that the proposed Newport Banning Ranch Project is a part of the Sunset Ridge Project and therefore should be analyzed in one EIR and a single project. The City of Newport Beach respectfully disagrees. The Sunset Ridge Park project would not affect the City's future actions regarding the Newport Banning Ranch property.

As noted in Topical Response 1 with respect to the location of the park access road through the Newport Banning Ranch property, both the City of Newport Beach General Plan Circulation Element Master Plan of Streets and Highways and the Orange County Master Plan of Arterial Highways (MPAH) assume a Primary Road through the Newport Banning Ranch property from West Coast Highway to 19th Street regardless of whether the property is retained as Open Space or developed as a Residential Village. As such, a road is required to provide access to the proposed Sunset Ridge Park and the property owner of the Newport Banning Ranch property is willing to grant an access easement to the City for said use.

With respect to the proposed Newport Banning Ranch Project, the City prepared a Notice of Preparation (NOP) which was distributed to affected agencies and interested parties for a 30-day public review period from March 18, 2009 to April 17, 2009. The NOP describes the Newport Banning Ranch Project and identifies all potential environmental effects that are expected to be addressed in the Newport Banning Ranch EIR. An EIR for this development project is currently being drafted.

It is noted that both the proposed Sunset Ridge Park Project and the proposed Newport Banning Ranch Project assume the generally same roadway alignment from West Coast Highway. The Sunset Ridge Park EIR addresses all potential environmental impacts associated with implementation and operation of the proposed park Project, including but not limited to the park access road through the Newport Banning Ranch property. The City would be responsible for the mitigation of all significant impacts associated with the park Project including all impacts that would occur on the Newport Banning Ranch property associated with the Sunset Ridge Park Project.

The same approach is being taken by the City in its preparation of the EIR for the Newport Banning Ranch Project. The EIR will address all potential environmental impacts associated with implementation and operation of the proposed development Project, including but not limited to the access road through the Newport Banning Ranch property. The Newport Banning Ranch applicant would be responsible for the mitigation of all significant impacts associated with the proposed development Project. Neither the proposed Sunset Ridge Park Project nor the proposed Newport Banning Ranch Project must be approved or constructed in order for one or both of the proposed Projects to be implemented. Neither the Sunset Ridge Park Project EIR nor the Newport Banning Ranch Project EIR, the latter under preparation, assumes that any component of either Project has been implemented.

TOPICAL RESPONSE 3 PROPOSED SIGNALIZATION OF WEST COAST HIGHWAY AT THE PARK ACCESS ROAD

As addressed in the Draft EIR, the City is proposing a signal at the future West Coast Highway and park access road intersection. The access road would intersect West Coast Highway approximately 980 feet west of Superior Avenue. The park access road entrance is proposed to be constructed with a right-turn lane on westbound West Coast Highway, which would allow right-turning vehicles to turn into the park entrance road without impeding through vehicles on West Coast Highway. The striping for the bike lane would be modified adjacent to and across the entrance in accordance with Caltrans and County standards.

A signal warrant analysis was conducted for this proposed future intersection. The signal warrant methodology is addressed in Section 4.3, Transportation and Circulation, of the Draft EIR. The Draft EIR acknowledges that the proposed park alone would not generate enough traffic to warrant a signal. However, both the City's General Plan and the Orange County Master Plan of Arterial Highways (MPAH) assume that a road connection from West Coast Highway to 19th Street would ultimately be constructed regardless of the land use (Open Space or Residential Village) on the Newport Banning Ranch property. The traffic study indicates that, under future conditions, with the completion of a road in this location consistent with the City of Newport Beach General Plan (constructed to 19th Street with connections to local streets) and the Orange County MPAH, the intersection of the park access road with West Coast Highway would warrant a signal. The signal warrant analysis indicates that the intersection would satisfy both the Caltrans Warrant #1 (Minimum Vehicular Warrant) and Caltrans Warrant #2 (Interruption of Continuous Traffic Warrant) at General Plan buildout.

If the Sunset Ridge Park access road intersection with West Coast Highway is not signalized, full turning movements at the intersection would not be allowed. The Draft EIR traffic study provides an analysis of two unsignalized options; only one was recommended. The recommended unsignalized option Under Access Option 1 (right-in/right-out only movements allowed to and from the park access road), traffic approaching from the west on West Coast Highway would be required to pass the entrance, make a U-turn at Superior Avenue, and make a right turn onto the park access road. Traffic exiting the park access road and travelling east on West Coast Highway (toward Superior Avenue) would be required to turn right onto West Coast Highway and make a U-turn at Prospect Street.

As discussed on Page 4.5-17 of the Draft EIR, a traffic signal would affect a percentage of vehicles going through the intersection as vehicles would stop at the red signal phases. According to field observations, cars that exit an intersection accelerating subsequent to a red phase generate more noise than if they would be cruising at a constant speed. Field observations also show that an intersection has the overall effect of reducing the average traffic speed near the intersection, thus reducing the average traffic noise level. It is expected that the implementation of the proposed traffic signal may change the character of the traffic noise at nearby residences and would have an effect of lowering the average speed, therefore reducing the noise levels at residences in the vicinity of the intersection.

If a signal at the park entrance road is the option preferred by the City Council, Caltrans approval would be needed, the signal would be designed according to Caltrans standards, and the signal operation would be designed to be coordinated with adjacent signals upstream and downstream on West Coast Highway. The City would work with Caltrans to develop signal timing and coordination plans, in order to achieve coordinated signal operation on West Coast Highway.

STATE AGENCIES

Letter S1

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZBACHER, Governor

DEPARTMENT OF TRANSPORTATION

District 12
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8894
Tel: (949) 724-2267
Fax: (949) 724-2592



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Be energy efficient!*

Post-it® Fax Note	7671	Date	12-10-09	# of Pages	1
To	Janet Brown	From	D DAVIS		
Co./Dept.	PLANNING	Co.	CALTRANS		
Phone #	9) 644-3236	Phone #	9) 440-3487		
Fax #	9) 644-3229	Fax #	9) 724-2592		

December 9, 2009

Janet Johnson Brown
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92685-8915

File: IGR/CEQA
SCH#: 2009051036
Log #: 2285A
SR-1

Subject: Sunset Ridge Park

Dear Ms. Brown,

Thank you for the opportunity to review and comment on the **Draft Environmental Impact Report (DEIR) for the Sunset Ridge Park Project**. The project proposes construction of a City park with active and passive recreational uses and an access road to the park through the contiguous private property to the west (Newport Banning Ranch, SCH #2009031061). No nighttime lighting, other than for public safety, is proposed. No nighttime park uses are proposed. The project would include the following uses and facilities: 1 baseball field; 2 soccer fields; playground/picnic area; memorial garden; overlook area with shade structure; pedestrian pathways and bike rack; restroom facilities; up to 119 parking spaces. A signal is proposed on West Coast Highway at the park access road. The City also proposes to widen a portion of the northern side of West Coast Highway from Superior Avenue to a point west of the park access road. The nearest State route to the project site is SR-1.

The California Department of Transportation (Department), District 12 is a responsible agency on this project and has the following comment:

1. Table 1-1, Threshold 4.3-3 in the Level of Significance After Mitigation column should read, "Less than significant impact with mitigation incorporation". } S1-1
2. The proposed signalized intersection is not recommended based on the MUTCD, chapter 4, which reads, "a traffic control signal should not be installed if it shall seriously disrupt progressive traffic flow". } S1-2

Please continue to keep us informed of this project and any future developments, which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,

Maryam Molavi, Acting Branch Chief
Local Development/Intergovernmental Review

Letter S1 California Department of Transportation, District 12
Maryam Molavi, Acting Branch Chief
December 9, 2009

Response 1

Table 1-1, Summary of Significant Impacts and Mitigation Program, in the Draft EIR, provides a brief summary of the thresholds applied, potential significant environmental effects of the proposed Project, the Mitigation Program recommended to ensure that Project impacts are mitigated to the extent feasible, and the expected status of the potential environmental effects following implementation of the Mitigation Program. As identified in the heading for the last column, the information in this column provides the level of significance after mitigation. Therefore, no change is required.

Response 2

As addressed in the Draft EIR, the City is proposing a signal at the future West Coast Highway and park access road intersection. The access road would intersect West Coast Highway approximately 980 feet west of Superior Avenue. The park access road entrance is proposed to be constructed with a right-turn lane on westbound West Coast Highway, which would allow right-turning vehicles to turn into the park entrance road without impeding through vehicles on West Coast Highway. The striping for the bike lane would be modified adjacent to and across the entrance in accordance with Caltrans and County standards.

A signal warrant analysis was conducted for this proposed future intersection. The signal warrant methodology is addressed in Section 4.3, Transportation and Circulation, of the Draft EIR. The Draft EIR acknowledges that the proposed park alone would not generate enough traffic to warrant a signal. However, both the City's General Plan and the Orange County Master Plan of Arterial Highways (MPAH) assume that a road connection from West Coast Highway to 19th Street would ultimately be constructed regardless of the land use (Open Space or Residential Village) on the Newport Banning Ranch property. The traffic study indicates that, under future conditions, with the completion of a road in this location consistent with the City of Newport Beach General Plan (constructed to 19th Street with connections to local streets) and the Orange County MPAH, the intersection of the park access road with West Coast Highway would warrant a signal. The signal warrant analysis indicates that the intersection would satisfy both the Caltrans Warrant #1 (Minimum Vehicular Warrant) and Caltrans Warrant #2 (Interruption of Continuous Traffic Warrant) at General Plan buildout.

If the Sunset Ridge Park access road intersection with West Coast Highway is not signalized, full turning movements at the intersection would not be allowed. The Draft EIR traffic study provides an analysis of two unsignalized options; only one was recommended. The recommended unsignalized option Under Access Option 1 (right-in/right-out only movements allowed to and from the park access road), traffic approaching from the west on West Coast Highway would be required to pass the entrance, make a U-turn at Superior Avenue, and make a right turn onto the park access road. Traffic exiting the park access road and travelling east on West Coast Highway (toward Superior Avenue) would be required to turn right onto West Coast Highway and make a U-turn at Prospect Street.

As discussed on Page 4.5-17 of the Draft EIR, a traffic signal would affect a percentage of vehicles going through the intersection as vehicles would stop at the red signal phases. According to field observations, cars that exit an intersection accelerating subsequent to a red phase generate more noise than if they would be cruising at a constant speed. Field observations also show that an intersection has the overall effect of reducing the average traffic

speed near the intersection, thus reducing the average traffic noise level. It is expected that the implementation of the proposed traffic signal may change the character of the traffic noise at nearby residences and would have an effect of lowering the average speed, therefore reducing the noise levels at residences in the vicinity of the intersection.

If a signal at the park entrance road is the option preferred by the City Council, Caltrans approval would be needed, the signal would be designed according to Caltrans standards, and the signal operation would be designed to be coordinated with adjacent signals upstream and downstream on West Coast Highway. The City would work with Caltrans to develop signal timing and coordination plans, in order to achieve coordinated signal operation on West Coast Highway.



Letter S2



STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

December 14, 2009

RECEIVED BY
PLANNING DEPARTMENT

JAN 04 2010

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

CITY OF NEWPORT BEACH

Subject: Sunset Ridge Park
SCH#: 2009051036

Dear Janet Johnson Brown:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on December 10, 2009, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Acting Director, State Clearinghouse

S2-1

**Document Details Report
State Clearinghouse Data Base**

SCH# 2009051036
Project Title Sunset Ridge Park
Lead Agency Newport Beach, City of

Type EIR Draft EIR

Description The Project would allow for a public park with active and passive recreational uses. The park would include one baseball field and two youth soccer fields, a playground and picnic area, a memorial garden, an overlook with seating and a shade structure, pedestrian paths, restroom facilities, and parking. The Project includes 97 parking spaces: 75 spaces in an on-site lot with a designated drop-off area and up to 22 parallel parking spaces along with the park access road near the parking lot. The park would include pedestrian access via two entries from the sidewalk along Superior Boulevard and one entry from the sidewalk along West Coast Highway. Vehicle Ingress and egress would be provided via an access road to the park extending from West Coast Highway through the Newport Banning Ranch property. No nighttime lighting other than for public safety would be provided.

Grading would result in excess cut material to be exported from the City. The City proposes that all of the exported soil would go to identified locations on the adjacent Newport Banning Ranch property. Existing oil field roads on the Newport Banning Ranch. The City proposes to widen a portion of the northern side of West Coast Highway from Superior Avenue to a point west of the park access road. A signal is proposed on West Coast highway at the park access road. Because West Coast Highway is a State Highway, Caltrans approvals would be required.

Lead Agency Contact

Name Janet Johnson Brown
Agency City of Newport Beach
Phone (949) 644-3236 **Fax**
email
Address 3300 Newport Boulevard
City Newport Beach **State** CA **Zip** 92685-8915

Project Location

County Orange
City Newport Beach
Region
Lat / Long 33° 37' 28" N / 117° 56' 18" W
Cross Streets northwest corner of West Coast Highway and Superior Avenue
Parcel No.
Township **Range** **Section** **Base**

Proximity to:

Highways Hwy 1
Airports
Railways
Waterways Pacific Ocean; Santa Ana River
Schools ~10 (public & private)
Land Use Vacant

Z: Newport Beach: Open Space Active (OS-A) (13.7 acres); Orange County: Z: Local Business with an Oil Production Overlay [C1 (O)] (5.2 acres)
GPD: Newport Beach: Parks and Recreation (PR) (13.7 acres); Open Space/Residential Village (OS/RV) (5.2 acres)

**RECEIVED BY
PLANNING DEPARTMENT**

JAN 04 2010

CITY OF NEWPORT BEACH

Letter S2 **State of California Governor's Office of Planning and Research**
Scott Morgan, Acting Director
December 14, 2009

Response 1

This comment letter acknowledges that the City of Newport Beach has complied with the State Clearinghouse review requirements pursuant to CEQA. The comment letter identifies that the Draft EIR was received by the State Clearinghouse for a 45-day public review period. The State Clearinghouse submitted the Draft EIR to selected state agencies for review and no comments were received by the State Clearinghouse by the close of the initial public review period ending on December 11, 2009. No additional comment letters were transmitted to the City from the State Clearinghouse.



Letter S3



STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

December 15, 2009

RECEIVED BY
PLANNING DEPARTMENT

JAN 04 2010

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

CITY OF NEWPORT BEACH

Subject: Sunset Ridge Park
SCH#: 2009051036

Dear Janet Johnson Brown:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on December 10, 2009. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2009051036) when contacting this office.

S3-1

Sincerely,

Scott Morgan
Acting Director, State Clearinghouse

Enclosures
cc: Resources Agency

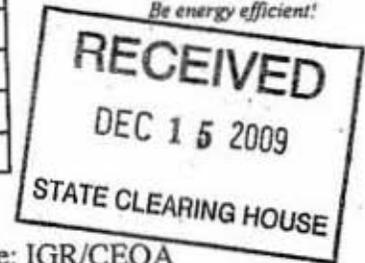
DEPARTMENT OF TRANSPORTATION

District 12
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8894
Tel: (949) 724-2267
Fax: (949) 724-2592



Post-it® Fax Note	7671	Date	6-8	# of pages	1
To	PATRICK ALFORD	From	D. DAVIS		
Co./Dept.	PLANNING	Co.	CALTRANS		
Phone #	9) 644-3235	Phone #	9) 440-3487		
Fax #	9) 644-3229	Fax #			

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June 8, 2009

Patrick Alford
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92685-8915

File: IGR/CEQA
SCH#: 2009051036
Log #: 2285
SR-1

clear
12-10-09
late
e

Subject: Sunset Ridge Park

Dear Mr. Alford,

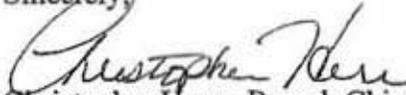
Thank you for the opportunity to review and comment on the **Notice of Preparation for the Sunset Ridge Park Project**. The project proposes construction of a City park with active and passive recreational uses and an access road to the park through the contiguous private property to the west (Newport Banning Ranch, SCH #2009031061). No nighttime lighting, other than for public safety, is proposed. No nighttime park uses are proposed. The project would include the following uses and facilities: 1 baseball field; 2 soccer fields; playground/picnic area; memorial garden; overlook area with shade structure; pedestrian pathways and bike rack; restroom facilities; up to 119 parking spaces. Off-site widening of and signalization on West Coast Highway. The nearest State route to the project site is SR-1.

The California Department of Transportation (Department), District 12 is a responsible agency on this project and has the following comment:

1. The proposed signal on West Coast Highway will have potentially significant impacts to the Department's right-of-way; therefore, special attention shall be given to the traffic analysis section in the DEIR.

Please continue to keep us informed of this project and any future developments, which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,


Christopher Herre, Branch Chief
Local Development/Intergovernmental Review

RECEIVED BY
PLANNING DEPARTMENT

JAN 04 2010

C: Terry Roberts, Office of Planning and Research

CITY OF NEWPORT BEACH

June 8, 2009

Patrick Alford
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92685-8915

File: IGR/CEQA
SCH#: 2009051036
Log #: 2285
SR-1

Subject: Sunset Ridge Park

BC: Ryan Chamberlain, Deputy District Director

TRANSMISSION VERIFICATION REPORT

TIME : 06/08/2009 10:05
 NAME :
 FAX :
 TEL :
 SER.# : BROE2J341404

DATE, TIME : 06/08 10:05
 FAX NO./NAME : 96443229
 DURATION : 00:00:23
 PAGE(S) : 01
 RESULT : OK
 MODE : STANDARD
 ECM

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION

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Post-It® Fax Note	7671	Date	6-8	# of pages	1
To	PATRICK ALFORD	From	D. DAVIS		
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Phone #	91644-3235	Phone #	91440-3487		
Fax #	91644-3229	Fax #			

June 8, 2009

Patrick Alford
 City of Newport Beach
 3300 Newport Blvd.
 Newport Beach, CA 92685-8915

File: IGR/CEQA
 SCH#: 2009051036
 Log #: 2285
 SR-1

Subject: Sunset Ridge Park

Dear Mr. Alford,

Thank you for the opportunity to review and comment on the **Notice of Preparation for the Sunset Ridge Park Project**. The project proposes construction of a City park with active and passive recreational uses and an access road to the park through the contiguous private property to the west (Newport Banning Ranch, SCH #2009031061). No nighttime lighting, other than for public safety, is proposed. No nighttime park uses are proposed. The project would include the following uses and facilities: 1 baseball field; 2 soccer fields; playground/picnic area; memorial garden; overlook area with shade structure; pedestrian pathways and bike rack; restroom facilities; up to 119 parking spaces. Off-site widening of and signalization on West Coast Highway. The nearest State route to the project site is SR-1.

The California Department of Transportation (Department), District 12 is a responsible agency on this project and has the following comment:

1. The proposed signal on West Coast Highway will have potentially significant impacts to the

Letter S3 **State of California Governor's Office of Planning and Research**
Scott Morgan, Acting Director
December 15, 2009

Response 1

The City of Newport Beach received two letters from the State Clearinghouse. This second letter states that they received a comment letter after the close of the review period and encourages the incorporation into the Draft EIR. The letter that the State Clearinghouse forwarded to the City is from the Department of Transportation (Caltrans), District 12. However, this letter is dated June 8, 2009 and is commenting on the Notice of Preparation (NOP) for the Sunset Ridge Park Project. NOP comments provided by Caltrans were addressed as a part of the preparation of the Draft EIR. It should be noted that the City received a comment letter from Caltrans dated December 9, 2009 via fax; this letter is commenting on the Draft EIR for the Sunset Ridge Park Project. The responses to the Department of Transportation's comments are addressed in the responses to Letter S1.

REGIONAL AGENCIES



South Coast
Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov

FAXED: December 17, 2009

December 17, 2009

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

**Review of the Draft Environmental Impact Report (Draft EIR) for the
Proposed Sunset Ridge Park Project**

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the lead agency and should be incorporated into either a Revised Draft or Final Environmental Impact Report (Final EIR) as appropriate.

The SCAQMD staff appreciates the fact that the lead agency allowed additional time in which to submit comments. Pursuant to Public Resources Code Section 21092.5, please provide the SCAQMD staff with written responses to all comments contained herein prior to the adoption of the Final EIR. The SCAQMD staff has provided detailed comments in the following attachment and is available to work with the Lead Agency to address these issues and any other questions that may arise. Please contact Dan Garcia, Air Quality Specialist CEQA Section, at (909) 396-3304, if you have any questions regarding the enclosed comments.

Sincerely,

A handwritten signature in black ink that reads "Susan Nakamura". The signature is fluid and cursive.

Susan Nakamura
Planning and Rules Manager
Planning, Rule Development & Area Sources

Attachment

EE: DG

ORC091029-01
Control Number

Air Quality Analysis and Mitigation Measures:

1. In Section 4.4-7 (Environmental Impacts) on page 4.4-31 of the Draft EIR the lead agency justifies its analysis of only five acres of disturbance to evaluate localized air quality impacts during the construction phase of the project; however, the lead agency does not include any provisions or requirements to limit the project's construction activity to only five acres per day. Therefore, SCAQMD staff requests that the lead agency require a mitigation measure that limits the project's construction activity to five acres or less per day.
2. Given that the lead agency's regional construction air quality analysis demonstrates that the criteria pollutant emissions exceed the SCAQMD's daily significance thresholds for NOX, the SCAQMD recommends that the lead agency consider adding the following mitigation measures to further reduce air quality impacts from the construction phase of the project, if feasible:

NOx

- Prohibit all diesel trucks from idling in excess of five minutes, both on-site and off-site,
- Use alternative fueled off-road equipment,
- Ensure that all streets are swept at least once a day using SCAQMD Rule 1186 certified street sweepers or roadway washing trucks if visible soil materials are carried to adjacent streets (recommend water sweepers with reclaimed water),
- Require construction equipment that meet or exceed Tier 3 standards and equip construction equipment with oxidation catalysts, particulate traps and demonstrate that these verified/certified technologies are available,
- Use electricity from power poles rather than temporary diesel or gasoline power generators,
- Configure construction parking to minimize traffic interference,
- Provide temporary traffic controls such as a flag person, during all phases of construction to maintain smooth traffic flow,
- Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site,
- Schedule construction activities that affect traffic flow on the arterial system to off-peak hour to the extent practicable,
- Reroute construction trucks away from congested streets or sensitive receptor areas,
- Improve traffic flow by signal synchronization, and
- Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications.

R1-1

R1-2

Letter R1 **South Coast Air Quality Management District**
Susan Nakamura, Planning and Rules Manager
December 17, 2009

Response 1

The SCAQMD LST lookup table methodology is limited to a maximum site size of five acres; the Project site is greater than five acres. The SCAQMD suggests that dispersion modeling be conducted for sites larger than five acres; however the topography and grading plan for the park site is too complex for dispersion modeling to yield meaningful results. In the LST methodology, the emissions thresholds increase with an increase in site size. Therefore, if the SCAQMD methodology was extended to the Project area that is to be graded, on the order of 15 acres, then the Project emissions would exceed the threshold by a smaller amount, or might not exceed the thresholds at all. Therefore, limiting the Project grading to five acres or less may not limit the PM emissions. However, a mitigation measure has been added that would limit the daily emissions of PM10 to 40 pounds. The measure is hereby incorporated into the Final EIR as follows:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.

Response 2

The projected NOx emissions exceed the thresholds only in the case where soil export hauling would exceed approximately 540 vehicle miles traveled (VMT) per day. The following mitigation measure will be incorporated into the Final EIR as follows:

MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;
- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;
- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.



Letter R2

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CITY OF NEWPORT BEACH

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Chief Executive Officer

December 2, 2009

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

Subject: Sunset Ridge Park Project Draft Environmental Impact Report

Dear Ms. Brown:

The Orange County Transportation Authority (OCTA) has reviewed the above referenced document. The following comment is provided for your consideration:

- The proposed signal at the project access road and West Coast Highway should be coordinated with the existing signals at the Superior/West coast Highway and Prospect Street/West Coast Highway intersections.

} R2-1

If you have any questions or comments, please contact Hal McCutchan by phone at (714) 560-5759 or by email at hmccutchan@octa.net.

Sincerely,

Charles Larwood
Manager, Transportation Planning

c: Glen Campbell, OCTA

Letter R2 **Orange County Transportation Authority**
Charles Larwood, Manager, Transportation Planning
December 2, 2009

Response 1

The comment is noted.



California Regional Water Quality Control Board Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

Letter R3

December 29, 2009

Janet Johnson Brown, Associate Planner
City of Newport Beach Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658-8915

DRAFT ENVIRONMENTAL IMPACT REPORT, SUNSET RIDGE PARK, CITY OF NEWPORT BEACH, SCH# 2009051036

Dear Ms. Brown:

Staff of the Regional Water Quality Control Board, Santa Ana Region (Regional Board) have reviewed the Draft Environmental Impact Report (DEIR) for the proposed Sunset Ridge Park (Project). This public park, including two soccer fields and a baseball diamond, would be constructed among coastal terraces northwest of the corner of Pacific Coast Highway (West Coast Highway) and Superior Avenue in the southwestern portion of the City of Newport Beach (City). Although the comment period has ended for the Project, Regional Board staff wish to convey the following permitting considerations for the final EIR, in order for the Project to best protect water quality standards (water quality objectives and beneficial uses) contained in the Water Quality Control Plan for the Santa Ana River Basin (Region 8 Basin Plan, 1995, as amended):

Stockpiles and Stormwater Runoff Best Management Practices

1. Grading will occur on much of the 18.9-acre Project area, of which the eastern 13.7 acres are in the City. The remainder is in unincorporated Orange County contiguous to the northwest, on the Newport Banning Ranch (Ranch), an operating oil field. We understand that graded soil will be exported from City property by truck, along existing oil field roads leading north of the site to at least three stockpile locations on the Ranch (Executive Summary Exhibit 2; Biological Resources Exhibit 4.6-3). The stockpile sites are located immediately adjacent to, or partially within, swales that are tributary to a riparian remnant. This riparian remnant appears to drain southwesterly across the Ranch to a slough that defines the Ranch's western boundary. Stormwater runoff from the stockpiles could carry sediment and other contaminants into these drainages. Therefore, the EIR should state why these stockpile locations were chosen and could not be moved to other available locations away from the drainages.
2. We note the intent general discussion of Best Management Practices (BMPs) and compliance with the State Water Resources Control Board and Regional Board

R3-1

R3-2

stormwater¹ permits on Table 1-1, Summary of Significant Impacts and Mitigation Program, including all mitigation measures of Table 1-1, Section 4.10 (Hydrology), and Mitigation Measure (MM) 4.9-2 for Section 4.9 (Hazardous Materials). However, the EIR should specifically identify BMPs to be implemented around these stockpiles to prevent this soil, as well as any earthen material disturbed within the Ranch that contains oilfield-related contaminants, from being carried into the riparian segment and slough by stormwater runoff or dry-weather flows. The potential of such impacts on the water quality standards of all receiving waters should be examined in the EIR.

R3-2
cont.

3. The finished park may be a source of sediment, nitrates, and organochlorine pesticides, and BMPs would be necessary to intercept and treat pollutants that may likely be transported to storm drains². The EIR must establish whether the flood control channel currently crossing the City park site terminates in Lower Newport Bay, and if so, the Project must meet the Total Maximum Daily Loads (TMDL) for Lower Newport Bay listed on our website at:

R3-3

http://www.waterboards.ca.gov/santaana/water_issues/programs/tmdl

4. As a follow-up to MM 4.9-2, the oversight of "contaminated soil mitigation efforts" (p.1-28), Regional Board staff welcome the opportunity to work with the City and the Orange County Health Care Agency. Table 1-1 refers to the potential need for dewatering according to the Regional Board's *deminimus*³ permit, which has been recently revised and appears applicable to any such planned discharges from the Project.

R3-4

Probable Clean Water Act Section 401 Water Quality Standards Certification

5. Table 1-1, MM 4.6-5 indicates that the Project would result in the loss of 0.06 acre of riparian habitat, which would be mitigated at a minimum 1:1 ratio to ensure no net loss. The DEIR does not specify whether this mitigation will occur onsite or in a suitable off-site location. Further, Table 1-1, Threshold 4.6-3 indicates that "a total of 0.44 acre of streambed" would be impacted by the Project and under the jurisdiction of the California Department of Fish and Game (CDFG), but this entire acreage (0.50 acre?) is difficult to correlate with Exhibit 4.6-3 (CDFG Jurisdictional Resources).

R3-5

¹ The "NPDES MS4 Permit" referred to in Table 1-1 for Orange County (also known as "Orange County MS4 Permit") was revised and adopted by the Regional Board on May 22, 2009. For reference, the Regional Board website now provides Order No. R8-2009-0030, NPDES No. CAS618030, "Waste Discharge Requirements for the County of Orange, Orange County Flood Control District, and the Incorporated Cities of Orange County within the Santa Ana Region, Areawide Urban Storm Water Runoff."

² In conformance with 1) the Orange County Drainage Area Management Plan (DAMP) and Water Quality Management Plan (WQMP) required by the Regional Board's Orange County MS4 Permit (Footnote 1), and 2) the State Water Resources Control Board's Water Quality Order No. 99-08-DWQ, "General Permit for Storm Water Discharges Associated with Construction Activity."

³ If dewatering activities and some extent of groundwater cleanup (any seep cleanup, development water, etc.) is anticipated for the Project, or will be proactively incorporated within Project activities, then the EIR should reflect the need for Project coverage under Order No. RB8-2009-0045, adopted by the Regional Board on July 20, 2009. Order No. RB8-2009-0045 amends previous permits as "General Waste Discharge Requirements for Groundwater Discharges to Surface Waters, San Diego Creek/Newport Bay Watershed."

Exhibit 4.6-3 shows the riparian remnant mentioned in 1., above, to be outside of the Project and does not appear to recognize potential impacts to this drainage and its water quality standards. The jurisdictional delineation and riparian restoration plan is not part of this DEIR but will be submitted later, and they should clarify these points in the EIR.

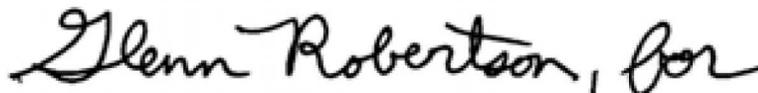
R3-5
cont.

- 6. Pg. 4.6-21 contains the inaccurate statement that "no resources under the jurisdiction of the RWQCB occur on the Project site." The Regional Board may write waste discharge requirements on isolated wetland or riparian segments, such as those mentioned above, that do not fall under the jurisdiction of the U.S. Army Corps of Engineers (USACOE). Table 4.6-1 refers to 0.49 acre of vegetation in the "Flood Control Channel" for the channel discussed in 2., above; impacts to this channel may require a Clean Water Act Section 404 permit from USACOE and a prerequisite Section 401 Water Quality Standards Certification from the Regional Board. We look forward to the "Pre-Application Field Meeting" proposed in MM 4.6-6 for the CDFG, USACOE and Regional Board staff.

R3-6

If you have any questions, please contact Glenn Robertson at (951) 782-3259, grobertson@waterboards.ca.gov, or me at (951) 782-3234, or madelson@waterboards.ca.gov

Sincerely,



Mark G. Adelson, Chief
Regional Planning Programs Section

- cc: State Clearinghouse
- U.S. Army Corps of Engineers, Los Angeles -Stephanie Hall
- California Department of Fish and Game, Los Alamitos – Erinn Wilson
- U.S. Fish and Wildlife Service, Carlsbad – Jonathan Snyder
- Orange County RDMD, Flood Control, Santa Ana - Andy Ngo

X:Groberts on Magnolia/Data/CEQA/CEQA Responses/ DEIR-City of Newport Beach-Sunset Ridge Park.doc

Letter R3 Regional Water Quality Control Board
Mark G. Adelson, Chief
December 29, 2009

Response 1

There are two proposed stockpile sites whose locations were selected because it is believed that the hydrologic conditions would not change by the placement of the fill. The Best Management Practices (BMPs) presented in the Draft EIR would be adequate to address any potential erosion during the revegetation of the stockpile areas. Further, the area by the City Utilities Yard (Stockpile No. 1) was selected since it was previously used a construction staging area for another City project in the mid-1990s. At that time, a storm drain system was added in the area of Stockpile No. 1, which can be modified to address BMP issues.

Response 2

No mobilization of in situ sediments would be developed with the use of the stockpiles. In addition, no visible contaminated soil has been identified on the stockpile sites. Should contaminants be found during construction, they would be appropriately disposed of pursuant to all applicable regulations.

Response 3

All runoff from the Project site currently flows into an 8-foot by 5-foot concrete box culvert maintained by Caltrans (please refer to Exhibit 4.10-4 in the Draft EIR). This box culvert eventually transitions into a larger cross-section downstream and daylight into the Semeniuk Slough west of the Project site. Flows passing through the Semeniuk Slough generally pond in that area and mix with tidal waters entering the Slough through tide gates that connect the channel with the Santa Ana River. There is no surface drainage connection to Lower Newport Bay or San Diego Creek.

Response 4

The Project is located within the Talbert Watershed, and runoff from the Project site drains into the Santa Ana River via the Semeniuk Slough. Therefore, permit requirements for projects within the San Diego Creek/Newport Bay Watershed would not apply to the Sunset Ridge Park Project.

Response 5

Pursuant to consultation with all appropriate regulatory agencies, the final design of the landscaping for the non-active portions of the park would accommodate as much on-site mitigation as possible while still maintaining the intended design for an active public park.

Response 6

As noted in the jurisdictional delineation report contained in Appendix E of the EIR, the U.S. Army Corps of Engineers (USACE) and the U.S. Environmental Protection Agency (USEPA) generally do not assert jurisdiction over the following features: (1) swales or erosional features (e.g., gullies, small washes characterized by low volume, infrequent, or short duration flow) and (2) ditches (including roadside ditches) excavated wholly within and draining only uplands and that do not carry a relatively permanent flow of water. The area containing a concrete trapezoidal flood control channel was created solely to drain an upland area, and is therefore

not jurisdictional. In addition, no resources that would be considered jurisdictional occur within the limits of Project disturbance. Also, there are no isolated "Waters of the U.S." or "Wetlands" that occur within the limits of Project disturbance.

On March 2, 2010, Jae Chung of the USACE performed a site review to verify the findings contained in the jurisdictional delineation report. Dr. Chung concluded that no "wetlands" or "Waters of the U.S." occur within the limits of Project disturbance.

LOCAL AGENCIES/COMMITTEES

Letter L1

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.

} L1-1

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."

} L1-2

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.

} L1-3

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

} L1-4

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.

L1-4
cont.

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.

L1-5

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.

L1-6

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.

L1-7

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).

L1-8

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.

L1-9

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

L1-10

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.”

L1-11

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.

L1-12

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.

L1-13

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.

L1-14

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.

L1-15

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.”

L1-16

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.

L1-17

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.

L1-18

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.

L1-19

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.

L1-20

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.

L1-21

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

L1-21
cont.

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.

L1-21
cont.

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.

L1-22

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.

L1-23

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?

L1-23
cont.

L1-24

L1-25

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?

L1-26

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?

L1-27

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.

L1-28

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.

L1-29

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?

L1-30

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

L1-31

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.

L1-31
cont.

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.

L1-32

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.

L1-33

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.

L1-34

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.

L1-35

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

L1-36

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.

L1-36
cont.

L1-37

L1-38

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

L1-38
cont.

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.

L1-39

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.

L1-40

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.

L1-41

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

L1-42

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.”

L1-42
cont.

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?

L1-43

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.

L1-44

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.

L1-45

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.

L1-45
cont.

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

L1-46

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?

L1-47

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?

L1-47
cont.

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?

L1-48

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?

L1-49

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.

L1-50

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.

L1-51

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?

L1-52

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?

} L1-53

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.

} L1-54

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.

Letter L1 City of Newport Beach Environmental Quality Affairs Committee (EQAC)
November 17, 2009

Response 1

As stated on page 4.3-16, Transportation and Circulation, of the Draft EIR, "The City's Zoning Code (Chapter 20.66.030 Off-Street Parking and Loading Spaces Required) does not specify a parking rate for city parks, but rather indicates that the parking requirement for Park and Recreation Facilities would be "As specified by Use Permit". The ITE's *Parking Generation* document contains parking information for a City Park (Land Use Category 411). If the peak parking rate reported in the ITE Parking Generation document is applied to the Sunset Ridge Park Project (5 parking spaces per acre), the parking requirement would be 96 spaces."

As stated in the Draft EIR (page 4.3-16), all parking for the park would be provided on site. The parking lot would provide for 75 parking spaces and additional 22 parallel parking spaces would be provided along the park access road for a total of 97 parking spaces. Therefore, the proposed Project would provide adequate parking.

Section 1.3, Project Summary (page 1-2) of the Draft EIR states the following:

The parking lot would provide 75 parking spaces and include a designated drop-off area. In addition, up to 22 parallel parking spaces may be provided along the park access road near the parking lot.

Section 1.3, Project Summary (page 1-2) is hereby clarified and incorporated into the Final EIR as follows:

The parking lot would provide 75 parking spaces and include a designated drop-off area. In addition, up to 22 parallel parking spaces along the park access road near the parking lot (for a total of 97 parking spaces) would be provided. ~~may be provided along the park access road near the parking lot.~~

Response 2

The Arts and Cultural Element of the General Plan identifies the following goals and policies:

Goal CA 1: Active and vital arts, cultural, and literary activities and programs that enrich the community.

Policy CA 1.1: Public Projects: Encourage the incorporation of public art into major public projects that enhance the City's community character as well as its built environment, through public art donations, and working with local artists, students, and community groups to create public art projects. (*Imp, 23.3, 29.2*)

Policy CA 1.2: Private Projects: Encourage the incorporation of public art into larger commercial projects that enhance the City's community character as well as its built environment. (*Imp 2.1*)

Policy CA 1.3: Promotion of Cultural Arts: Build public awareness and encourage participation in the City's arts, cultural, and literary activities. (*Imp 29.1*)

Policy CA 1.4: Events and Programs: Encourage the continuation and expansion of cultural arts events and programs such as those at the Orange County Museum of Art, Newport

Theatre Arts Center and Balboa Theater, as well as festivals, seminars, workshops, concerts in the parks, and community cultural festivals. *(Imp 29.1)*

Policy CA 1.5: Arts Education: Partner with the community to encourage and strengthen arts education for children, youth, adults and seniors in the City. *(Imp 29.1)*

Goal CA 2: Adequate physical facilities and venues that support cultural art and literary programs.

Policy CA 2.1: Shared Venues: Explore opportunities to accommodate current or emerging cultural arts programs within existing and new facilities by working with community groups for sharing of performance and exhibit space and considering the potential for new facilities. *(Imp 9.1, 29.1, 29.2)*

Policy CA 2.2: Theaters: Maintain the Newport Theatre Arts Center and encourage rebuilding of the Balboa Theater. *(Imp 9.1, 29.1, 29.2)*

Policy CA 2.3: Library Facilities: Improve and enhance existing library facilities, collections, and computer facilities. *(Imp 23.2)*

Goal CA 3: Establish a broad range of public and private funding sources to support cultural arts goals and activities.

Policy CA 3.1: Public and Private Sources: Support the efforts of non-profit, private and community organizations to apply for public and private grants and promote donations to support art, cultural, and literary activities. *(Imp 29.1, 29.2)*

Policy CA 3.2: Volunteer Opportunities: Promote and support volunteer opportunities for public involvement in arts, cultural, and literary programs and events. *(Imp 29.1, 29.2)*

Policy CA 3.3: Additional Resources: Utilize cultural resources outside of Newport Beach. Continue to promote the Newport Beach Sister City Association and other cultural exchange programs. *(Imp 29.1, 29.2)*

Policy CA 3.4: Cultural Tourism: Promote cultural tourism in Newport Beach to attract visitors and tourists interested in cultural events. *(Imp 29.1, 29.1)*

Policy CA 3.5: Funding: Provide funding for the arts in Newport Beach. *(Imp 29.2)*

The proposed Sunset Ridge Park would provide for needed active and passive park uses in West Newport. Proposed uses include soccer and baseball fields, restroom facilities, passive park areas with a memorial garden and overlook area at the City-designated Public View Point, and pedestrian paths. No museum, theater, library, or art facilities are proposed as a part of the public park Project. The park could accommodate art, such as sculptures, within the park. While the intent of this park is not to provide “arts and cultural facilities and programs to the community” it would not preclude the City from pursuing these goals elsewhere in the City.

Response 3

Because the City does not have a certified Implementing Actions Program as part of its Local Coastal Program, it does not have the authority to issue Coastal Development Permits (CDPs). Should the City approve the Project and associated discretionary and ministerial approvals, the

City would request approval of a corresponding CDP from the California Coastal Commission for the Project.

The City will request one CDP from the California Coastal Commission for the entire Project site. As stated in Section 3.0, Project Description of the Draft EIR:

The entire Project site is within the boundary of the coastal zone as established by the California Coastal Act, and is therefore under the land use planning and regulatory jurisdiction not only of local government agencies but also the California Coastal Commission. Site development must be consistent with the requirements of the Coastal Act.

As shown on Exhibit 3-8, Coastal Land Use Plan, that portion of the Project site located within the City's incorporated boundaries has a Coastal Land Use Plan designation of Parks and Recreation (PR). The PR category applies to land used or proposed for active public or private recreational use. Permitted uses include parks (both active and passive), golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private recreation, and similar facilities.

The portion of the Project site (Newport Banning Ranch property) where the access road, haul road, and export soils sites are proposed is a Deferred Certification Area (DCA). This area is not included in the City's Coastal Land Use Plan.

As stated in the City's Coastal Land Use Plan, "Deferred Certification Area (DCA) refers to an area which has not been officially segmented for purposes of LCP preparation and where both the land use plan and implementation plan have been deferred to some future date in order to avoid delay in certifying the balance of the LCP. The Coastal Commission retains permit jurisdiction in all deferred certification areas." As such, the California Coastal Commission would issue the CDP for the entire Project.

Response 4

The City is not proposing to annex any portion of the Newport Banning Ranch property located within the City's Sphere of Influence as part of the proposed Sunset Ridge Park Project. The City is the lead agency for properties within its jurisdictional boundaries as well as properties within its Sphere of Influence.

Use of the adjacent Newport Banning Ranch property for the park access road would require an access easement from the Newport Banning Ranch property owner. The City is currently negotiating an access agreement with the Newport Banning Ranch property owner. The City Council will consider approving this agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines. The County of Orange would be required to approve the alignment of the access road.

Response 5

The existing zoning designation for the portion of the Project site in the City of Newport Beach (13.7 acres) is Open Space Active (OS-A); there is not a City zoning designation for the unincorporated portion of the Project site. 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)]. The Orange County Zoning Code states that "The C1 District is established to provide for the development and maintenance of medium intensity commercial uses serving the needs of both the surrounding neighborhood and the local community". In any

district where the district symbol is followed by the letter “O”, thus (O), oil drilling and production of oil, gas, and other hydrocarbon substances is permitted. Therefore, the proposed development of the Project site as an active park is consistent with the City’s zoning designations for that portion of the site in the City. The proposed use of the Newport Banning Ranch property for the access road, temporary haul road and export soils sites are allowed uses under the County’s zoning designations; a zone change would be required. The proposed park access road is shown on the City’s General Plan Circulation Element Master Plan of Streets and Highways and the Orange County Master Plan of Arterial Highways (MPAH).

Response 6

Section 4.1.6 of the Draft EIR identifies the threshold of significance addressed in Section 4.1, Land Use and Related Planning Programs. Threshold 4.1.1 states:

Would the project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?”

Section 4.1.6 goes on to note that one of the three land use thresholds of significance in the City’s Initial Study is not applicable to the proposed Project and therefore is not assessed in the EIR. This threshold states:

“Would the project physically divide an established community?”

As previously discussed in Section 2.3.3, Effects Found Not to be Significant, through the preparation of the Initial Study, the City determined that the proposed Project would not physically divide an established community because “The Project site is an undeveloped vacant parcel. Residential uses are located directly to the north of the site. Development of the site as a park would not physically divide an established community, but would allow for the implementation of a public park.”

Section 4.1.6 lastly identifies that the assessment of Project compatibility with an applicable habitat conservation plan or natural community conservation plan is addressed in Section 4.6, Biological Resources, of the EIR. The policy analysis in Section 4.1, Land Use and Related Planning Program, also addresses this topic. Page 4.1-14 has been clarified and incorporated into the Final EIR as follows:

The following threshold is addressed as a part of the assessment of biological resources in Section 4.6, Biological Resources, of this EIR: Tables 4.1-2, 4.1-3, 4.1-4, also address the Project’s consistency with the Natural Communities Conservation Plan.

- Conflict with any applicable habitat conservation plan or natural community conservation plan.

Response 7

As stated in Section 3.0, Project Description, page 3-10 of the EIR,

A retaining wall ranging in height from approximately four to ten feet would be constructed north of the active park uses and extend from approximately the parking lot in the west to the end of the soccer field (upper field) in the east. A landscaped

berm would also be constructed north of the retaining wall but in the same general location as the retaining wall, and would extend to the northern property line (to the condominium residences north of the park). An approximate six foot-high security fence would be located at the northern terminus of the landscape berm between the active park uses and the residential uses. Landscaping is proposed along the northern and southern side of the fence. No gated access from the existing residences into the park is proposed.

Section 4.1, Land Use, page 4.1-14, is hereby clarified and incorporated into the Final EIR as follows:

Currently, those residents with condominium units facing the Project site view an undeveloped property. With the implementation of the proposed Project, residents with existing views of the site would view park uses rather than an undeveloped parcel. While the proposed park would be contiguous to the existing residential development, a landscaped buffer would be provided on the park between the residences and the active park uses. The buffer would vary in height from approximately 10 feet to 18 feet above the active park area. The height of the landscaped buffer is planned to be 60 to 64 feet above mean sea level [msl] with an average height of 60 to 61 feet above msl and would vary in width from approximately 60 feet to 80 feet. All active park uses would be sited south of the buffer. Park uses would range in distance from approximately 105 feet (pedestrian walkway) to 133 feet (north soccer field) to 156 feet (baseball field) from the existing residences. At its closest point, the access road into the park would be approximately 82 feet from the nearest condominium unit; the parking lot would be approximately 134 feet from the nearest unit. No pedestrian access would be provided into or out of the park from the residential development.

Response 8

The proposed Project is consistent with the General Plan land use designation and zoning designation. The General Plan identifies the Sunset Ridge Park site in West Newport as an active park to include ball fields, picnic areas, a playground, parking, and restrooms. The Project would allow for the development of a public active and passive park that includes baseball and soccer fields, pedestrian paths, a garden area, playground and picnic area, parking, and restroom facilities. Therefore, the proposed Project would support the needs of Newport Beach's residents by developing an active and passive park at this site which is within and accessible to the West Newport area. The proposed Project would provide additional active and passive recreational park facilities in the City consistent with the General Plan land use designation for this site. The Project is included on and is consistent with the City's Capital Improvement Program. The Project is consistent with this policy (see Section 3.0, Project Description; Section 4.1, Land Use and Related Planning Programs).

Further, each topical section of the Draft EIR addresses in greater detail the effects of the proposed Project on adjacent land uses. The overall Mitigation Program set forth in the Draft EIR addresses all potential impacts associated with the Project. With the exception of short-term construction-related air quality and noise effects, all Project impacts can be mitigated to a level that is considered less than significant. Upon completion of construction, short-term air quality and noise impacts would cease. As such, the proposed Project is considered consistent with the intent of applicable planning programs and associated goals and policies. Therefore, the proposed Project is considered compatible with land uses adjacent to the site.

Response 9

The Draft EIR addresses the Project's compatibility with proposed development uses on the Newport Banning Ranch site on pages 4.1-15 and 4.1-16 of the Draft EIR. Based on the anticipated timing of the two proposed projects, the Sunset Ridge Park Project would be completed and operational prior to the initiation of construction-related activities associated with the proposed Newport Banning Ranch Project. No additional land use analysis is deemed necessary.

Response 10

The General Plan Land Use Element, Goal LU 2 states:

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, 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.

Each topical section of the EIR addresses in greater detail the effects of the proposed Project. The overall Mitigation Program set forth in the EIR addresses all potential impacts associated with the Project including consistency with the City's goals and policies. With the exception of short-term construction-related air quality and noise effects, all Project impacts can be mitigated to a level that is considered less than significant. Upon completion of construction, short-term air quality and noise impacts would cease. As such, the proposed Project is considered consistent with the intent of applicable planning programs and associated goals and policies. Therefore, the proposed Project is considered compatible with land uses to the north of the site.

Response 11

Section 3, Project Description, identifies the objectives of the Project set forth by the City of Newport Beach:

- "To implement the goals and policies of the *City of Newport Beach General Plan*, including developing Sunset Ridge Park with active and passive park uses;
- To develop a community park consistent with the City's General Plan standards, including facilities for picnicking, active sports, and other facilities that serve a larger population;
- To develop an active and passive park to serve the West Newport Beach community;
- To develop a community park that is easily accessible, via arterial roads, to the public and is centrally located in the West Newport Beach area;
- To provide additional parkland in the West Newport Beach area, which currently experiences a parkland deficit; and
- To develop the Project site in conformance with the Deed Restriction, which stipulates that the property purchased from Caltrans be used as a park."

The text identified by EQAC is cross-referenced to the Project Description and the overall Land Use and Related Planning Programs Section of the EIR which identifies but is not limited to specific objectives of the Project and security measures associated with the Project.

With respect to visitors, page 4.1-9 of the Draft EIR states, “Development of the Project site as a community park with active playfields is primarily intended for the use of residents in West Newport; however, it would also serve residents in the entire City and could serve visitors, particularly during sporting events where teams may come from a larger area.” As a community park (rather than a regional park), the primary purpose is to serve Newport Beach residents rather than visitors to the City. However, as a public park, Sunset Ridge Park would provide another amenity to visitors which may go to the park associated with youth sports events; to take advantage of park amenities including the tot lot, sitting areas, pedestrian trails, and views across the park site of the Pacific Ocean, etc.

With respect to protecting neighborhoods and residents, the City has designed the park, at the request of the adjacent Newport Crest Condominium development, to preclude direct access between the condominiums and the park. As identified on page 3-10 of the Draft EIR, “a retaining wall ranging in height from approximately four to ten feet would be constructed north of the active park uses and extend from approximately the parking lot in the west to the end of the soccer field (upper field) in the east. A landscaped berm would also be constructed north of the retaining wall but in the same general location as the retaining wall, and would extend to the northern property line (to the condominium residences north of the park). An approximate six-foot-high security fence would be located at the northern terminus of the landscape berm between the active park uses and the residential uses. Landscaping is proposed along the northern and southern side of the fence. No gated access from the existing residences into the park is proposed.”

Response 12

The purpose of the analysis in the table is not to provide a comprehensive assessment of, in this case land use compatibility, but rather to provide a summary and cross-reference the reader to where the applicable topic is addressed in greater detail.

As identified throughout the Draft EIR including Section 3, Project Description, and Section 4.1, Land Use and Related Planning Programs, the following land uses are adjacent to the Project site:

North: Newport Crest, a 3-story, 460-unit residential condominium development.

South: West Coast Highway, a State highway;

Lido Sands, a single-family residential community, located south of West Coast Highway;

Neighborhood retail on the southeastern corner of West Coast Highway and West Balboa Boulevard (Superior Avenue becomes West Balboa Boulevard south of West Coast Highway).

East: Superior Avenue;

Villa Balboa and The Versailles at the Bluff Condominium developments (673 total units) east of Superior Avenue;

Hoag Hospital campus east of Superior Avenue;

Sunset View Park, located between the Villa Balboa Condominiums and the Hoag Hospital campus, and perpendicular to Superior Avenue. Sunset View Park consists of a 0.28-acre consolidated park site and a 0.52-acre (20-foot-wide) linear park.

West and: The 401-acre Newport Banning Ranch property, a producing oil field since the *Northwest* early 1940s. The property contains over 470 producing/potentially producing and abandoned oil well sites and related oil facility infrastructure. The property owner has proposed to develop the 401-acre property with residential, resort, retail, recreational, and open space uses consistent with the City of Newport Beach General Plan Land Use designation of Residential Village (RV).

The compatibility of the Project with existing and potential future land uses to the north, south, east, and west are addressed on pages 4.1-14 through 4.1-16 of the Draft EIR. In summary, 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 are associated with the Project.

Response 13

Table 4.1-2 identifies all of the goals and policies of the General Plan that the City determined applicable to the proposed Project. General Plan Land Use Policy 6.2.5 states “Allow for the integration of uses within residential neighborhoods that support and are complementary to their primary function as a living environment such as schools, parks, community meeting facilities, religious facilities, and comparable uses. These uses shall be designed to ensure compatibility with adjoining residential (sic) addressing such issues as noise, lighting, and parking. (*Imp 2.1*)”

The purpose of the analysis in the table is not to provide a comprehensive assessment of, in this case land use compatibility, but rather to provide a summary and cross-reference the reader to a where the applicable topic is addressed in greater detail. With respect to the issues of noise, lighting, and parking, the commenter is directed to Sections 4.5, Noise, Section 4.2, Aesthetics, and Section 4.3, Transportation and Circulation, of the Draft EIR. The Draft EIR identifies significant unavoidable construction-related noise impacts which would cease upon completion of the park construction. No significant unavoidable aesthetic or traffic/parking impacts were identified.

With respect to noise, the Draft EIR acknowledges that there would be temporary short-term unavoidable noise impacts associated with construction activities that would cease when construction is completed. Active parks include play areas, sports fields, etc. where adults and children can watch and participate in organized sports activities, walk and bike ride, etc. Use of the site as an active park consistent with the City’s voter approved General Plan would result in an increase in noise levels over ambient conditions, but would not result in significant noise impacts. As proposed, with the exception of low-profile bollard lighting for security purposes, the park will not have night lighting, which will limit the use of the proposed active sports fields. Active sports fields and the proposed parking areas are not sited immediately contiguous to existing residences. Further, a 197,720-square-foot (sf) scenic easement on the site located generally along the property line adjacent to West Coast Highway restricts the placement of permanent structures and pavement in the scenic easement area. The parking area could not be located further south on the site as it would be in the scenic easement which would not be permitted under the terms of the easement imposed by Caltrans.

Response 14

Please refer to Topical Response 1.

Response 15

Section 4.6.9 Mitigation Program of the Draft EIR includes mitigation measures to reduce impacts to less than significant, refer to page 4.6-31. This section states:

MM 4.6-5 Implementation of the Project would result in the loss of 0.06 acre of riparian habitat. Prior to the final submittal of a permit application for a CDFG permit agreement, the City shall develop a riparian restoration and enhancement plan for the CDFG. The objective of the plan shall be to ensure no net loss of habitat values as a result of Project activities. This may include preservation, restoration, and enhancement within and off the Project site. The mitigation ratio shall be negotiated with the resource agencies, but shall be no less than 1:1 to ensure no net loss of habitat. The City shall implement the mitigation plan as approved by the resource agencies and according to guidelines and performance standards. Prior to implementation, a detailed riparian restoration and enhancement plan shall be developed and shall contain the following items:

1. **Responsibilities and qualifications of the personnel to implement and supervise the plan.** The responsibilities of the City, specialists, and maintenance personnel that will supervise and implement the plan shall be specified.
2. **Site selection.** Site selection for restoration and enhancement mitigation shall be determined in coordination with the City and resource agencies. The mitigation site(s) shall be located within the Project site in a dedicated open space area or on land that shall be dedicated and/or purchased off site.
3. **Site preparation and planting implementation.** The site preparation shall include protection of existing native species; trash and weed removal; native species salvage and reuse (i.e., duff); soil treatments (i.e., imprinting, decompacting); temporary irrigation installation; erosion control measures (i.e., rice or willow wattles); seed mix application; and container species.
4. **Schedule.** A schedule, which includes planting to occur in late fall and early winter (between October and January 30) shall be developed.
5. **Maintenance plan/guidelines.** The maintenance plan shall include weed control; herbivory control; trash removal; irrigation system maintenance; maintenance training; and replacement planting.
6. **Monitoring Plan.** The site shall be monitored and maintained for three years to ensure successful establishment of riparian habitat within the restored and created areas. The monitoring plan shall include qualitative monitoring (i.e., photographs and general observations); quantitative monitoring (i.e., randomly placed transects); performance criteria as

approved by the resource agencies; and monthly reports for the first year, bimonthly reports thereafter, and annual reports for all three years.

7. **Long-Term Preservation.** Long-term preservation of the site shall also be outlined in the restoration and enhancement plan to ensure the mitigation site is not impacted by future development.

Response 16

As stated in Section 4.4, Air Quality and Climate Change, of the Draft EIR, the proposed Project is a park with limited opportunities for GHG emission reductions, however, some of the Attorney General-recommended measures are applicable to the Project and are incorporated in the Draft EIR as the following project design features (PDFs):

- PDF 4.4-1** Water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls, shall be installed throughout the Project site.
- PDF 4.4-2** The Project shall be designed to be water-efficient. Water-efficient fixtures and appliances shall be installed in the restrooms.
- PDF 4.4-3** Watering methods shall be restricted (e.g., systems that apply water to non-vegetated surfaces shall be prohibited) and runoff shall be controlled in accordance with City of Newport Beach Best Management Practices.
- PDF 4.4-4** Low-impact development (LID) practices that maintain the existing hydrologic character of the site shall be implemented to manage storm water and to protect the environment. (Retaining storm water runoff on site can drastically reduce the need for energy-intensive imported water at the site.) Please refer to Section 4.10, Hydrology and Water Quality, of this EIR which addresses the Project features.
- PDF 4.4-5** The City of Newport Beach Water Conservation Ordinance, Section 14.16 of the Municipal Code shall be applicable to the Park. The ordinance includes but is not limited to the LID practices of PDF 4.4-5 and a requirement for an approved water use plan to be prepared and implemented.
- PDF 4.4-6** Approximately 130 to 140 trees shall be planted where there are now no existing trees, thus increasing GHG sequestration.

The following standard condition is applicable to the Project:

- SC 4.4-1** During construction of the proposed Project, the Project Manager shall be required to comply with SCAQMD Rules 402 and 403, which shall assist in reducing short-term air pollutant emissions. SCAQMD Rule 402 requires that air pollutant emissions not be a nuisance off site. SCAQMD Rule 403 requires that fugitive dust be controlled with the best available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. This requirement shall be included as notes on the Project Managers' specifications. Table 1 of Rule 403 prescribes the Best Available Control Measures that are applicable to all construction projects. The measures include, but are not limited to the following:

- Clearing and grubbing – Apply water in sufficient quantity to prevent generation of dust plumes.
- Cut and fill – Pre-water soils prior to cut and fill activities and stabilize soil during and after cut and fill activities.
- Earth-moving activities – Pre-apply water to depth of proposed cuts; re-apply water as necessary to maintain soils in a damp condition and to ensure that visible emissions do not exceed 100 feet in any direction; and stabilize soils once earth-moving activities are complete.
- Importing/exporting of bulk materials – Stabilize material while loading to reduce fugitive dust emissions; maintain at least six inches of freeboard on haul vehicles; and stabilize material while transporting to reduce fugitive dust emissions.
- Stockpiles/bulk material handling – Stabilize stockpiled materials; stockpiles within 100 yards of off-site occupied buildings must not be greater than eight feet in height; or must have a road bladed to the top to allow water truck access or must have an operational water irrigation system that is capable of complete stockpile coverage.
- Traffic areas for construction activities – Stabilize all off-road traffic and parking areas; stabilize all haul routes; and direct construction traffic over established haul routes.

As stated above in PDF 4.4-5, the City of Newport Beach Water Conservation Ordinance, Section 14.16 of the Municipal Code Ordinance includes but is not limited to the LID practices and a requirement for an approved water use plan to be prepared and implemented.

As stated in Section 4.11, Public Services and Utilities in the Draft EIR:

To further reduce water consumption at City sites and facilities, the City has a computerized central irrigation controller system. It is the City's objective to integrate all City sites and facilities, as feasible, into this system in the next five years. This system helps to reduce runoff and uses a "smart timer" control for irrigating the City's landscaped areas. The central irrigation control system includes the components listed below.

Weather Station

- Accurately measures, wind, rain, temperature, solar radiation, and relative humidity; then computes watering programs and communicates with the Central Computer.
- Prevents watering when it is raining or in high wind conditions.

Central Computer

- Adjusts irrigation schedules on field satellite controllers on a daily basis using information from the Weather Station.

- Receives alerts and alarms to help ensure that repairs are made in a timely manner.

Satellite Controller

- Communicates with Central Computer and sends a watering program to individual stations in the field.
- Processes alarms, which provide station and/or master valve shut down and program advance as required.

Flow Sensor

- Communicates with the Satellite Controller and monitors irrigation systems for the proper flow rate.
- Prevents property damage due to water main breaks.

Master Valve

- Opens at the start of the watering cycle and shuts down after the cycle is complete.
- Shuts down systems that are malfunctioning.

Section 4.11 provides the following Project Design Feature to ensure that the Project would be integrated in the City's computerized central irrigation controller system.

PDF 4.11-2 Sunset Ridge Park shall be integrated into the central irrigation controller system for purposes of water management and conservation.

Response 17

As a point of clarification, the Draft EIR states that "To the degree feasible, the Project would reduce mobile emissions during construction as well as mobile emission sources." As previously noted, the purpose of the analysis in the table is not to provide a comprehensive assessment of, in this case mobile emissions, but rather to provide a summary and cross-reference in the reader to where the applicable topic is addressed in greater detail in the EIR. The commenter is directed to Section 4.4, Air Quality and Climate Change. As is stated in the summary referenced to the commenter, the summary further identifies that "The Project site is generally bound to the north, south, and east by existing residences that are within walking distance of the proposed park; walking/bike trails through the Project site would link to sidewalks along Superior Avenue and West Coast Highway, thereby minimizing the need to use personal vehicles. Bike trails are located along Superior Avenue and West Coast Highway; bike racks would be provided on the Project site. Additionally, there is an OCTA bus stop at the intersection of Superior Avenue at West Coast Highway".

Response 18

As previously noted, the purpose of the analysis in the table is not to provide a comprehensive assessment of, in this case public view effects, but rather to provide a summary and cross-reference in the reader to a where the applicable topic is addressed in greater detail. The commenter is directed to Section 4.2, Aesthetics, which provides a detailed analysis of

aesthetics and visual resources as it is applicable to the proposed Project, as well as six visual simulations. The visual simulations show existing site conditions and the site with development of the park as proposed by the City. No public views would be significantly impacted by the Project.

While Natural Resources Element Goal NR 20 is the “Preservation of significant visual resources”, the policies of the Natural Resources Element are applicable to public views and public resources not private views or private resources. As identified in Table 4.1-2, the following General Plan policies address only the protection of public views.

NR Policy 20.1: Enhancement of Significant Resources: Protect and, where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and harbor from **public vantage points** (emphasis added), as shown in Figure NR3. (*Imp 2.1*)

NR Policy 20.3: Public Views: Protect and enhance **public view corridors** (emphasis added) from the following roadway segments (shown in Figure NR3), and other locations may be identified in the future: (Note: only geographical areas applicable to the Project are identified below.)

- Superior Avenue from Hospital Road to Coast Highway (*Imp 2.1, 20.3*)

NR Policy 20.4: Public View Corridor Landscaping: Design and site new development, including landscaping, on the edges of **public view corridors** (emphasis added), including those down public streets, to frame, accent, and minimize impacts to **public views** (emphasis added). (*Imp 2.1*)

NR Policy 20.5: Public View Corridor Amenities: Provide public trails, recreation areas, and viewing areas adjacent to **public view corridors** (emphasis added), where feasible. (*Imp 2.1, 16.11, 23.2*)

Cross sections are included in Section 4 of this Responses to Comments document.

Response 19

Coastal Land Use Plan Policy 2.1.9-1 states “Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations. Table 4.1-3, City of Newport Beach Local Coastal Program Consistency Analysis, provides an assessment of all applicable Coastal Land Use Plan policies. Table 4.1-5 assesses the Project’s compatibility with all applicable California Coastal Act policies. Both tables, as well as the General Plan consistency table, summarize and cross-reference in the reader to a where each applicable topic is addressed in greater detail in the Draft EIR.

Response 20

The policies of the California Coastal Act apply to the entirety of the Project site. Only that portion of the site within the jurisdictional boundaries of the City is addressed by the City’s Coastal Land Use Plan (CLUP). The California gnatcatcher (CAGN) locations are not in the City and therefore are not addressed in the CLUP policy analysis.

Response 21

Please refer to the response to Comment 18.

Response 22

Please refer to the response to Comment 18.

Response 23

As proposed, the park would not have night lighting. Lighting would consist of low-profile bollard security lighting of 50 watts or less that are approximately 36 inches in height along the pedestrian paths and at the perimeter paths for pedestrian safety. Low-profile security lighting fixtures would also be located around the perimeter of the restroom structure. All lighting fixtures would be appropriately shielded to minimize light and glare from spilling on adjacent properties. The lighting fixtures would be similar to lighting fixtures in other City parks such as Castaways Park, San Miguel, and Bonita Creek Sports Park, which have not caused an impact to the surrounding community.

Response 24

Please refer to the response to Comment 18.

Response 25

The proposed park facility would be subject to regular litter and trash collection consistent with park maintenance at other City parks in Newport Beach. The City does not provide hourly maintenance at its public parks and does not consider this necessary to provide for adequate maintenance at its facilities.

Response 26

The City is currently negotiating an access agreement with the Newport Banning Ranch property owner. The City Council will consider approving this agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines. No “obstacles” to approval of the access agreement are anticipated.

Response 27

The City is not aware of any “obstacles” from Caltrans or the California Coastal Commission with respect to the provision of a signal on West Coast Highway at the park access road. Please refer to Topical Response 3.

Response 28

Please refer to Topical Response 1.

As stated on page 3-7 in Section 3.6 in the Project Description for the Draft EIR:

The park would be open from 6:00 AM until 11:00 PM daily. The park gate would be open from 8:00 AM to dusk every day; no vehicles would be allowed entry into the park between 11:00 PM and 6:00 AM. The park access road would be gated near the entrance at West Coast Highway.

With respect to constructing the park access road diagonally from West Coast Highway to the parking area, this alternative would have greater biological impacts than the proposed Project (please refer to Exhibit 4.6-2 in the Draft EIR), and would require more grading because of

intervening topography thereby potentially increase construction-related air quality and noise impacts.

Response 29

As assumed in the Draft EIR analysis and noted by City recreation staff, only one of the sports fields will be scheduled for use at any one time. A parking supply of 97 spaces would be adequate to accommodate the parking needed for one active field and the remaining park uses.

Response 30

Section 4.4, Air Quality and Climate Change, identifies two options for the disposal of excess material from the Sunset Ridge Park site: the adjacent Newport Banning Ranch property or an alternative off-site location. Page 4.4-30 of the Draft EIR states:

The City proposes that the exported soil would be placed on the adjacent Newport Banning Ranch property, with a round trip haul distance of less than one mile. This air quality analysis also evaluates the scenario that some or all of the soil may be exported off site to a destination not determined at this time. For purposes of calculating maximum daily emissions, a reasonable worst-case haul distance of 40 miles per round trip was used, based on known available spoils sites (Scenario B).

The proposed locations on the Newport Banning Ranch site are depicted on Exhibit 3-12 in Section 3.0, Project Description. The City has proposed to export the soil to the Newport Banning Ranch site to minimize the vehicular travel distance associated with this construction activity and the Newport Banning Ranch property owner's willingness to accept the excess soil. No easement would be required; soil export to the Newport Banning Ranch site would be a component of the access agreement between the City and the property owner. The Sunset Ridge Park EIR addresses potential environmental effects associated with the transport to and the disposition of soil to the Newport Banning Ranch property. With respect to air quality, Section 4.4, Air Quality and Climate Change, identifies the Mitigation Program applicable to the Project including the proposed stockpile locations on the Newport Banning Ranch property. Because the proposed stockpile sites are a part of the proposed Project, the Mitigation Programs set forth in the Draft EIR in each topical section as well as discretionary actions identified in Section 3.0, Project Description, apply to all components of the Project, as applicable, including the stockpile sites.

Response 31

The comment expresses concern that short-term local pollutant concentrations of NO_x, PM₁₀, and PM_{2.5} that could be detrimental to the health of the commenter and other residents of the Newport Crest community. With respect to NO_x, please note that potential exceedance of SCAQMD NO_x emissions thresholds would only occur if extensive off-site haul of excavated soil is required. Local concentrations of NO_x at the Newport Crest condominiums would be affected only by on-site emissions, and the analysis on page 4.4-31 shows that the NO_x emissions would be less than 15 percent of the LST threshold.

With respect to the PM₁₀ and PM_{2.5} exceedances, the City notes the following:

- (1) The SCAQMD LST lookup table methodology is limited to a maximum site size of five acres; the project site is greater than five acres. The emissions thresholds increase with an increase in site size. Therefore, if the SCAQMD methodology was extended to the

project area that is to be graded, on the order of 15 acres, then the project emissions would exceed the threshold by a smaller amount, or might not exceed the thresholds. The SCAQMD suggests that dispersion modeling be conducted for sites larger than five acres; however the topography and grading plan for the park site is too complex for dispersion modeling to yield meaningful results.

- (2) A substantial amount of grading will occur at distances from the Newport Crest community where PM10 and PM2.5 effects to the residents would be minimal.
- (3) Compliance with SCAQMD Rule 403, Fugitive Dust, which is required by law and by the Project Standard Condition 4.4-1 is expected to provide greater emissions reductions than are calculated by the URBEMIS emissions model.

Notwithstanding the above factors, the City understands the concern of the EQAC and similar comments from other parties. In order to reduce the potential for elevated short-term PM10 and PM2.5 concentrations at the Newport Crest community, the City has added the following mitigation incorporated into the Final EIR as follows:

MM 4.4-3 The following actions shall be implemented as a part of the construction of the Sunset Ridge Park Project:

- a. Watering and visible dust control shall exceed the requirements of SCAQMD Rule 403 as follows: The Contractor shall suspend grading operations when wind gusts exceed 15 miles per hours.
- b. In windy conditions, the dust control measures of SCAQMD Rule 403, Table 2 (Large Operations) shall be applied.
- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.
- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

The EQAC suggests that the City consider the installation of air conditioning filtration systems or triple pane windows and sliding doors in residences. With the additional information provided above and the additional mitigation measures, the additional measures suggested would not be necessary nor would they necessarily be effective in further protection of residents.

The following mitigation measure has hereby been added to Section 4.4, Air Quality and Climate Change:

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the investigation. The City contact person shall maintain a log of all complaints and resolutions.

Response 32

Potential future development on the Newport Banning Ranch property would not cumulatively contribute to short-term construction air quality impacts associated with the Sunset Ridge Park Project because the park project is expected to be completed before construction of the Newport Banning Ranch project would commence, should that project be approved. However, to provide more information to the reader, page 4.4-27 has been revised and incorporated into the Final EIR as follow:

As described above, long-term emissions of nonattainment pollutants would be less than six percent of the SCAQMD thresholds. These quantities are not of a magnitude to be cumulatively considerable. Construction emissions of NOx could exceed the SCAQMD regional mass emissions threshold during the three-month mass grading period, which could make a considerable contribution to regional ozone concentrations. Therefore, the Project could have a significant and unavoidable short-term cumulative regional air quality impact. With respect to local impacts, cumulative construction particulate impacts are considered when projects may be within a few hundred yards of each other. There are no known projects within one-half mile of the Project site where major construction would occur concurrently with the proposed Project, including the proposed Newport Banning Ranch Project. The Sunset Ridge Park Project is proposed for construction in January 2011 through March 2012. Should the Newport Banning Ranch Project be approved, the applicant proposes to commence remediation activities in 2014. Therefore, cumulative local air quality impacts would be less than significant.

Response 33

Additional mitigation measures for construction emissions have been added to the Project. Please see the response to SCAQMD comment letter S1, response 2, which describes additional NOx emissions mitigation measures and the response to Comment 32 above.

Response 34

The issues identified by the California Department of Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR) are addressed in Section 4.9, Hazards and Hazardous Materials, of the Draft EIR. For example, page 4.9-3 states:

The proposed Sunset Ridge Park would be accessed via the Newport Banning Ranch property to the west. Within that portion of Newport Banning Ranch proposed for use as a part of the Project for the park access road, there are two abandoned oil well sites and oil field access roads that are located on the western portion of the Project site in the vicinity of the proposed access road. There are also two

abandoned oil well sites located within the area proposed for the haul road and export soil sites on the Newport Banning Ranch property. The oil wells have been abandoned as part of the abandonment and remediation program at Newport Banning Ranch known as the Environmental Restoration Plan (ERP), which began during the 1990s in order to abandon the least productive wells at that time. As part of this effort, the ERP was developed to cleanup soils associated with abandoned oil wells (Klancher, Aera Energy, 2009).

Page 4.9-7 of the Draft EIR states:

Within that portion of the Project site proposed for the access road, the two abandoned well sites are located in a portion of the park site not proposed for grading. One of the wells is near the access road's east-west leg into the park and is very near the grading limits. If modifications to the grading plan occur that could result in cuts greater than six feet, the casing pipe associated with the well abandonment would need to be lowered to remain below ground surface (bgs).

With respect to the other two well sites, one is located within the proposed haul road alignment, and one is within a location identified for soil export. The well casing tops for both of these wells are approximately eight feet bgs. Because no site disturbance to that depth is proposed as a part of the Project, no impacts would be anticipated. With respect to all of the abandoned well sites, any alterations would require approval from the regulatory agencies. Any changes to an abandoned well casing would also require repair, testing of the repairs, and re-approval from DOGGR.

The NOP letter from the Department of Conservation indicates that gas venting would be required if construction would occur over a well site. As addressed in the Draft EIR, the Project does not proposed to construct over the well sites.

Response 35

Through the City's past discussions with Caltrans, the City has found that the Project site has been extensively excavated and graded in the past while under Caltrans jurisdiction to provide soil for the construction of the I-405 freeway in the 1970s. There have been no indicators that suggest the likelihood of contamination of the soil by any of the licensed professionals who have surveyed the site. The City will closely monitor grading operations during construction, and in the event conditions change at this or any other location, the City would take appropriate action in accordance with DOGGR regulations and procedures.

Response 36

The future noise contours included in Figures N4 through Figure N6 the City's General Plan are presented for the 20-year time period ending in year 2025 based traffic conditions on complete buildout of the General Plan. These noise contours were prepared to assist in setting policies for establishing new land uses and appropriate mitigation for properties that are expected to continue to be exposed to higher noise levels. The exhibit shows that the active park areas will be located well outside the 65 dBA CNEL noise contour. The active park areas would be exposed to noise levels that are compatible with park uses.

The cumulative noise impacts that result from the combination of traffic noise and park activities to the noise-sensitive receptor locations at the northern edge of the park site are discussed in Page 4.5-17 of the Draft EIR. The greatest noise increase related to park activities would occur at Buildings C and D, nearest to the soccer and baseball fields. Table 4.5-11 shows that there

would be no increases in traffic noise at Buildings C and D. Traffic noise increases due to topography would occur at Buildings A and B, farthest from the proposed soccer and baseball fields. Due to distance and topography, noise impacts from park-related activities are expected to be negligible at Buildings A and B. Therefore, there would be negligible cumulative topography-related and park activity-related noise increases.

Response 37

The comment is noted. Section 4.6, page 4.6-7, has been clarified and incorporated into the Final EIR as follows:

Amphibians

...No amphibian species were observed during the surveys. 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. The riparian vegetation types (i.e., disturbed mule fat scrub/goldenbush scrub and willow scrub) on the Project site also have a low potential for amphibian species to occur. Amphibian species that may occur occasionally on the Project site include the western toad (*Bufo boreas*), Pacific treefrog (*Pseudacris [Hyla] regilla*), and California treefrog (*Pseudacris [Hyla] cadaverina*). ~~Therefore, no amphibian species are expected to occur on the Project site.~~

Response 38

Regional movement would not occur because the Project site is at the terminus of a larger open space area. The Project site is not located between large areas of native habitat in the region. Therefore, the site does encompass a wildlife corridor that would facilitate regional movement. Development of the proposed Project would expand the area of existing development, but would not result in further habitat fragmentation.

The biological value of this area was sufficiently studied for wildlife movement opportunities. Qualified Biologists reviewed pertinent documentation and maps in order to make this determination. As stated in Section 4.6, Biological Resources, in the Draft EIR, the proposed Project is located at the southeastern end of a large area of open space. Wildlife movement opportunities in this area are already constrained by the extensive urbanization in the Project vicinity. Therefore, it was determined that implementation of the proposed Project would not impact regional wildlife movement or result in fragmentation of habitat.

Response 39

Detailed descriptions of the type of habitat suitable for individual species are included in the Biological Technical Report for the proposed Project (Appendix E). These descriptions are not included in the EIR to limit the length of that document. Suitable habitat for San Diego fairy shrimp cannot be identified on the Project site because it is not present on the Project site.

Response 40

The location of California boxthorn has been added to Exhibit 4.6-2, Special Status Biological Resources. The California boxthorn is located within an area to be preserved on the Project site. Therefore, impacts to this species would be considered less than significant.

Response 41

The Project would impact approximately 25.34 acres of native and non-native vegetation. Common wildlife species that were observed or may occur on the Project site are known throughout the region. Many larger, less disturbed areas of habitat exist for these species in the region. Therefore, the impact of the proposed Project would be negligible compared to the amount of remaining open space. In the event of a regional environmental catastrophe (e.g., disease, fire, presence of a new predator), the Project site by itself would not provide a large enough refuge to ensure the survival of a species.

Response 42

The boundary of the Existing Use area of the NCCP/HCP is provided as Exhibit 5, NCCP/HCP, in the Biological Technical Report (Appendix E) of the Draft EIR.

Response 43

Implementation of the proposed Project would impact approximately 25.34 acres of native and non-native vegetation types and other areas. In summary, 0.67 acre of coastal sage scrub (i.e., areas mapped as southern coastal bluff scrub [0.14 acre] and Encelia scrub [0.53 acre] and 0.06 acre of riparian vegetation (i.e., the area mapped as willow scrub) types would be removed through construction impacts. Impacts on sage scrub vegetation types are significant due to the ongoing loss of this vegetation type in Southern California and the potential for this habitat to support special status species. Additionally, the proposed Project would impact approximately 0.21 acre of Encelia scrub/ornamental, 3.64 acres of disturbed Encelia scrub, 6.03 acres of non-native grassland, 7.75 acres of ruderal vegetation, 3.13 acres of ornamental vegetation, 0.49 acre of flood control channel, and 2.88 acres of disturbed areas. The Encelia scrub/ornamental and disturbed Encelia scrub are not considered special status because of the frequent mowing for fuel modification and weed abatement purposes, their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete V-ditch under the shrubs, presence of trash, and/or proximity to high foot/bicycle and vehicle traffic. In addition, these areas are not expected to support gnatcatchers during the nesting season. The non-native grassland, ruderal, ornamental, and flood control channel areas generally have low biological value because they are composed of unvegetated areas or are vegetated with non-native species and subject to significant disturbance. These areas generally provide limited habitat for native plant and wildlife species although they may occasionally be used by native species.

The City is currently working with the applicable regulatory agencies (i.e., U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and California Department of Fish and Game) to identify the mitigation obligations of the City with respect to biological resources. Representatives of the Newport Banning Ranch property have also been involved as the park site includes property owned by Newport Banning Ranch and any landscaping and/or habitat restoration and creation proposed by the City along the entry road requires consultation and coordination with Newport Banning Ranch. All parties are working cooperatively to identify potential locations on the Sunset Ridge Park site where restoration and enhancement could occur.

Response 44

The comment is noted. The City decisionmakers have the discretion to identify other designated/accredited repositories.

Response 45

The Project would be designed to meet the specifications of the City of Newport Beach Recreation and Senior Services Department, per standard contract design documents. The design specifications would be incorporated into the construction documents and would meet the requirements for final grading plans. Appropriate top soil would be used for the Project, and all soils are tested prior to placement on the Project Site.

Response 46

Please refer to the response to Comment 45.

Response 47

The comment is noted. The City disagrees with the statement(s) that the data on potential soil contamination is vague or take more investigation is required at this time. An analysis of Hazards and Hazardous Materials is included in pages 4.9-1 through 4.9-9 of the Draft EIR. The City would take appropriate action during construction if hazardous materials are encountered. The following measures are provided and included in the Final EIR to address potential unknown oil field facilities:

MM 4.9-3 Prior to grading, the contractor shall develop an approved Health and Safety Contingency Plan (HSCP) in the event that unanticipated/unknown environmental contaminants are encountered during construction. The plan shall be developed to protect workers, safeguard the environment, and meet the requirements of the California Code of Regulations (CCR), Title 8, General Industry Safety Orders – Control of Hazardous Substances.

The HSCP should be prepared as a supplement to the Contractor's Site-Specific Health and Safety Plan, which should be prepared to meet the requirements of CCR Title 8, Construction Safety Orders.

Specifically, the HSCP must:

1. Describe the methods, procedures, and processes necessary to identify, evaluate, control, or mitigate all safety and health hazards associated with any soil, groundwater, and/or air contamination that may be encountered during field construction activities.
2. Apply to all site construction workers, on-site subcontractors, site visitors, and other authorized personnel who are involved in construction operations.
3. Be approved by the Public Works Director.

The HSCP shall take effect only if materials affected by environmental contaminants are exposed during construction. This includes

undocumented waste materials, contaminated soils, affected groundwater, and related substances that may be classified as hazardous or regulated materials, and/or materials that could endanger worker or public health. If affected materials are encountered, the HSCP shall be implemented to reduce the potential exposure to the environment and workers at the site. All site workers shall be required to perform work in a prescribed manner to reduce the potential that they will endanger themselves, others, or the general public.

MM 4.9-4 During construction, if environmentally affected soil, groundwater, or other materials are encountered on site, the Project Engineer shall be quickly mobilized to evaluate, assess the extent of, and mitigate the affected materials. The following is only applicable if materials affected by environmental contaminants are exposed during construction. The contractor or City's consultant shall be responsible for implementing all applicable sampling and monitoring of the project. Applicable sampling and monitoring activities can include air monitoring (both for personal protection and SCAQMD Rule 1166 compliance), collecting soil and groundwater samples for analysis, and documenting mitigation activities. Specific applicable sampling and monitoring requirements shall vary, depending upon the nature, concentration, and extent of affected materials encountered.

Response 48

Implementation of the Project would not modify existing hydrologic conditions or drainage patterns. The proposed BMPs are noted in the Preliminary Water Quality Management Plan in Section IV, Best Management Practices for the Post Construction Phase, in Appendix I of the Draft EIR.

Response 49

A description of the existing vegetation types is included in Section 4.6.3 of the Draft EIR. This section describes which vegetation types are dominated by native species and which are mowed or contain a higher density of non-native weeds. Construction of the proposed Project would result in the loss of approximately 5.06 acres of native habitat that provides nesting, foraging, roosting, and denning opportunities for a variety of wildlife species. In addition, implementation of the proposed Project would result in the loss of approximately 20.28 acre of non-native habitats (non-native grassland, ruderal, ornamental, flood control channel, and disturbed) that provide lower-quality wildlife habitat. However, these non-native habitats may provide limited nesting, foraging, roosting, and denning opportunities for some species. The Project is expected to impact a total of 0.68 acre (0.14 acre southern coastal bluff scrub, 0.48 acre disturbed mule fat scrub/goldenbush scrub, and 0.06 acre willow scrub) of habitat determined to be used by this species during the breeding season. Implementation of would reduce this impact to a less than significant level.

Please refer to the response to Comment 43. Additionally, the Newport Banning Ranch EIR will identify and include an assessment of potential biological resources on the property. Those areas of the Newport Banning Ranch property that would be used to implement the Sunset Ridge Park Project were evaluated as a part of the Sunset Ridge Park EIR as well as all existing available information on the Newport Banning Ranch site.

Response 50

As stated in the Draft EIR, the proposed Project incorporates a comprehensive system of water quality features involving site-design BMPs, storm water runoff BMPs, and water quality treatment BMPs for construction, post-construction/operation, and long-term BMP maintenance. These BMPs would ensure that the increase in discharge flow rates associated with project implementation would meet or exceed the requirements set by the Santa Ana Regional Water Quality Control Board, the Regional MS4 NPDES permit, the General Construction and Dewatering Permits, and the DAMP; they would also protect the quality and beneficial uses of receiving waters of the Santa Ana River Tidal Prism. The design of and determination of the final BMPs may “continue to evolve during Project design” because the City has not completed the design of the park Project.

Response 51

Runoff from the surrounding residential developments as well as the Project site both eventually discharge into the Caltrans RCB and Semeniuk Slough. Runoff water quality from the surrounding residential areas is anticipated to be significantly worse than flows off the Project site, due to the nature of the Project as a park facility as opposed to activities that generally occur within populated residential developments. In compliance with NPDES permit requirements, the Project would provide water quality treatment for a portion of the “first flush” surface runoff from the Project site per the OC DAMP. Calculations for water quality treatment flows are contained within the Project Water Quality Management Plan (Urban Resources, 2009).

Although required to treat flows off the Project site itself, the Project may be designed to capture and treat the equivalent volume of flow from the surrounding residential areas in lieu of flows off the park (Project) site, as these flows represents the ‘worst case’ water quality of flows passing across and around the Project site. In this case, the Project may enhance existing environmental conditions downstream by treating runoff of poorer water quality than those exiting the completed Project site.

Response 52

The Draft EIR states “the drainage patterns for the developed site would be similar to the existing condition, and flows would ultimately be conveyed into the existing 8-foot by 5-foot RCB at West Coast Highway by Project drainage features (Exhibit 4.10-8). Peak flow rates would be increased by approximately 10.84 cfs and 13.27 cfs for the 10-year and 25-year storm events, respectively, at the point where flows exit the site. However, detention basin(s) and the underground CMP treatment facility would be sized to ensure that the proposed Project’s peak flows are detained on site and released at a flow rate equal to that which occurs under existing conditions. The increase in peak flow velocity at the 8-foot by 5-foot RCB in the post-project conditions is 0.20 feet per second, and would not have an impact on potential downstream flooding. Overall runoff volume increases associated with the additional time needed to release detained flows is expected to be minor and would not result in creation or exacerbation of any downstream risk of flooding. The incorporation of BMP measures contained in PDFs 4.10-1 through 4.10-6 would ensure that the risks of on-site flooding would be minimized during construction and operation. Therefore, impacts associated with flooding on site or off site are less than significant.”

Response 53

This Project will be constructed with oversight from the Public Works Department in partnership with Code and Water Quality enforcement team consistent with the requirements of the Mitigation Monitoring and Reporting Program.

Response 54

The Project has been designed to be water-efficient and would include the installation water-efficient irrigation systems and devices such as soil moisture-based irrigation controls. Water-efficient fixtures and appliances would be installed in the restrooms, and energy efficient LED lighting would be used throughout the Project site. The Project would provide the number of restroom facilities consistent with industry standards, and that are comparable in size with the facilities provided at Bonita Creek Park and Mariners Park in the City of Newport Beach.

From: ASHABI, MINOO [mailto:mashabi@ci.costamesa.ca.us]
Sent: Thursday, December 10, 2009 2:17 PM
To: Brown, Janet
Cc: SETHURAMAN, RAJA
Subject: Sunset Ridge Park DEIR

Letter L2

Hi Janet,

Attached please find our comments related to this project. After the letter was signed, I talked to Sharon Woods and I understand that we will meet when the draft traffic analysis for the Banning ranch project is available, in about 2-3 weeks. Thanks so much for all your help.

Thank you.

Mino Ashabi, AIA
Senior Planner
City of Costa Mesa
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mashabi@ci.costamesa.ca.us



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

December 10, 2009

Attn: Janet Johnson Brown
City of Newport Beach
Planning Department
P.O. Box 1768
Newport Beach, CA 92658

Subject: DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)-SUNSET RIDGE PARK

Dear Ms. Brown:

We received the notice for the Draft Environmental Impact Report for Sunset Ridge Park; a 13.67-acre community park located at the northern corner of the Pacific Coast Highway and Superior Avenue in West Newport Beach. We appreciate the opportunity to review and comment the draft EIR and provide the following comments:

- The project boundary includes what appear to be a haul route and two stock pile areas as part of grading of the site. The DEIR indicates that construction of the proposed Project is planned to occur in a single construction phase between 16 to 18 months, and approximately 130,000 cubic yards (cy) of cut and 96,000 cy of fill would be required during grading activities, with a net export of approximately 34,000 cy. The City of Newport Beach proposes that all of the soil would be exported to the adjacent Newport Banning Ranch property. The City of Costa Mesa requests that the location of stock piles be specified and construction truck routes for grading and construction of the site be identified. The City of Costa Mesa requires confirmation that with the exception of SR-55 Freeway and Newport Boulevard, no other street in Costa Mesa jurisdiction will be used for construction access. L2-1
- In addition, construction noise, dust control and any air quality impacts to the adjacent communities including properties in the City of Costa Mesa should be addressed specifically related to the grading of the site and the proposed stock piles on Banning Ranch property that will remain until development of that site. L2-2
- Since the proposed access road to the Sunset Ridge Park is a portion of the future roadway (South Bluff Road), staff would like to have the opportunity to meet with city transportation staff and project consultant to discuss the future roadway widths and plans for Bluff Road in this early stage of development. Please contact Minoo Ashabi, Senior Planner at (714) 754-5610 to arrange a meeting. L2-3

Please include us on any additional information on this development and the upcoming public hearings.

Sincerely,


KIMBERLY BRANDT, AICP
Acting Development-Services Director

cc: City Council
Raja Sethuraman, Transportation Svs. Mgr. Allan Roeder, City Manager
Claire Flynn, Planning Manager

Building Division (714) 754-5373 • Code Enforcement (714) 754-5623 • Planning Division (714) 754-5345
FAX (714) 754-4856 • TDD (714) 754-5244 • www.ci.costa-mesa.ca.us

Letter L2 **City of Costa Mesa**
Kimberly Brandt, Acting Development Services Director
December 10, 2009

Response 1

The location of the stock pile areas are shown on Exhibit 3-12 in Section 3.0, Project Description, of the Draft EIR. With respect to haul routes through the City of Costa Mesa, construction vehicles through Costa Mesa would comply with State law and would be restricted to designated truck routes. Additionally, the number of truck trips would be limited should all excess material be hauled to stockpiles on the Newport Banning Ranch property.

Response 2

The closest sensitive receptors to the Project site are the Newport Crest Condominium development (located to the north and northeast); Carden Hall (located east of one of the proposed stockpile sites); Hoag Hospital, located to the southeast across Superior Avenue; and residences across West Coast Highway to the southwest. All of these receptors are located in the City of Newport Beach. The nearest sensitive receptors in Costa Mesa are located approximately 1,600 feet from that portion of the Project site where mass grading would occur and approximately 1,000 feet from the dirt haul route and staging area in the Newport Banning Ranch property. As shown in Table 4.4-9 of the Draft EIR, the maximum daily emissions for criteria pollutants of local concern would be below the LST thresholds when grading occurs at distances greater than 164 feet. Therefore, local air quality impacts would be less than significant at any receptor in Costa Mesa. In accordance with SCAQMD Rule 403, stockpiles would be stabilized to minimize the fugitive dust emissions.

Due to distance and intervening structures, grading activities at the Project site would not be audible at the nearest noise sensitive uses in Costa Mesa. During the mass grading phase of construction, as much as 34,000 cubic yards (cy) of soil could be exported to the Newport Banning Ranch property. The haul route would be located as near as approximately 1,000 feet from the Island View Trailer Park, which is the nearest noise sensitive receptor in the City of Costa Mesa. Dump trucks passbys can generate maximum noise levels of 84 dBA L_{max} at a distance of 50 feet. At 1,000 feet, a dump truck passby would generate up to 51.5 dBA L_{max} . Construction would result in a temporary increase in ambient noise to the nearest noise sensitive uses in the City of Costa Mesa that would cease upon completion of the noisier activities in the early months of Project construction. While construction-related noise may be perceptible, the resulting noise would be below the City of Costa Mesa 55 dBA Leq noise standard for daytime hours from 7:00 AM to 10:00 PM. This would not be considered a significant impact.

Response 3

The comment is noted.

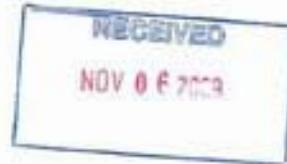
BUSINESSES



1919 S. State College Blvd.
Anaheim, CA 92806-6114



November 4, 2009



BonTerra Consulting
151 Kalmus Dr., Ste E-200
Costa Mesa, CA 92626

Attention: Dana C Privitt

Subject: Sunset Ridge Park Project.

Thank you for providing the opportunity to respond to this E.L.R. Document. We are pleased to inform you that Southern California Gas Company has facilities in the area where the aforementioned project is proposed. Gas service to the project can be provided from an existing gas main located in various locations. The service will be in accordance with the Company's policies and extension rules on file with the California Public Utilities Commission when the contractual arrangements are made.

This letter is not a contractual commitment to serve the proposed project but is only provided as an informational service. The availability of natural gas service is based upon conditions of gas supply and regulatory agencies. As a public utility, Southern California Gas Company is under the jurisdiction of the California Public Utilities Commission. Our ability to serve can also be affected by actions of federal regulatory agencies. Should these agencies take any action, which affect gas supply or the conditions under which service is available, gas service will be provided in accordance with the revised conditions.

This letter is also provided without considering any conditions or non-utility laws and regulations (such as environmental regulations), which could affect construction of a main and/or service line extension (i.e., if hazardous wastes were encountered in the process of installing the line). The regulations can only be determined around the time contractual arrangements are made and construction has begun.

Estimates of gas usage for residential and non-residential projects are developed on an individual basis and are obtained from the Commercial-Industrial/Residential Market Services Staff by calling (800) 427-2000 (Commercial/Industrial Customers) (800) 427-2200 (Residential Customers). We have developed several programs, which are available upon request to provide assistance in selecting the most energy efficient appliances or systems for a particular project. If you desire further information on any of our energy conservation programs, please contact this office for assistance.

Sincerely,

Eric Centres
Technical Services Supervisor
Pacific Coast Region - Anaheim

EC:ce
11/12/09

B1-1

Letter B1 **Southern California Gas Company**
Ed Casares, Technical Services Supervisor
November 4, 2009

Response 1

This comment letter states that the Southern California Gas Company has facilities in the Project area and that gas service can be provided from an existing gas main located in various locations. In addition, the commenter states that this letter is not a contractual commitment to serve the proposed Project. Laws and regulations affecting the construction of a main and/or service line extension will be determined at the time of actual contractual commitments have begun. The comment is noted.

INDIVIDUALS AND ORGANIZATIONS

GABRIELEÑO BAND OF MISSION INDIANS

A HISTORIC & PREHISTORIC TONGVA INDIAN TRIBE

NATIVES OF CALIFORNIA FOR OVER 6,000 YEARS

November 12, 2009

RECEIVED BY
PLANNING DEPARTMENT

Patrick Alford, Planning Manager
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915
(949) 644-3235

NOV 19 2009

CITY OF NEWPORT BEACH

Re: Initial Study & Notice of Preparation
Sunset Ridge Park Environmental Impact Report

Dear Mr. Alford;

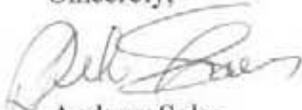
This letter is in response to the Initial Study & Notice of Preparation for the Environmental Impact Report for above referenced project. Due to the fact that we have tribal members who are direct descendants from a nearby village and the proposed project is within the traditional tribal territory of the Gabrieleño Band of Mission Indians it is my responsibility to inform you of our concern for the identification, protection and proper disposition of our cultural resources.

Since the initial study report indicates the potential for significant cultural impacts to archaeological resources, paleontological resources and human remains it is our recommendation that the contractor hire our Native American monitor (s) during any excavation or ground disturbances for this project. Our tribal historian is available to you should consider tribal consultation for this project.

I appreciate your assistance regarding this matter, I can be reached at 626-926-4131 or by email at Gabrielenoindians@yahoo.com should you have any questions or comments; please do not hesitate in contacting our office.

I look forward to assisting all parties with the preservation of our cultural resources.

Sincerely,


Andrew Salas
Chairman

O1-1

Letter O1 **Gabrieleño Band of Mission Indians**
Andrew Salas, Chairman
November 12, 2009

Response 1

The comment is noted. Please refer to Section 4.7, Cultural and Paleontological Resources, of the Draft EIR, Mitigation Measure 4.7-1 which addresses the commenter's request for Native American monitoring.



Letter O2

Lido Sands Community Association

Post Office Box 1373, Newport Beach, CA 92659

WWW.LIDOSANDS.ORG

RECEIVED BY
PLANNING DEPARTMENT

December 2, 2009

DEC 3 2009

CITY OF NEWPORT BEACH

Attn. Janet Johnson Brown
City of Newport Beach, Planning Department
City of Newport Beach
P.O. Box 1768
Newport Beach, CA 92658

Subject: Objection to Proposed New Traffic Signal on PCH for Sunset Ridge Park

Dear Janet:

This letter is written on behalf of the Lido Sands Community Association ("LSCA") located across PCH from the planned Sunset Ridge Park (the "Park"). The Board of Directors for LSCA has received and reviewed the EIR and plans/elevations for the Park. We wish to advise the City that although LSCA supports the Sunset Ridge Park, including the planned improvements thereon, **we are vehemently opposed to a new traffic signal on PCH** for ingress/egress to the Park and object to the same. Such a new traffic signal would adversely impact LSCA members individually and the community as a whole. Moreover, less burdensome alternatives exist that will still provide safe and reasonable access to the Park. We ask that the City consider alternatives to a new traffic signal (such as "right in/right out"). Please contact the Board member below with any questions or comments. We appreciate your consideration of this request and objection.

O2-1

Respectfully Submitted by

A handwritten signature in black ink, appearing to read "Nicolai Glazer", is written over a horizontal line.

Nicolai Glazer, President
On behalf of the Board and Members of
Lido Sands Community Association

Letter O2 **Lido Sand Community Association**
Nicolai Glazer, President
December 2, 2009

Response 1

The Association's opposition to the proposed signal is noted. Please refer to Topical Response 3. The traffic study prepared as a part of the Draft EIR evaluated three options for the intersection of the park access road with West Coast Highway:

- a. Signalized,
- b. Unsignalized with right-in/right-out only movements to and from West Coast Highway,
and
- c. Unsignalized with right-in/right-out plus left-in movements from West Coast Highway.

If a signal is the option preferred by the City Council, Caltrans approval would be needed, the signal would be designed according to Caltrans standards, and the signal operation would be designed to be coordinated with adjacent signals upstream and downstream on West Coast Highway. The City would work with Caltrans to develop signal timing and coordination plans, in order to achieve coordinated signal operation on West Coast Highway.



California Cultural Resource Preservation Alliance, Inc.

P.O. Box 54132
Irvine, CA 92619-4132

An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.

December 7, 2009

RECEIVED BY
PLANNING DEPARTMENT

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

DEC 09 2009

CITY OF NEWPORT BEACH

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

Dear Ms. Brown:

It appears that most of the proposed project area has been graded and therefore, archaeological monitoring is an appropriate treatment in those areas. The cultural resources report states that the mesa has been "largely removed leaving evidence of quarrying and remnants of the mesa in the northwestern third of the project site; a gently rising slope from West Coast highway inland to the northeast in the middle third of the project site;" (pg 4.). This suggests that there are portions of the project area that have not been graded. It is not clear from the DEIR or archaeological report whether these areas have been investigated. In addition, there is no discussion regarding the condition or studies of the proposed stock pile areas on the Banning Ranch. Given the archaeological sensitivity of the bluffs in the vicinity of Newport Bay and in accordance with the City's archaeological guidelines, the final EIR should include documentation that the portions of the project area that have not been graded, including the stock pile areas, have been subjected to a systematic walk-over by a professional archaeologist and tested for subsurface deposits, if cultural materials are present.

} O3-1

If you have any questions, you may reach me at (949) 559-6490 or pmartz@calstatela.edu.

Sincerely,

Patricia Martz, Ph.D.
President

Letter O3 **California Cultural Resource Preservation Alliance, Inc.**
Patricia Martz, Ph.D., President
December 7, 2009

Response 1

Section 4.7, Cultural and Paleontological Resources, of the Draft EIR identifies that a walkover survey was conducted as a part of the Project including the proposed stockpile areas located on the Newport Banning Ranch property. The EIR section has been clarified to indicate that the stockpile areas have been surveyed. No archaeological sites are present in these areas. One site, CA-ORA-1599, is located immediately to the west of the stockpile areas. This information is provided in Cultural Resources Technical Report in Appendix F of the Draft EIR.

Page 4.7-7 has been revised and incorporated into the Final EIR as follows:

Mr. Patrick Maxon, RPA visited the Project site on February 27, 2009, to evaluate existing conditions. BonTerra Consulting completed an archaeological test excavation in June 2009. CA-ORA-1600, CA-ORA-1601H, and CA-ORA-1602H were subjected to test excavations; CA-ORA-1610H was further studied through historic research and on the ground survey. A brief description of each site is provided, as well as a determination of eligibility for the NRHP. As previously addressed, most resources deemed eligible for the NRHP would be considered eligible for the CRHR. Final determinations are made by the SHPO. With respect to the proposed stockpile sites and temporary haul route on the Newport Banning Ranch property, the property has been subject to prior investigation and testing. As a part of the currently proposed City of Newport Beach Banning Ranch development project, BonTerra Consulting completed an archaeological test excavation of 11 archaeological sites present on the Banning Ranch property in June 2009. Three of the 11 sites were CA-ORA-1601, CA-ORA-1602, and CA-ORA-1610. CA-ORA-1601 and CA-ORA-1602 were subjected to test excavations during the study and CA-ORA-1610 was further studied through historic research and on the ground survey. No sites were identified within the boundaries of the stockpile area or haul route.

Additionally, the Mitigation Program set forth in the EIR requires monitoring during grading and disturbance activities such that any unknown/undiscovered resources can be appropriately mitigated should they be discovered.



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, NOx (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"?

} O4-1
} O4-2

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

O4-3

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?

O4-4

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?

O4-5

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?

O4-6

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)

O4-7

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."

O4-8

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?

O4-9

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?

O4-10

3. What is the impact to the views of the new bermed slope on the homes immediately adjacent to it?

O4-11

4. What is the rationale in removing the existing wall?

O4-12

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.

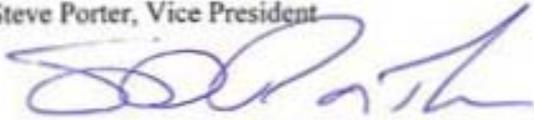
O4-13

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



Letter O4 Newport Crest Homeowners Association

Board of Directors
December 8, 2009

Response 1

Sensitive receptors include children, the elderly, persons with preexisting respiratory or cardiovascular illness, and athletes and others who engage in frequent exercise. Structures that house these persons or places where they gather (i.e., residences, schools, playgrounds, child-care centers, convalescent centers, retirement homes, and athletic fields) are defined as sensitive receptors by South Coast Air Quality Management District (SCAQMD). This definition does not specifically identify people with compromised immune systems or pets.

Response 2

As noted in the responses to the SCAQMD comment letter and the EQAC comment letter, additional mitigation measures for construction emissions have been incorporated into the EIR as noted below:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.

MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;
- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;
- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.

MM 4.4-3 The following actions shall be implemented as a part of the construction of the Sunset Ridge Park Project:

- a. Watering and visible dust control shall exceed the requirements of SCAQMD Rule 403 as follows: The Contractor shall suspend grading operations when wind gusts exceed 15 miles per hours.
- b. In windy conditions, the dust control measures of SCAQMD Rule 403, Table 2 (Large Operations) shall be applied.
- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.
- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the investigation. The City contact person shall maintain a log of all complaints and resolutions.

Response 3

Air quality impacts on pets are not addressed in the Draft EIR. As noted in the previous response, pets are not considered sensitive receptors by the SCAQMD.

Response 4

If a resident perceives emissions considered in violation of the Project mitigation requirements, a complaint should be made to the City as described in the mitigation measures. With respect to preventive measures related to specific health concerns, the City is not the appropriate agency to comment. Consultation with personal health care providers is a judgment to be made by individuals.

Response 5

The Project's mitigation measures are intended to minimize the pollutant impacts to the Newport Crest Condominium development. No extra precautions are recommended.

Response 6

Monitoring of PM10 levels is not planned or deemed necessary.

Response 7

Please refer to the response to Comment 2.

Response 8

The potential effects of the removal of the existing sound wall and grading are analyzed in Section 4.5, Noise, of the Draft EIR; please refer to pages 4.5-15 through 4.5-17. The traffic noise impacts were modeled for future conditions with the FHWA's Traffic Noise Model (TNM version 2.5). The noise impacts were modeled for first floor patios and second floor balconies at 20 Newport Crest condominiums at the buildings adjacent to the Project site. Due to the grading and the implementation of landscaping, the proposed grading would result in traffic noise level changes to patios and balconies facing the Project site from -5 to 2 dBA. Most patios and balconies at the buildings on Swift Court, Land Fall Court, and Ima Loa Court would experience a reduction in traffic noise levels due to changes in topography and landscaping.

The change in site topography with Project implementation is expected to result in permanent traffic noise increases of up to 2 dBA at some of the patios and balconies facing the Project site. These increases would not exceed the significance criteria for traffic noise increases included in the City's General Plan Noise Element. Noise increases of up to 3 dBA are "barely perceptible" to most people. Therefore, the change in site topography with Project implementation would not result in significant increases in traffic noise to nearby noise sensitive receptors.

Response 9

As stated in Section 3.0, Project Description, page 3-10 of the EIR,

A retaining wall ranging in height from approximately four to ten feet would be constructed north of the active park uses and extend from approximately the parking lot in the west to the end of the soccer field (upper field) in the east. A landscaped berm would also be constructed north of the retaining wall but in the same general location as the retaining wall, and would extend to the northern property line (to the condominium residences north of the park). An approximate six foot-high security fence would be located at the northern terminus of the landscape berm between the active park uses and the residential uses. Landscaping is proposed along the northern and southern side of the fence. No gated access from the existing residences into the park is proposed.

Section 4.1, Land Use (page 4.1-14) is hereby clarified and incorporated into the Final EIR as follows:

Currently, those residents with condominium units facing the Project site view an undeveloped property. With the implementation of the proposed Project, residents with existing views of the site would view park uses rather than an undeveloped parcel. While the proposed park would be contiguous to the existing residential development, a landscaped buffer would be provided on the park between the residences and the active park uses. The buffer would vary in height from approximately 10 feet to 18 feet above the active park area. The height of the landscaped buffer is planned to be 60 to 64 feet above mean sea level [msl] with an

average height of 60 to 61 feet above msl and would vary in width from approximately 60 feet to 80 feet. All active park uses would be sited south of the buffer. Park uses would range in distance from approximately 105 feet (pedestrian walkway) to 133 feet (north soccer field) to 156 feet (baseball field) from the existing residences. At its closest point, the access road into the park would be approximately 82 feet from the nearest condominium unit; the parking lot would be approximately 134 feet from the nearest unit. No pedestrian access would be provided into or out of the park from the residential development.

Response 10

The noise effects discussed in the response to Comment 8 above would result from site grading without noise barriers or berms along Superior Avenue. As noted, the change in site topography with Project implementation would not result in significant increases in traffic noise to nearby noise sensitive receptors. No significant impact would occur.

Response 11

Views from this viewpoint would be similar to existing conditions. The slope along Superior with Project implementation is shown in visual simulations provided in Exhibits 4.2-4a, 4.2-4b, and 4.2-4d of the Draft EIR.

If the commenter is referring to the landscaped berm proposed between the active park uses and the existing condominiums, page 4.2-8 states:

A retaining wall ranging in height from approximately four to ten feet would be constructed north of the active park uses and extend from approximately the parking lot in the west to the end of the soccer field (upper field) in the east. A landscaped berm would also be constructed north of the retaining wall but in the same general location as the retaining wall, and would extend to the northern property line (to the condominium residences north of the park). An approximate six-foot-high security fence would be located at the northern terminus of the landscape berm between the active park uses and the residential uses. Landscaping is proposed along the northern and southern side of the fence. No gated access from the existing condominium residences into the park is proposed.

Cross sections are included in Section 4 of this Responses to Comments document.

Response 12

The existing sound wall would be replaced with a combination wall and bermed slope to be installed in approximately the same location as the existing wall. The new combination wall and bermed slope would accomplish the same purpose of the existing wall. The existing wall is being removed to implement the Project and because the existing slope in this area is in excess of a 2:1 slope, which is difficult to landscape. Please also refer to the response to Comment 8.

Response 13

The opinion of the commenter is noted.



Letter O5

RECEIVED BY
PLANNING DEPARTMENT

DEC 11 2009

December 8, 2009

Jean Watt, President
Manny Kiesser, V.P.
Don Thomas, Treasurer
Carolyn Wood, Secretary
Stephanie Barger
Denny Bean
Jim Carr
Jack Eidt
Helen Higgins
Bob Joseph
Lori Kiesser
Amy Litton
Tina Thompson Richards
Theresa Sears
Alice Sorenson
Mike Wellborn

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

SUBJECT: DEIR, Sunset Ridge Park Project

Friends of Harbors, Beaches and Parks would like to note the following areas of additional consideration for the DEIR as follows:

Supporting Organizations

Amigos de Bolsa Chica
Audubon, Sea & Sage Chapter
Caspers Wilderness Park Volunteers
Earth Resource Foundation
Equestrian Coalition of O.C.
Great Park Environmental Coalition
Huntington Beach Wetlands Conservancy
Huntington Beach Wildlife Care Center
Laguna Canyon Conservancy
Laguna Canyon Foundation
Laguna Greenbelt, Inc.
Sierra Club, Orange County
Surfrider, Newport Beach Chapter
Stop Polluting Our Newport
Upper Newport Bay Naturalists
& Friends
St. Mark Presbyterian Church
Ecophilians

Advisory Board

Marian Bergeson
Connie Boardman
Marilyn Brewer
Roy & Ilse Bymes
Debra Clarke
Laura Cohen
Debbie Cook
Joe Dunn
Sandy Genis
Tom Harman
Evelyn Hart
Evan Henry
Jack Keating
Vic Leipzig
Matt Rayl
Claire Schlotterbeck
Dan Silver, M.D.
Jack Skinner, M.D.
Nancy Skinner
Jan Vandersloot, M.D.
Dick Zembal

Post Office Box 9256
Newport Beach, CA 92658-9256
949-399-3669
www.fhbp.org

• **Habitat**

Many portions of the DEIR cover potential impacts and related mitigation as to habitat in general and gnatcatcher habitat in particular.

The DEIR notes that the project site is located within a designated critical habitat for the Threatened and Endangered coastal California Gnatcatcher (page 4.6-22). However, the related habitat acreages (primarily various scrubs) are quite small and are often fragmented and disturbed (page 4.6-28). The project would remove approximately 0.41 acres of coastal sage scrub, 0.06 acres of riparian vegetation, and other small acreages as well. **Note that the impact acreages in the text appear to differ from the impact acreages in Tables 4.6-4 (page 4.6-28)?**

However, according to the DEIR, the impact of this relatively small loss would be reduced to a less than significant level when mitigated by protection of remainder of the habitat during construction and restoration (page 4.6-27)

As to restoration, while a restoration plan will ultimately be required as a mitigation measure (page 4.6-33), it would be preferable, timely, and useful to identify now what areas on site and or off site will be designated for such restoration at a 2:1 ratio. We propose two possibilities. A portion of the entry road area designated on the conceptual Landscape Plan (Exhibit 3-11) as Expanded Habitat Area, CCS-Native could be expanded westerly into the area designated as Entry Planting-Non-irrigated, Non-native. Should additional mitigation still be required, then a contiguous area on the adjacent Banning property could be designated. In that regard, the discussion of cumulative impacts on biological resources (page 4.6-30) covers a number of general and distant projects but does not address the immediately adjacent greater Banning Ranch as it may relate to the park., We believe some discussion is needed..

O5-1

O5-2

• **Growth Inducing Impacts (and Traffic):**

This section (page 5-2/5-3) does not address the potential use of the park access road to serve additional Banning Ranch development to the north. Recognition of this growth inducing potential should be identified, characterized, and analyzed especially as the traffic study in the EIR Volume II does take into consideration a more intensely developed alternative for the Banning Ranch with access based in part on the northerly expansion of this park-serving road.

O5-3

• **Project Design:**

In the DEIR Volume II, a letter from Matt Irwin suggests that the parking lot (all or a portion) for the park be located elsewhere nearby to better use the more prime site on the bluff for recreation purposes. This is a worthy idea. Is there a response to comments on this point?

O5-4

• **Grading:**

The DEIR does not include a detailed description of the grading; but does note that there will be a net export of approximately 34,000 cubic yards to "identified locations on the adjacent Newport Banning Ranch property" (page 3-12); then continuing notes that "The potential environmental effects of this export are assumed in the environmental analysis for the Sunset Ridge Park Project." If these locations are the two proposed stock pile sites as shown on Exhibit 3-12, then further assessment needs to be required, as for example, the rather large northerly site appears to be located directly on top of a significant riparian area suggesting significant additional impacts which are not discussed herein.

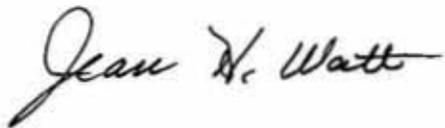
O5-5

Also the DEIR depicts Grading Option B – what/where is Option A?

O5-6

Thank you for the opportunity to comment on this DEIR and we look forward to the response to comments.

Sincerely,



Jean H. Watt
President FHBP
949-673-8164
jwatt4@aol.com

Letter O5 Friends of Harbors, Beaches, and Parks

Jean H. Watt
December 8, 2009

Response 1

Section 4.6, Biological Resources, pages 4.6-27 and 4.6-28, have been revised and incorporated into the Final EIR as follows:

Implementation of the proposed Project would impact approximately 25.34 acres of native and non-native vegetation types and other areas. The impact areas for the proposed Project are shown in Exhibit 4.6-4, Project Impacts, and impact acreages are provided in Table 4.6-4, Vegetation Types and Other Areas Impacted by the Proposed Project. In summary, a total of 0.67 ~~0.44~~ acre of coastal sage scrub (i.e., areas mapped as southern coastal bluff scrub [0.14 acre] and Encelia scrub [0.53 acre]) and 0.06 acre of riparian vegetation (i.e., the area mapped as willow scrub) types would be removed through construction impacts. Impacts on sage scrub vegetation types are significant due to the ongoing loss of this vegetation type in Southern California and the potential for this habitat to support special status species. Impacts on riparian vegetation types would also be considered significant due to the limited distribution of these vegetation types in California. Implementation of MM 4.6-4 and MM 4.6-5 would reduce these impacts to a less than significant level. In addition, the City would be required to follow the construction minimization measures listed in MM 4.6-3.

The proposed Project would impact approximately ~~0.26 acre of Encelia scrub~~, 0.21 acre of Encelia scrub/ornamental, 3.64 acres of disturbed Encelia scrub, 6.03 acres of non-native grassland, 7.75 acres of ruderal vegetation, 3.13 acres of ornamental vegetation, and 0.49 acre of flood control channel. The proposed Project would also impact 2.88 acres of disturbed areas. The Encelia scrub/ornamental and disturbed Encelia scrub are not considered special status because of the frequent mowing for fuel modification and weed abatement purposes, their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete V-ditch under the shrubs, presence of trash, and/or proximity to high foot/bicycle and vehicle traffic. ~~is regularly mowed for fuel modification and weed abatement purposes and contains a high percentage of non-native weeds. In addition, two small areas of scrub are not considered special status because of their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete v-ditch under the shrubs, presence of trash, and proximity to high foot/bicycle, and vehicle traffic. In addition, Therefore, these areas are not considered special status as they are not expected to support gnatcatchers during the nesting season. The non-native grassland, ruderal, ornamental, and flood control channel areas generally have low biological value because they are composed of unvegetated areas or are vegetated with non-native species and subject to significant disturbance. These areas generally provide limited habitat for native plant and wildlife species although they may occasionally be used by native species. Therefore, impacts on all these areas would not be considered significant, and no mitigation would be required.~~

Response 2

The City is currently working with the applicable regulatory agencies (i.e., U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and California Department of Fish and Game) to identify the mitigation obligations of the City with respect to biological resources.

Representatives of the Newport Banning Ranch property have also been involved as the park site includes property owned by Newport Banning Ranch and any landscaping and/or habitat restoration and creation proposed by the City along the entry road requires consultation and coordination with Newport Banning Ranch. All parties are working cooperatively to identify potential locations on the Sunset Ridge Park site where restoration and enhancement could occur. The Newport Banning Ranch EIR will identify and include an assessment of potential biological resources on the property. Those areas of the Newport Banning Ranch property that would be used to implement the Sunset Ridge Park Project were evaluated as a part of the Sunset Ridge Park EIR as well as all existing available information on the Newport Banning Ranch site.

Response 3

Please refer to Topical Response 1. The proposed location and alignment of the access road for the park coincides with and is consistent with the City of Newport Beach General Plan Circulation Element. The General Plan assumes a four-lane roadway connection through the adjacent Newport Banning Ranch property from West Coast Highway to 19th Street, with additional connections to 17th and 15th Streets. It is acknowledged that, if development were to occur on the Newport Banning Ranch property, that development would take access from the same roadway connection to West Coast Highway, which would also be consistent with the City of Newport Beach General Plan.

Response 4

The commenter refers to a suggestion to move the parking lot along West Coast Highway. As stated in Section 4.2, Aesthetics of the Draft EIR and depicted on Exhibit 4.2-1, the site contains a 197,720-square-foot (sf) scenic easement imposed by the California Department of Transportation (Caltrans) as a term of the sale of the property to the City. The easement is located generally from the property line adjacent to West Coast Highway to approximately halfway into the site. This easement restricts development rights to those permitted in the City's Open Space-Active (OS-A) zoning with additional limitations on the placement of permanent structures and pavement in the scenic easement area. Therefore, a parking lot along West Coast Highway would not be permitted under the terms of the easement imposed by Caltrans.

Response 5

The grading plan is discussed in Section 4.8, Geology and Soils, and depicted on Exhibit 4.8-4, of the Draft EIR. Section 4.6, Biological Resources, of the Draft EIR addresses the potential biological effects of the proposed Project including the haul route and stockpile locations on the Newport Banning Ranch property. The haul route and stockpile locations would not significantly impact biological or riparian resources in these locations; please refer to Exhibits 4.6-1 through 4.6-4 in the Draft EIR.

Response 6

Please refer to Section 6.0, Alternatives to the Proposed Project, of the Draft EIR where the options are reviewed. Option A is a lower ball field design resulting in more export of soil material off of the site. Option C is essentially a balanced site that results in a higher ball field elevation. Option B is compromise between the two and is what is recommended.

Letter 06 **SWAPE**
Matt Hagemann
December 10, 2009

Response 1

The City has reviewed the commenter's reference to the State DOGGR website shows an oil well on the proposed Sunset Ridge Park site. The DOGGR map designates the noted site as an "active producer" well. It also lists the well as "OG idle" and owned by "T. F. Gesell" (OG stands for Oil & Gas). There are no well records, or production information listed for this well while other wells in the area appear to have extensive records and production information. City staff has investigated the location shown and have not found any evidence of an "active" well.

Through consultation with Caltrans, the City has determined that the Project site was massively excavated to provide soil for the construction of Interstate 405 (I-405) in the 1970s as evidenced by the engineered cut slopes that remain on the Project site. If a well site existed on this site, the City would reasonably assume that it would have been discovered and properly capped and abandoned. Since no such record exists, the City assumes that Caltrans did not encounter a well on this site.

The DOGGR web page also posts the following disclaimer: "*DOMS is a representational map, which provides the public well information via the Internet. It cannot be used for legal or navigational purposes, or any purpose that is not intended by Department of Conservation (DOC). While DOC makes every effort to provide accurate and complete information, well information and various data may not be up-to-date and are subject to change. DOC provides no warranty, expressed or implied, as to the accuracy, reliability or completeness of furnished data.*" Based upon the above information, the City believes that no well exists.

The following measures are provided and included in the Final EIR to address potential unknown oil field facilities:

MM 4.9-3 Prior to grading, the contractor shall develop an approved Health and Safety Contingency Plan (HSCP) in the event that unanticipated/unknown environmental contaminants are encountered during construction. The plan shall be developed to protect workers, safeguard the environment, and meet the requirements of the California Code of Regulations (CCR), Title 8, General Industry Safety Orders – Control of Hazardous Substances.

The HSCP should be prepared as a supplement to the Contractor's Site-Specific Health and Safety Plan, which should be prepared to meet the requirements of CCR Title 8, Construction Safety Orders.

Specifically, the HSCP must:

1. Describe the methods, procedures, and processes necessary to identify, evaluate, control, or mitigate all safety and health hazards associated with any soil, groundwater, and/or air contamination that may be encountered during field construction activities.
2. Apply to all site construction workers, on-site subcontractors, site visitors, and other authorized personnel who are involved in construction operations.

3. Be approved by the Public Works Director.

The HSCP shall take effect only if materials affected by environmental contaminants are exposed during construction. This includes undocumented waste materials, contaminated soils, affected groundwater, and related substances that may be classified as hazardous or regulated materials, and/or materials that could endanger worker or public health. If affected materials are encountered, the HSCP shall be implemented to reduce the potential exposure to the environment and workers at the site. All site workers shall be required to perform work in a prescribed manner to reduce the potential that they will endanger themselves, others, or the general public.

MM 4.9-4 During construction, if environmentally affected soil, groundwater, or other materials are encountered on site, the Project Engineer shall be quickly mobilized to evaluate, assess the extent of, and mitigate the affected materials. The following is only applicable if materials affected by environmental contaminants are exposed during construction. The contractor or City's consultant shall be responsible for implementing all applicable sampling and monitoring of the project. Applicable sampling and monitoring activities can include air monitoring (both for personal protection and SCAQMD Rule 1166 compliance), collecting soil and groundwater samples for analysis, and documenting mitigation activities. Specific applicable sampling and monitoring requirements shall vary, depending upon the nature, concentration, and extent of affected materials encountered.

Response 2

A Phase I ESA for that portion of the Sunset Ridge Park Project on Newport Banning Ranch property was evaluated and analyzed in Section 4.9 of the Draft EIR; please refer to the discussion starting on page 4.9-3. Please also refer to the response to Comment 1 above. Additionally, field inspectors have found no evidence of an abandoned well on the site. The City would carefully monitor grading operations during construction, and in the event evidence of an abandoned well is found, would take the appropriate actions in accordance with DOGGR regulations and procedures.

Response 3

Please refer to the responses to Comments 1 and 2. DOGGR records indicate that the nearby wells located on the Newport Banning Ranch property were abandoned in the early 1990s. During implementation of the Project, ongoing monitoring would occur to determine if any well work is required or if any soils within the Project area require remediation. If necessary, impacted areas would be remediated to levels required by the appropriate regulatory agency.

Response 4

Please refer to the response to Comment 3.

INDIVIDUALS

From: Bruce Bartram [mailto:b.bartram@verizon.net]

Letter P1

Sent: Monday, November 09, 2009 11:09 AM

To: Brown, Janet

Cc: Dorothy Krauss; ginny lombardi; Cathy Malkemus; Paul Malkemus; Sami Mankarias; Jim Mansfield; Terry Welsh; mezzohiker@msn.com; Debby Koken; Jennifer Frutig; Kevin Nelson; Penny Elia; James Quigg; Mark Tabbert; Matt Irwin; Rodger Hageman; Jim Cassidy; Bruce Bartram; Brian Burnett; Margaret Royall; Chris McEvoy; jessp77@gmail.com; Ed Guilmette; nopc@sbcglobal.net; Susan Bateau; Joann Lombardo; Steve Ray

Subject: Response to Draft Environmental Impact Report (DEIR) for Sunset Ridge Park Project

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 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.

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."

P1-1

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

P1-1
cont.

Letter P1 **Bruce Bartram**
November 9, 2009

Response 1

The comment is noted. Please refer to Topical Responses 1 and 2.

From: Bruce Bartram [mailto:b.bartram@verizon.net]
Sent: Mon 11/16/2009 3:32 PM
To: Ramirez, Gregg
Subject: General Plan Question Follow Up

Dear Mr. Ramirez:

On pg 4.3-8 of the Traffic and Circulation Section of the draft Environmental Impact Report (DEIR) for the Sunset Ridge Park Project contains "TABLE 4.3-4 CITY OF NEWPORT BEACH COMMITTED PROJECTS." The Table lists 18 projects already approved for construction in the City of Newport Beach. With reference to your prior email below, what are the traffic trips and new commercial and office space that will be generated by these new projects. The Traffic and Circulation Section of the DEIR is attached for your reference.

} P2-1

Thank you so much for your expected prompt response to my question.

Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

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

From: [Ramirez, Gregg](mailto:Ramirez.Gregg)
To: [Bruce Bartram](mailto:Bruce.Bartram)
Sent: Friday, July 17, 2009 3:21 PM
Subject: RE: General Plan Question

Mr. Bartram,

Please see my responses below. Let me know if you have any follow-up questions.

- Reducing traffic citywide by nearly 30,000 trips each day over the life of the plan;
- Reducing potential new commercial and office space by more than 2,000,000 sq. ft.;

This data is found in the GP traffic studies. The numbers above were arrived at by doing a plan to plan comparison of the old General Plan to the adopted 2006 General Plan). The final transportation report included a discussion and tables that summarize land use data of old General Plan and land use data for the adopted General Plan. I have attached two tables that support the numbers mentioned above and the Land Use discussion from that report as a PDF file.

• Supporting efforts to acquire Banning Ranch for permanent open space ;
Land Use Element. Page 3-10, Policy LU 3.4. Also, see the entire Banning Ranch section beginning on page 3-67, in particular look at policy LU 6.3 on Page 3-71 and polices LU 6.3.1 and LU 6.3.2 on page 3-72.

• Taking strong action to prevent or reduce water pollution in the bay and ocean;
Natural Resources Element. Goals NR 3, NR 4 and NR 5 and related polices which can be found on Pages 10-19 through 10-23.

• Enhancing natural resources such as Upper Newport Bay;
Natural Resources Element. Goal NR 16 and the supporting polices which can be found on page 10-32. Additionally, there a other Goals and polices in the Natural Resources Element that address natural resources.

• Preserving public views of the ocean, harbor and bay ;"
Natural resources Element. Goal NR 20 and related polices, page 10-36

Again, let me know if you have any follow-up questions

Sincerely,

Gregg Ramirez
City of Newport Beach
Planning Department
949-644-3219

From: Bruce Bartram [mailto:b.bartram@verizon.net]
Sent: Thursday, July 16, 2009 1:19 PM
To: Ramirez, Gregg
Subject: General Plan Question

Dear Mr. Ramirez:

According to the Newport Beach Chamber of Commerce sponsored Coalition for General Plan Accountability website.....

"members of the General Plan Advisory Committee or GPAC – developed this (general plan) after thorough study of input from thousands of their neighbors that was received during the most extensive public outreach in the City's history.

After receiving community input, GPAC developed a "Vision Statement" – a description of the City that residents want Newport Beach to be now and in 2025 – to serve as a blueprint for this General Plan Update. GPAC, with the assistance of planning professionals and using the Vision Statement as a guide, then developed this General Plan to ensure that the City achieves the vision by, among many other things, doing the following (including):

- Reducing traffic citywide by nearly 30,000 trips each day over the life of the plan;
- Reducing potential new commercial and office space by more than 2,000,000 sq. ft.;
- Supporting efforts to acquire Banning Ranch for permanent open space;
- Taking strong action to prevent or reduce water pollution in the bay and ocean;
- Enhancing natural resources such as Upper Newport Bay,
- Preserving public views of the ocean, harbor and bay."

The weblink to the Coalition for General Plan Accountability webpage stating the above is:

http://www.generalplanaccountability.org/plan/Priorities/?_c=xvrvz4y11w1xx0q

After reviewing the General Plan I was unable to locate most of the above "Vision Goals" within the Plan's contents. Could you explain where in the Plan by section and page these "Goals" are located and/or addressed? If not, then why are such "Goals" listed on the Coalition website?

Thank you for your expected cooperation in this matter.
Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, Ca 92663

4.3 TRANSPORTATION AND CIRCULATION

4.3.1 INTRODUCTION

This section summarizes the findings of the traffic impact study prepared by Kimley-Horn & Associates, Inc. (Kimley-Horn) (October 2009) to evaluate the potential traffic impacts associated with the Sunset Ridge Park Project. The study is included in its entirety as Appendix B to this EIR.

4.3.2 REGULATORY SETTING

Federal

There are no relevant federal traffic and circulation regulations applicable to the proposed Project.

State

Congestion Management Program

The Congestion Management Program (CMP) is the program by which agencies in Orange County have agreed to monitor and report on the status of regional roadways. In June 1990, the passage of the Proposition 111 gas tax increase required urbanized areas in the State with a population of 50,000 or more to adopt a CMP. Decisions made the following year by the majority of local governments in Orange County designated the Orange County Transportation Authority (OCTA) as the Congestion Management Agency (CMA) for the County. Since then, OCTA has been responsible for the development, monitoring, and biennial updating of County's CMP. The goals of Orange County's CMP are to reduce traffic congestion and provide a mechanism for coordinating land use and development decisions. The CMP is also the mechanism for proposing transportation projects that are eligible to compete for the State gas tax funds.

The CMP requires that a traffic impact assessment (TIA) be conducted for any project generating 2,400 or more daily trips, or 1,600 or more daily trips for projects that directly access the CMP Highway System. Per the CMP guidelines, this number is based on the desire to analyze any impacts that comprise 3 percent or more of the existing CMP Highway System facilities' capacity. The CMP Highway System includes specific roadways, including State highways, smart streets, and CMP arterial monitoring locations/intersections. Therefore, the CMP TIA requirements relate only to the designated CMP Highway System. The CMP system in the City consists of the following roadways:

- MacArthur Boulevard (Jamboree Road to Coast Highway)
- Jamboree Road (between the City limits and MacArthur Boulevard)
- Coast Highway (throughout)
- Newport Boulevard (from the north City limits to Coast Highway)

City of Newport Beach

General Plan Circulation Element

The Circulation Element of the *City of Newport Beach General Plan* includes goals and policies related to transportation that are applicable to the proposed Project. These goals and policies

are provided in Table 4.1-2 in Section 4.1, Land Use and Related Planning Programs, with a Project consistency analysis. The Project's consistency with applicable goals and policies of the City's Coastal Land Use Plan (CLUP) and the California Coastal Act is provided in Section 4.1, Tables 4.1-3 and 4.1-4, respectively.

4.3.3 METHODOLOGY

Traffic Study Area

The traffic study methodology and traffic study area were defined by the City of Newport Beach (City), in accordance with the City's traffic study guidelines. The traffic study area for the traffic analysis is depicted on Exhibit 4.3-1 and includes five intersections. These traffic study area intersections are identified below.

1. Superior Avenue at Placentia Avenue,
2. West Coast Highway at Prospect Avenue,
3. West Coast Highway at Park Access Road entrance (future intersection),
4. West Coast Highway at Superior Avenue,
5. West Coast Highway at Newport Boulevard.

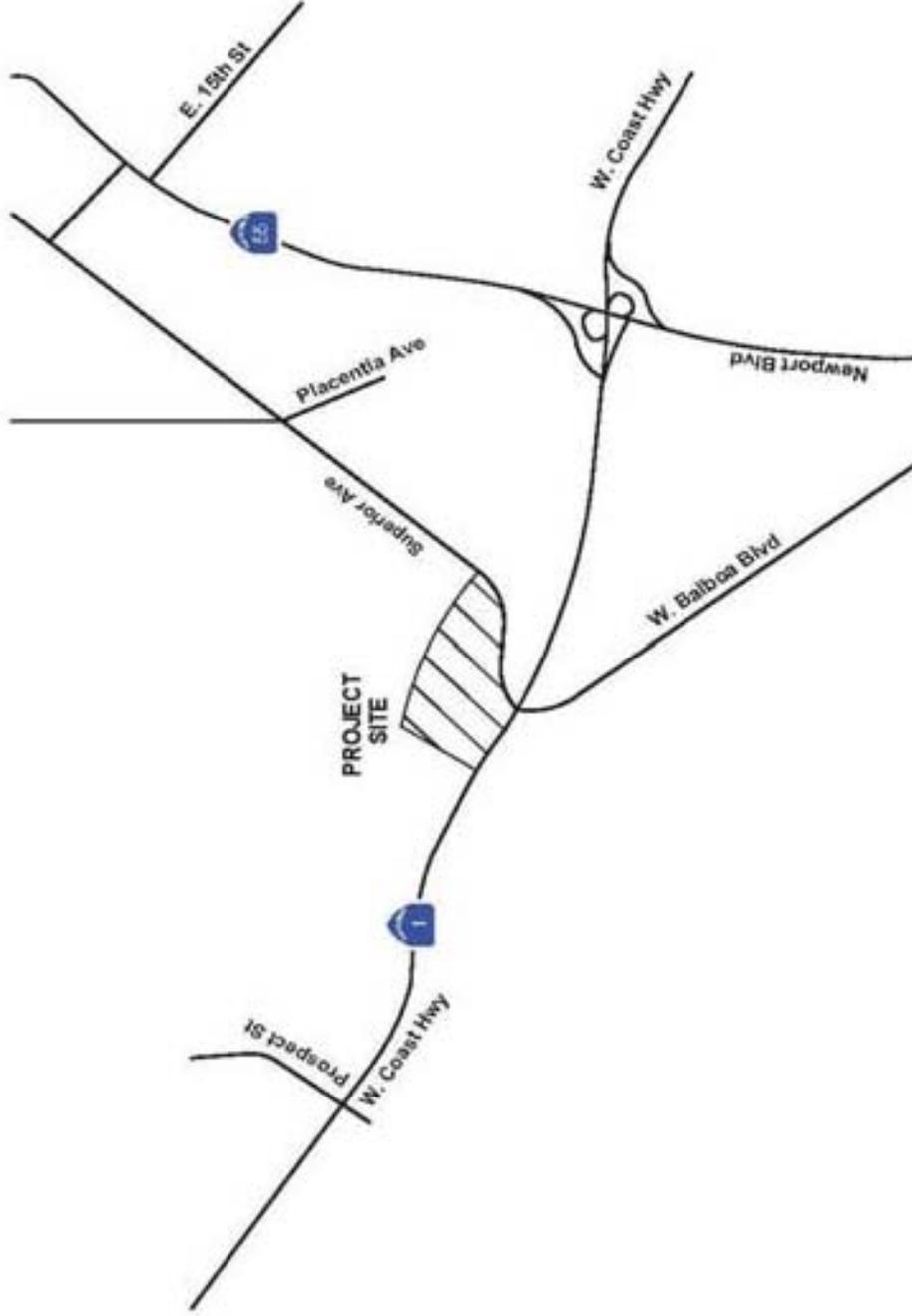
Field observations of the traffic study area intersections were conducted. Turning movement traffic counts for the AM and PM peak hours (between 7:00 AM and 9:00 AM and between 4:00 PM and 6:00 PM, respectively) were collected in February 2009.

Traffic Scenarios

Traffic conditions were analyzed for the following scenarios: *Existing (2009)*, *Existing Conditions With Project Buildout, Year 2013 Without Project*, and *Year 2013 With Project*.

Existing Conditions (2009): The analysis of existing traffic conditions provides a base of analysis for the remainder of the traffic study. Existing Conditions (2009) includes an assessment of roadways in the traffic study area, current traffic volumes, and operating conditions.

Existing Conditions With Project Buildout: This is a hypothetical scenario in which the Project would be fully implemented at the present time. This analysis, required by CEQA, assumes full development of the Project and full absorption of Project traffic on the existing highway system. The *Existing Conditions With Project Buildout* scenario does not account for future population growth that is projected in the City and adjacent jurisdictions within the traffic study area, with or without the Project. Further, it does not account for other future land use projects that would also be conditioned to provide for, or contribute to needed traffic improvements to the traffic study area, as well as other anticipated circulation improvements. Lastly, the traffic study area circulation system is projected to change over time, with or without the proposed Project. These circulation system changes include road improvements, reconfigurations, and realignments. For these reasons and the fact that Project completion is proposed for 2012, the *Year 2013 With Project* scenario provides a more realistic scenario for the traffic impact analysis and, therefore, the mitigation program addresses the *Year 2013 With Project* scenario rather than *Existing Conditions Plus Project Buildout* scenario.



Source: Kimley-Horn and Associates, Inc.

Traffic Study Area

Sunset Ridge Park EIR

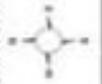
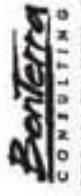


Exhibit 4.3-1



D:\Projects\Newport\01601\maps\EIR\Ex-4.3-1_TSA_080808.pdf

Year 2013 Without Project: This scenario identifies future traffic conditions in 2013, which could be expected to result from regional growth, committed projects, and cumulative projects. Regional growth, committed projects, and cumulative projects are referred herein as "cumulative" or "cumulative projects". In accordance with City requirements, future traffic forecasts have been developed for the year following Project opening. The Project opening year is planned for 2012, therefore; the analysis year for this traffic impact study is 2013. According to the City's traffic impact study guidelines, an ambient growth rate of 1.0 percent per year is applied to selected key arterials in the City. Within the traffic study area, West Coast Highway and Newport Boulevard are considered key arterials.

Year 2013 With Project: This is an analysis of future traffic conditions in 2013 that could be expected to result from cumulative (regional growth, committed projects, and cumulative projects) and the proposed Sunset Ridge Park Project.

Traffic Study Methodology

A two-step process is used to develop Project traffic forecasts. The first step is to identify Project traffic generation; this is done by estimating the total arriving and departing traffic in the traffic study area on a peak hour and daily basis. The second step in the forecasting process is to assign Project-generated trips to roadways and intersections on the street system.

Intersection Level of Service Methodology

Roadway performance is most often controlled by the performance of intersections, specifically during peak traffic periods. This is because traffic control at intersections interrupts traffic flow that would otherwise be relatively unimpeded except for the influences of on-street parking, access to adjacent land uses, and/or other factors resulting in vehicle interaction between intersections. For this reason, this traffic analysis focuses on peak period operating conditions for key intersections (rather than roadway segments) during the morning and evening commute peak hours (between 7:00 AM and 9:00 AM and between 4:00 PM and 6:00 PM) on a typical weekday.

Based upon City guidelines, the intersection capacity utilization (ICU) methodology was used to determine the volume-to-capacity (V/C) relationship for an intersection (based upon the individual V/C ratios for key conflicting traffic movements) and that intersection's corresponding level of service. By assuming 1,600 vehicles per hour per lane (vphpl) as the practical capacity for through lanes, left-turn and right-turn lanes, the ICU method directly relates traffic demand to the available capacity (an ICU allowance for yellow light signal time is not required by the City's guidelines). The resulting ICU numerical value represents the greatest green light signal time requirements for the entire intersection. It should be noted that the ICU methodology assumes uniform traffic distribution per intersection approach lane and optimal signal timing.

Intersections on State Highway facilities, which are controlled by the California Department of Transportation (Caltrans), were also analyzed using the Highway Capacity Manual (HCM) methodology. In the Project vicinity, West Coast Highway and Newport Boulevard are Caltrans facilities. Therefore, study intersections on these roadways are analyzed using the HCM intersection analysis methodology.

HCM methodology measures average seconds of delay per vehicle based on a number of technical parameters, such as peak hourly traffic volumes, number of lanes, type of signal operation, and signal timing and phasing in the calculations.

Under both methodologies, operating conditions at intersections are typically described in terms of a "level of service" (LOS). Level of service is a qualitative measure of a facility's operating performance and is described with a letter designation from A to F with LOS A representing uncongested free-flowing operating conditions and LOS F representing congested over-capacity conditions. The HCM methodology returns a delay value, expressed in terms of the average seconds of delay per vehicle, which also corresponds to a level of service measure. Table 4.3-1 identifies each LOS and the corresponding V/C ratio.

The City of Newport Beach has adopted LOS D as the peak hour operating standard for intersection locations. For signalized intersections, an ICU value less than or equal to 0.90 satisfies the City's standards.

For State-controlled intersections, the *Caltrans Guide for the Preparation of Traffic Impact Studies* states that "Caltrans endeavors to maintain a target Level of Service at the transition between LOS 'C' and LOS 'D' on State highway facilities. If an existing State highway facility is operating at less than the target LOS, the existing Level of Service is to be maintained".

**TABLE 4.3-1
INTERSECTION LEVELS OF SERVICE**

Level of Service	ICU V/C Ratio	HCM ^a Average Delay per Vehicle (sec)	Description
A	0.00–0.60	≤10	<i>Excellent:</i> No vehicle waits longer than 1 red light and no approach phase is fully used.
B	0.61–0.70	> 10 and ≤ 20	<i>Very Good:</i> An occasional approach phase is fully utilized; drivers begin to feel somewhat restricted within groups of vehicles.
C	0.71–0.80	> 20 and ≤ 35	<i>Good:</i> Occasionally drivers may have to wait through more than 1 red light; back-ups may develop behind turning vehicles
D	0.81–0.90	> 35 and ≤ 55	<i>Fair:</i> Delays may be substantial during portions of the peak hours, but enough lower volume periods occur to permit clearing of developing lines, preventing excessive back-ups.
E	0.91–1.00	> 55 and ≤ 80	<i>Poor:</i> Represents the most vehicles that the intersection approaches can accommodate; may be long lines of waiting vehicles through several signal cycles.
F	> 1.00	> 80	<i>Failure:</i> Back-ups from nearby locations or on cross streets may restrict or prevent movement of vehicles out of the intersection approaches. Tremendous delays with continuously increasing queue lengths.

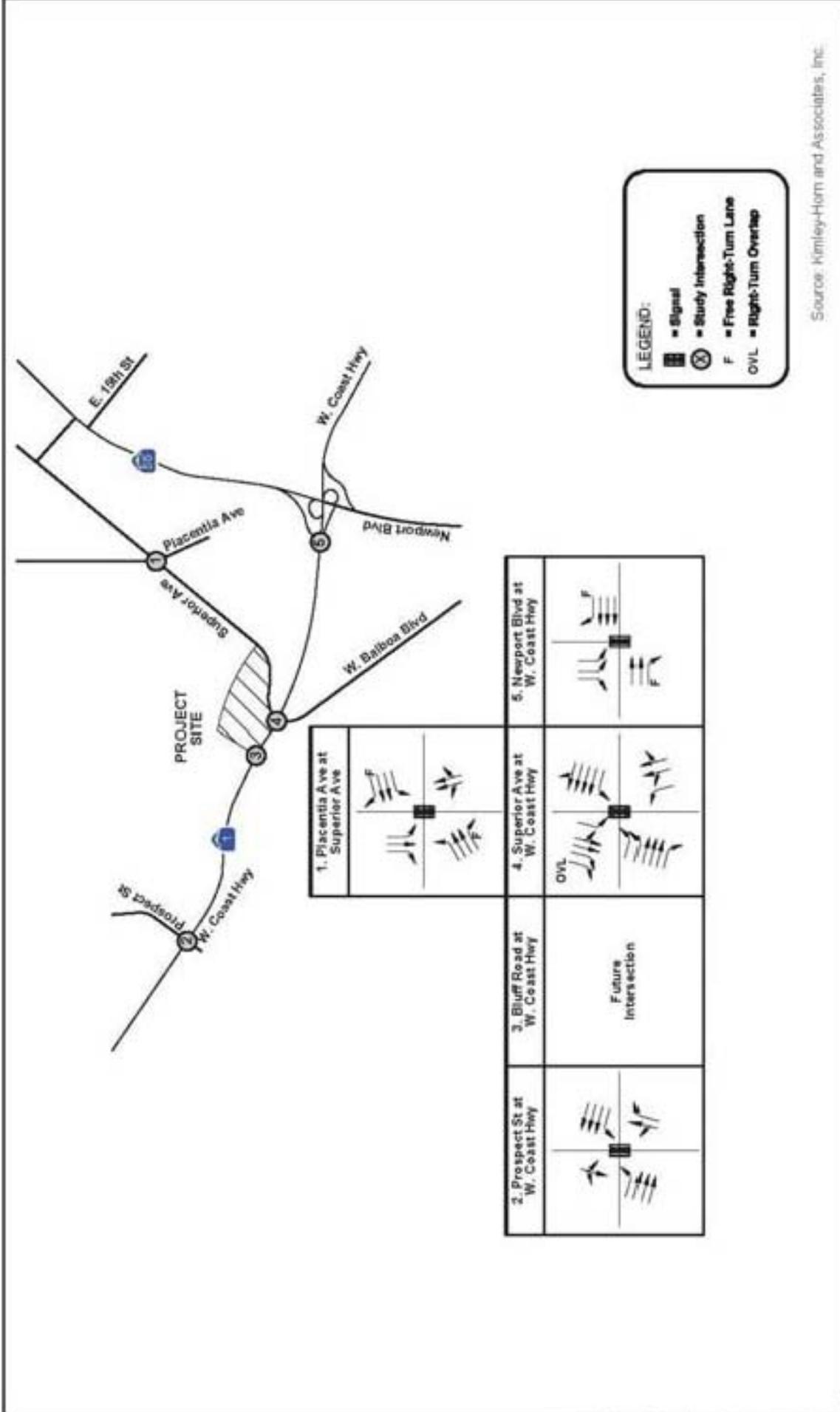
^a HCM 2000.

4.3.4 EXISTING CONDITIONS

Exhibit 4.3-2 depicts the existing physical characteristics of the traffic study area street system, including lane configurations and traffic control at study area intersections.

Intersection Volumes

ICU values and the corresponding levels of service for the traffic study area are identified in Table 4.3-2. The table shows that all intersections are operating at an acceptable level of service (i.e., LOS D or better). Existing AM and PM peak hour intersection turning movement



LEGEND:

- Signal
- ⊗ Study Intersection
- F Free Right-Turn Lane
- OVL Right-Turn Overlap

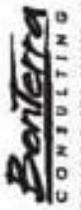
<p>1. Piacenta Ave at Superior Ave</p>	<p>4. Superior Ave at W. Coast Hwy</p> <p>OVL</p>
<p>2. Prospect St at W. Coast Hwy</p>	<p>3. Bluff Road at W. Coast Hwy</p> <p>Future Intersection</p>
<p>5. Newport Blvd at W. Coast Hwy</p>	

Source: Kimley-Horn and Associates, Inc.

Exhibit 4.3-2

Existing Lane Configuration and Traffic Control

Sunset Ridge Park EIR



volumes for the traffic study area intersections are depicted in Exhibit 4.3-3. No traffic is currently generated at the Project site.

**TABLE 4.3-2
EXISTING (2009) LEVELS OF SERVICE/ICU**

No.	Intersection	Control	AM Peak Hour				PM Peak Hour			
			Delay	LOS	ICU	LOS	Delay	LOS	ICU	LOS
Superior Ave at:										
1	Placentia Ave	S	N/A	N/A	0.50	A	N/A	N/A	0.57	A
West Coast Hwy at:										
2	Prospect St	S	11.7 ^a	B	0.72	C	3.9 ^a	A	0.63	B
3	Park Access Road	Future Intersection								
4	Superior Ave	S	22.1 ^a	C	0.65	B	27.8 ^a	C	0.65	B
5	Newport Blvd	S	12.4 ^a	B	0.83	D	15.5 ^a	B	0.64	B
S: signalized; N/A: Not applicable										
^a HCM delay analysis conducted for Caltrans-controlled intersections. Intersection operation is expressed in a V/C ratio for the ICU methodology and in average seconds of delay per vehicle during the peak hour for the HCM 2000 Methodology.										
Source: Kimley-Horn 2009.										

4.3.5 PROJECT DESIGN FEATURES AND STANDARD CONDITIONS

Project Design Features

No Project Design Features (PDFs) have been identified.

Standard Conditions and Requirements

SC 4.3-1 Sight distance at the Project's access point shall comply with City of Newport Beach standards.

SC 4.3-2 Traffic control and truck route plans shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets, as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic-control equipment and flag persons. Construction workers shall be required to park on the Project site.

4.3.6 THRESHOLDS OF SIGNIFICANCE

The following threshold criteria are from the City of Newport Beach Initial Study Checklist. The Project would result in a significant traffic impact if it would:

Threshold 4.3-1 Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections).

Threshold 4.3-2	Exceed, either individually or cumulatively, a level of service standard established by the County congestion management agency for designated roads or highways.
Threshold 4.3-3	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment), or result in inadequate emergency access.
Threshold 4.3-4	Result in inadequate parking capacity.
Threshold 4.3-5	Conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks).

As previously discussed in Section 2.3.3, Effects Found Not to be Significant, the City through the preparation of the Initial Study determined that the proposed Project would not have a significant impact for the following thresholds and that no further analysis was required:

- Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.

The proposed Project would not include any uses that would change air traffic patterns or locations and would not increase the amount of air traffic. No airports are located within the immediate Project area. Regional air traffic demands would be accommodated by Los Angeles International Airport, John Wayne Airport, Ontario Airport, and Long Beach Airport.

City of Newport Beach Intersections

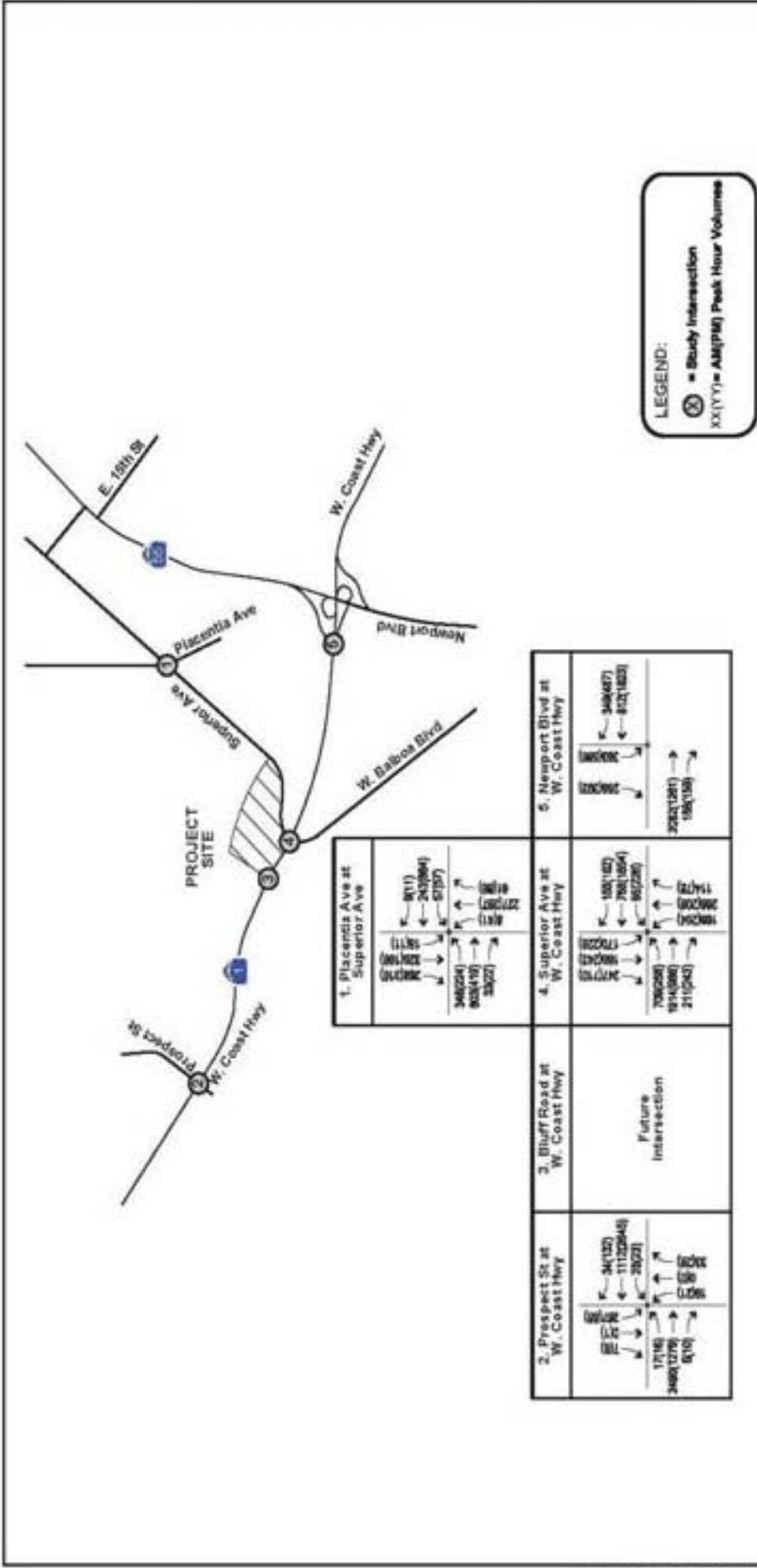
For City-controlled intersections, ICU and change in ICU values are calculated to three decimal places then rounded to two decimal places. Consistent with City requirements, the following criteria are applied to identify those intersections where significant impacts occur and project-related mitigation is warranted.

- The ICU value under “with project” conditions exceeds 0.90 (LOS E or F).
- The ICU increase attributable to the project is 0.01 or greater at an intersection already operating at an unacceptable level of service.

A significant traffic impact caused by a project is considered to be mitigated when project-related improvements would modify the ICU value to less than or equal to 0.90, or an ICU value to less than or equal to the “without project” ICU.

Caltrans Intersections

A significant project impact occurs at a State Highway study intersection when the addition of project-generated trips causes the peak hour level of service of the study intersection to change from acceptable operation (LOS A, B, or C) to deficient operation (LOS D, E, or F).



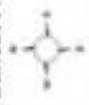
LEGEND:
 ⊗ = Study Intersection
 XX(YY) = AM(PM) Peak Hour Volumes

Source: Kimley-Horn and Associates, Inc.

Existing Peak Hour Traffic Volumes

Exhibit 4.3-3

Sunset Ridge Park EIR



4.3.7 ENVIRONMENTAL IMPACTS: PROJECT AND CUMULATIVE

Trip Generation

Traffic generation is expressed in vehicle trip ends, defined as one-way vehicular movements, either entering or exiting the generating land use. Generation factors and equations used in the traffic forecasting procedure are from *Trip Generation* (8th ed.), published by the Institute of Transportation Engineers (ITE 2008). The main components of the proposed Project are one baseball field, two soccer fields, playground, a memorial garden, and pedestrian walkways. Due to the layout of the sports fields, the baseball field and the soccer fields cannot be used simultaneously. The two youth soccer fields can be used at the same time.

The traffic impact study analyzed trip generation for two soccer fields using ITE Land Use category "Soccer Complex" (488), and ITE Land Use category "City Park" (411) for the entire 18.9-acre Project site.

Daily AM and PM peak hour trip generation rates, and Project-related trips for the Project are presented in Table 4.3-3. Background data regarding trip rate formulation is provided in Appendix B of this EIR. Sunset Ridge Park is estimated to generate 173 daily trips with 2 AM peak hour trips and 42 PM peak hour trips. Exhibit 4.3-4, Project-Related Peak Hour Traffic Volumes, identifies Project-specific traffic without cumulative development.

**TABLE 4.3-3
TRIP GENERATION**

Land Use	ITE Code	Unit	Trip Generation Rates						
			Daily	AM Peak Hour		Total	PM Peak Hour		
				In	Out		In	Out	Total
City Park	411	ac	1.59	-	-	-	-	-	-
Soccer Complex	488	Field	71.33	0.70	0.70	1.40	14.26	6.41	20.67
Land Use		Quantity							
City Park		18.9 ac	30	N/A	N/A	N/A	N/A	N/A	N/A
Soccer Complex		2 Fields	143	1	1	2	29	13	42
Total Trips			173	1	1	2	29	13	42
ac: acre -: No peak hour trip generation rates given by ITE for this land use. N/A: Not Applicable. Source: Kimley-Horn 2009.									

Trip Distribution and Assignment

Project trip distribution assumptions for the Project site were developed after consultation with the City's Recreation and Senior Services Department, and are based on knowledge of traffic flow patterns and the roadway system in the area, as well as the location of area trip producers, such as residential neighborhoods. Trip distribution assumptions were submitted to City traffic engineering staff for review and concurrence. The trip distribution for the Project is depicted in Exhibit 4.3-5, Project Trip Distribution.

Committed Projects

Information about committed projects was provided by the City of Newport Beach staff. Committed projects are projects that have been approved, but are either not yet built, or are built but not yet fully occupied. Committed City projects are summarized in Table 4.3-4. Committed projects data sheets provided by the City are provided in Appendix B.

**TABLE 4.3-4
 CITY OF NEWPORT BEACH COMMITTED PROJECTS**

City Project Number	Project Name	Percent Complete
148	Fashion Island Expansion	40
154	Temple Bat Yahm Expansion	65
555	Circulation Improvement and Open Space Agreement (CIOSA) – Irvine Project	91
910	Newport Dunes	0
936	1401 Dove Street	0
944	1901 Westcliff Surgical Center	0
945	Hoag Hospital Phase III	0
947	Birch Medical Office Complex	0
949	St. Mark Presbyterian Church	77
951	Corporate Plaza West	0
952	Mariner's Mile Gateway	0
953	Land Rover Newport Beach Service Center	0
954	Our Lady Queen of Angeles Catholic Church Expansion	0
955	2300 Newport Boulevard	0
957	Newport Executive Court	0
958	Hoag Healthcare Center	0
959	North Newport Center	0
960	Santa Barbara Condominiums	0
Source: City of Newport Beach – Traffic Phasing Data – Includes approved projects less than 100 percent complete, 2009.		

Cumulative Projects

The traffic analysis also includes traffic from reasonably foreseeable projects in the Project vicinity. Reasonably foreseeable projects are projects that are in various stages of the application and approval process, but have not yet been approved. Cumulative project traffic information was provided by the City. Cumulative projects are summarized in Table 4.3-5 (Appendix B).

**TABLE 4.3-5
CUMULATIVE PROJECTS**

Project Name	Project Description
Newport Banning Ranch	75-Room Resort Hotel 439 du Residential Condominium/Townhouse 806 du Residential Condominium/Townhouse 130 du Single-Family Detached Housing 75,000 sf Retail
City Hall and Park Development	98,000 sf Government Office Complex 17,135 sf Library 15-acre Park
Coast Community College	67,000 gsf Higher Education Learning Center
Marina Park	4.89-acre Park 21,300 gsf Recreational Community Center 23-berth Marina
Mariner's Medical Arts	12,245 gsf Medical Office Addition
Newport Beach Mormon Temple	17,460 sf Church
Newport Coast	1,298 du Condominium/Townhouse ^a 3,180 du Single-Family Detached Residential ^a 582 du Multi-Family Residential ^a
Newport Ridge	2,107 du Single-Family Detached Residential ^a 1,281 du Multi-Family Residential ^a 102,959 sf Commercial
Old Newport GPA	25,725 gsf Medical Office
<p>Note: The preliminary project schedule for the Newport Banning Ranch project indicates that the construction for the project would not begin before the Sunset Ridge Park opening year of 2012.</p> <p>du: dwelling unit(s); sf: square feet; gsf: gross square feet</p> <p>^a Assumes 70 percent of dwelling units occupied.</p> <p>Source: City of Newport Beach 2009.</p>	

Peak hour volumes for committed and cumulative projects are depicted on Exhibit 4.3-6, Cumulative Projects Peak Hour Traffic Volumes.

Year 2013 Without Project

The *Year 2013 Without Project* traffic scenario assumes implementation of cumulative projects (regional growth, committed projects, and cumulative projects) without the proposed Project. In accordance with City requirements, future traffic forecasts have been developed for the year following Project opening which would be 2012. Therefore, the analysis year is 2013. Consistent with the City's traffic impact study guidelines, an ambient growth rate of 1.0 percent per year is applied to selected key arterials in the City. Within the traffic study area, West Coast Highway and Newport Boulevard are considered key arterials.

Intersection Volumes

Year 2013 intersection volumes without the Project are depicted on Exhibit 4.3-7, Year 2013 Without Project Peak Hour Traffic Volumes. Intersection analysis was conducted for Year 2013 without Project conditions for the study intersections. Table 4.3-6 identifies the ICU values and the corresponding levels of service for the traffic study area intersections in 2013 without the Project. As identified in the table, four of five the intersections are forecasted to operate at acceptable levels of service. All intersections currently operating at acceptable levels of service are forecasted to continue to operate at acceptable levels of service with the exception of one

intersection. This intersection is projected to operate at a deficient level of service during the AM peak hour without the Project:

- West Coast Highway at Newport Boulevard – 0.92 (LOS E), AM peak

**TABLE 4.3-6
YEAR 2013 WITHOUT PROJECT LEVELS OF SERVICE/ICU**

No.	Intersection	Control	AM Peak Hour				PM Peak Hour			
			Delay	LOS	ICU	LOS	Delay	LOS	ICU	LOS
Superior Ave at:										
1	Placentia Ave	S	N/A	N/A	0.56	A	N/A	N/A	0.66	B
West Coast Hwy at:										
2	Prospect St	S	11.8 ^a	B	0.78	C	3.9 ^a	A	0.72	C
3	Park Access Road	Future Intersection								
4	Superior Ave	S	23.0 ^a	C	0.70	B	28.8 ^a	C	0.74	C
5	Newport Blvd	S	14.3 ^a	B	0.92	E	16.3 ^a	B	0.79	C
S: signalized; N/A: Not applicable ^a HCM delay analysis conducted for Caltrans-controlled intersections. Intersection operation is expressed in V/C ratio for the ICU methodology and in average seconds of delay per vehicle during the peak for the HCM 2000 Methodology.										
Source: Kimley-Horn 2009.										

Threshold 4.3-1 *Would the project cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., resulting in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?*

Existing Conditions With Project Buildout

As previously discussed, this is a hypothetical scenario in which the Project would be fully implemented at the present time. This analysis, required by CEQA, assumes full development of the Project and full absorption of Project traffic on the existing highway system. The *Existing Conditions With Project Buildout* scenario does not account for future population growth that is projected in the City and adjacent jurisdictions within the traffic study area, with or without the Project. Further, it does not account for other future land use projects that would also be conditioned to provide for, or contribute to needed traffic improvements to the traffic study area, as well as other anticipated circulation improvements. Lastly, the traffic study area circulation system is projected to change over time, with or without the proposed Project. These circulation system changes include road improvements, reconfigurations, and realignments. For these reasons and the fact that Project completion is proposed for 2012, the *Year 2013 With Project* scenario provides a more realistic scenario for the traffic impact analysis and, therefore, the mitigation program addresses the *Year 2013 With Project* scenario rather than *Existing Conditions Plus Project Buildout* scenario.

Intersection Volumes

Table 4.3-7 identifies the ICU values and the corresponding levels of service for the traffic study area intersections for the *Existing Conditions With Project Buildout* scenario. With the addition of Project traffic to existing conditions, all traffic study area intersections continue to operate at acceptable levels of service. Under this scenario, no traffic impacts would occur.



<p>1. Placentia Ave at Superior Ave</p>	<p>4. Superior Ave at W. Coast Hwy</p>	<p>5. Newport Blvd at W. Coast Hwy</p>
<p>2. Prospect St at W. Coast Hwy</p>	<p>3. Bluff Road at W. Coast Hwy</p>	

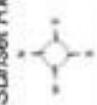
LEGEND:
 = Study Intersection
 X(YYY) = AM(PM) Peak Hour Volumes

Source: Kimley-Horn and Associates, Inc.

Exhibit 4.3-6

Cumulative Projects Peak Hour Traffic Volumes

Sunset Ridge Park EIR



**TABLE 4.3-7
EXISTING CONDITIONS WITH PROJECT BUILDOUT
SUMMARY OF INTERSECTION LEVEL OF SERVICE**

No.	Intersection	Control	AM Peak Hour				PM Peak Hour			
			Delay	LOS	ICU	LOS	Delay	LOS	ICU	LOS
Superior Ave at:										
1	Placentia Ave	S	N/A	N/A	0.50	A	N/A	N/A	0.58	A
West Coast Hwy at:										
2	Prospect Street	S	11.7 ^a	B	0.72	C	3.9 ^a	A	0.63	B
3	Park Access Road	S	0.1 ^a	A	0.59	A	0.4 ^a	A	0.60	A
4	Superior Avenue	S	22.1 ^a	C	0.65	B	27.9 ^a	C	0.66	B
5	Newport Boulevard	S	12.4 ^a	B	0.83	D	15.6 ^a	B	0.65	B
S: signalized; N/A: Not Applicable										
^a HCM delay analysis conducted for Caltrans-controlled intersections. Intersection operation is expressed in V/C ratio for the ICU methodology and in average seconds of delay per vehicle during the peak hour for the HCM 2000 Methodology.										
Source: Kimley-Horn 2009.										

Year 2013 With Project

This traffic scenario assesses the potential traffic impacts of the proposed Project with cumulative projects (committed projects and cumulative projects). Project-related peak hour traffic volumes were added to the year 2013 without Project traffic volumes to develop "Year 2013 With Project" forecasts.

Intersection Volumes

Year 2013 intersection volumes with the Project are depicted on Exhibit 4.3-8, Cumulative With Project Peak Hour Traffic Volumes. Table 4.3-8 identifies the ICU values and the corresponding levels of service for the traffic study area intersections in 2013 with the Project. With the addition of Project traffic, the intersection of West Coast Highway at Newport Boulevard is forecasted to continue to operate at LOS E in the AM peak hour. Based on the significance criteria set forth by the City of Newport Beach (the ICU increase attributable to the project is 0.01 or greater at an intersection already operating at an unacceptable level of service), the Project would not significantly impact this intersection. All other traffic study intersections are forecasted to operate at acceptable levels of service in the AM and PM peak hours.

**TABLE 4.3-8
YEAR 2013 WITH PROJECT SUMMARY OF INTERSECTION
LEVEL OF SERVICE**

No.	Intersection	Control	AM Peak Hour				PM Peak Hour			
			Delay	LOS	ICU	LOS	Delay	LOS	ICU	LOS
Superior Ave at:										
1	Placentia Ave	S	N/A	N/A	0.56	A	N/A	N/A	0.676	B
West Coast Hwy at:										
2	Prospect Street	S	11.8 ^a	B	0.78	C	3.9 ^a	A	0.72	C
3	Park Access Road	S	0.1 ^a	A	0.65	B	0.6 ^a	A	0.69	B
4	Superior Avenue	S	23.0 ^a	C	0.70	B	28.9 ^a	C	0.75	C
5	Newport Boulevard	S	14.3 ^a	B	0.92	E	16.4 ^a	B	0.80	C
S: signalized; N/A: Not Applicable										
^a HCM delay analysis conducted for Caltrans-controlled intersections. Intersection operation is expressed in V/C ratio for the ICU methodology and in average seconds of delay per vehicle during the peak hour for the HCM 2000 Methodology.										
Source: Kimley-Horn 2009.										

Construction-Related Traffic

Construction of the proposed Project is planned to occur in a single construction phase lasting between 16 and 18 months.

Construction activities would include site clearing, grading and excavation, and construction (park and access road). Large construction equipment such as bulldozers, loaders, scrapers, and pavers would be required during various construction phases. This equipment is generally brought to the site at the start of the construction phase and kept on site until its term of use ends. A staging area would be designated on-site to store construction equipment and supplies during construction. Throughout the construction, the size of the work crew reporting to the site each day would vary depending on different construction activities. Parking for workers would be provided on site during all phases of construction. Construction workers would not be allowed to park on local streets.

It is estimated that earthwork for the site would require approximately 34,000 cubic yards of dirt export, which would require approximately 2,125 truckloads of dirt removal. The City is proposing to use the adjacent Newport Banning Ranch property for stockpile of the export dirt from the Sunset Ridge Park site. The haul route for trucks carrying dirt from the park site to the stockpile sites would be through the Newport Banning Ranch property (see Exhibit 3-12 of Section 3.0, Project Description).

Construction-related traffic would use the existing regional and local road network and would most likely access the Project site primarily from West Coast Highway and Superior Avenue, as well as through the Newport Banning Ranch property. Temporary delays in traffic may occur due to oversized vehicles traveling at lower speeds on West Coast Highway. Such delays would be occasional, and of short duration. No vehicles would be permitted to stage on West Coast Highway. These temporary delays would be considered less than significant. However, to facilitate the movement of construction traffic and to minimize potential disruptions, Standard Condition (SC) 4.3-2 and Mitigation Measures (MMs) 4.3-1 and 4.3-2 would be applicable to the proposed Project.

Impact Summary: *Less than Significant Impact with Mitigation.* The proposed Project would not result in a 0.01 or greater increase in ICU at the intersection of West Coast Highway at Newport Boulevard, which is projected to exceed the City's LOS standards. All other traffic study intersections would continue to operate at acceptable levels of service. With implementation of SC 4.3-2 and MMs 4.3-1 and 4.3-2, impacts would be less than significant.

Threshold 4.3-2 *Would the project exceed, either individually or cumulatively, a level of service standard established by the County congestion management agency for designated roads or highways?*

The intersection of West Coast Highway at Newport Boulevard is a County of Orange Congestion Management Plan (CMP) intersection. This intersection currently operates at an acceptable level of service. In 2013, this intersection is projected to operate at a deficient level of service in the AM peak hour (LOS E). However, the deficiency is not attributable to the Project. No significant impact would therefore occur associated with the proposed Project.

Impact Summary: *Less than Significant Impact.* Based on the significance criteria for CMP intersections, the proposed Project would not significantly impact the one CMP intersection within the traffic study area.

Threshold 4.3-3 *Would the Project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment), or result in inadequate emergency access?*

Site Access and Circulation

Access to the Sunset Ridge Park site is proposed to be provided via a park access road that would be constructed from West Coast Highway through the adjacent Newport Banning Ranch property. The City is proposing a signal at the park access road and West Coast Highway intersection. Because West Coast Highway is a State facility, Caltrans approval would be required for the widening and signalization. The access road would intersect West Coast Highway approximately 980 feet west of Superior Avenue. The road would extend northward from West Coast Highway for about 850 feet, and then would follow a northwest-to-southeast alignment for about 550 feet to connect to the park parking lot.

The north-south leg of this access road would be constructed as a 28-foot-wide undivided roadway with 2 travel lanes. The east-west leg of the road would vary in width, with a portion being 28 feet with 2 lanes, and a portion being 44 feet wide with 2 travel lanes and parallel parking along the north side.

Pedestrian connections to and from the public street system are proposed to be provided from West Coast Highway and from Superior Avenue.

Signal Warrant Analysis

As noted, the City is proposing a signal at the future West Coast Highway and park access road intersection. If signalized, all turning movements to/from the park access road would be allowed. Because West Coast Highway is a State facility, Caltrans approval would be required. A signal warrant analysis was conducted for this proposed future intersection. The *City of Newport*

Beach General Plan's Circulation Element assumes a roadway extension north through the Newport Banning Ranch property to 19th Street, with additional connections at 15th and 17th Street with or without development of that property. The park access road would also serve as one of the access points from the public street system to any future development on the Newport Banning Ranch property; widening of the park access road would be required.

General Plan Buildout forecast volumes were used to conduct the signal warrant analysis. The forecasts assume buildout of the City as well as the surrounding areas in accordance with General Plan Land Use and Circulation Plans, including the adjacent Newport Banning Ranch property. The *City of Newport Beach General Plan* designates the Newport Banning Ranch property as Open Space/Residential Village (OS[RV]). Under the OS designation, the Newport Banning Ranch property would have active park uses and roads. If the property is not acquired for open space, the property can be developed as a residential village (RV) with up to 1,375 dwelling units, 75,000 square feet of retail uses, 75 hotel rooms, parks, and roadways. Therefore, the signal warrants were conducted for General Plan buildout under both General Plan scenarios for the Newport Banning Ranch property.

Caltrans Signal Warrants 1 and 2 (Figure 9-4 of the Caltrans Traffic Manual) were conducted to determine if the future intersection at West Coast Highway and the park access road would meet the criteria for signalization. A summary of the results of the signal warrant analysis is provided in Table 4.3-9. Signal warrant worksheets are provided in Appendix B.

**TABLE 4.3-9
SIGNAL WARRANT ANALYSIS: WEST COAST HIGHWAY AT THE PARK
ACCESS ROAD**

Factor	Warrant 1 Minimum Vehicular Warrant		Warrant 2 Interruption of Continuous Traffic	
	Major Street	Minor Street	Major Street	Minor Street
Minimum ADT Requirements ^a	9,600	3,200	14,400	1,600
Forecast Conditions ADT ^b				
Newport Banning Ranch: General Plan Buildout as Open Space	45,450	5,225	45,450	5,225
Minimum Requirement Met?	Yes	Yes	Yes	Yes
Warrant Satisfied?	Yes		Yes	
Newport Banning Ranch: General Plan Buildout as Residential Village	50,000	7,500	50,000	7,500
Minimum Requirement Met?	Yes	Yes	Yes	Yes
Warrant Satisfied?	Yes		Yes	
ADT: average daily traffic.				
^a Based on Figure 9-4 of the Caltrans Traffic Manual				
^b Source: City of Newport Beach Traffic Model - General Plan Conditions, Urban Crossroads				

Table 4.3-9 indicates that the intersection would satisfy both the Caltrans Warrant #1 (Minimum Vehicular Warrant) and Caltrans Warrant #2 (Interruption of Continuous Traffic Warrant) at General Plan buildout. The estimated average daily traffic (EADT) volume on the park access road approach to West Coast Highway is forecasted to exceed the minimum volume requirement to satisfy Warrant #1 (3,200 vehicles per day [vpd]) and the minimum requirement to satisfy Warrant 2 (1,600 vpd). The intersection of the park access road at West Coast Highway would, therefore, warrant signalization under future General Plan conditions.

Vehicular Access Options

If the intersection of the park access road at West Coast Highway is not signalized, full turning movements at the intersection would not be allowed. Two options for unsignalized operation of this intersection are evaluated:

- ***Access Option 1:*** Unsignalized, with right-in/right-out only movements to and from the park access road.
- ***Access Option 2:*** Unsignalized, with right-in/right-out to and from the park access road, plus left-turn-in provisions on West Coast Highway.

Traffic movements at the park access road and at the next closest intersections to the east and the west on West Coast Highway would change slightly in response to turn restrictions imposed by these options. Under Access Option 1 (right-in/right-out only movements allowed to and from the park access road), traffic approaching from the west on West Coast Highway would be required to pass the entrance, make a U-turn at Superior Avenue, and make a right turn onto the park access road. Under both options, traffic exiting the park access road and travelling east on West Coast Highway (toward Superior Avenue) would be required to turn right onto West Coast Highway and make a U-turn at Prospect Street.

The unsignalized operation of the park access road at West Coast Highway and the effect of the associated changes in Project traffic patterns were analyzed for each traffic study intersection, and the results are summarized in Table 4.3-10. Table 4.3-10 shows that the changes in Project traffic that would occur as a result of Access Option 1 would not cause the level of service at any traffic study area intersection to change compared to the proposed signalized access condition. Under Access Option 2, the left-turn-in movement from eastbound West Coast Highway would be at LOS E in the PM peak hour, due to the heavy westbound through movement on West Coast Highway. This deficiency at this intersection is caused by the proposed Project (Table 4.3-8). Option 2 would result in significant project-specific impacts.

Impact Summary: ***Less than Significant Impact with Mitigation.*** Standard Condition 4.3-1 and MMs 4.3-1, 4.3-2, 4.3-3 and 4.3-4 are applicable to the proposed Project. Implementation of the proposed Project would not result in any significant impacts related to circulation or access (Option 2 is not recommended), and therefore would not significantly impact any emergency response evacuation plans. Impacts would be mitigated to a less than significant level.

**TABLE 4.3-10
SUMMARY OF INTERSECTION OPERATIONS WITH UNSIGNALIZED
ACCESS OPTIONS FOR THE PARK ACCESS ROAD**

Intersection	Control	AM Peak Hour				PM Peak Hour			
		Delay	LOS	ICU	LOS	Delay	LOS	ICU	LOS
1. Superior Ave at Placentia Ave									
Proposed Signalized Access	S	N/A	N/A	0.56	A	N/A	N/A	0.67	B
Access Option 1	S	N/A	N/A	0.56	A	N/A	N/A	0.67	B
Access Option 2	S	N/A	N/A	0.56	A	N/A	N/A	0.67	B
2. West Coast Hwy at Prospect St									
Proposed Signalized Access	S	11.8	B	0.78	C	3.9	A	0.72	C
Access Option 1	S	11.8	B	0.78	C	4.2	A	0.72	C
Access Option 2	S	11.8	B	0.78	C	4.2	A	0.72	C
3. West Coast Hwy at Park Access Road									
Proposed Signalized Access	S	0.1	A	0.65	B	0.6	A	0.69	B
Access Option 1	U	11.8	B	N/A	N/A	22.7	C	N/A	N/A
Access Option 2	U	11.8	B	N/A	N/A	45.8	E	N/A	N/A
4. West Coast Hwy at Superior Ave									
Proposed Signalized Access	S	23.0	C	0.70	B	28.9	C	0.75	C
Access Option 1	S	23.0	C	0.70	B	28.9	C	0.75	C
Access Option 2	S	23.0	C	0.70	B	28.9	C	0.75	C
5. West Coast Hwy at Newport Blvd									
Proposed Signalized Access	S	14.3	B	0.92	E	16.4	B	0.80	C
Access Option 1	S	14.3	B	0.92	E	16.4	B	0.80	C
Access Option 2	S	14.3	B	0.92	E	16.4	B	0.80	C
S: Signalized; U: Unsignalized; N/A: Not Applicable; Access Option 1 – Right-In/Right-Out Only; Access Option 2 – Right-In/Right-Out/Left-In Only.									
^a HCM delay is conducted for Caltrans-controlled intersections. Intersection delay is expressed in V/C ratio for the ICU methodology and in average seconds of delay per vehicle during the peak for the HCM 2000 Methodology.									
Source: Kimley-Horn 2009.									

Threshold 4.3-4 Would the project result in inadequate parking capacity?

All parking for the park would be provided on the site. As a part of the Project, a surface parking lot with 75 parking spaces and 22 parallel parking spaces along the park access road near the parking lot (for a total of 97 parking spaces) would be provided.

The City's Zoning Code (Chapter 20.66.030 Off-Street Parking and Loading Spaces Required) does not specify a parking rate for city parks, but rather indicates that the parking requirement for Park and Recreation Facilities would be "As specified by Use Permit". The ITE's *Parking Generation* document contains parking information for a City Park (Land Use Category 411). If the peak parking rate reported in the ITE Parking Generation document is applied to the Sunset Ridge Park Project (5 parking spaces per acre), the parking requirement would be 96 spaces. Therefore, the proposed Project would provide adequate parking.

Impact Summary: *Less than Significant Impact.* The park would provide adequate parking. No significant parking impacts are attributable to the proposed Project. No mitigation is required.

Threshold 4.3-5 *Would the project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? Would the Project conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?*

Bike racks would be provided on the Project site. Additionally, the Project incorporates pedestrian walkways throughout the Project site that tie into existing sidewalks along Superior Avenue and West Coast Highway. Public transit in the City is provided by the Orange County Transportation Authority (OCTA). There is an existing bus stop located at West Coast Highway at Superior Avenue. Tables 4.1-2 through 4.2-4, in Section 4.1, Land Use and Related Planning Programs, addresses the Project's consistency of with the applicable goals and policies of the General Plan, CLUP, and California Coastal Act, respectively.

Impact Summary: *No Impact.* As identified in Tables 4.1-2 through 4.1-4, the proposed Project would not conflict with any goals or policies of the City of Newport Beach General Plan, CLUP, or California Coastal Act. No mitigation is required.

4.3.8 MITIGATION PROGRAM

Project Design Features

The Project does not propose any Project Design Features related to transportation and circulation.

Standard Conditions and Requirements

- SC 4.3-1** Sight distance at the Project's access point shall comply with City of Newport Beach standards.
- SC 4.3-2** Traffic control and truck route plans shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flag persons. Construction workers shall be required to park on the Project site.

Mitigation Measures

Construction Traffic

- MM 4.3-1** The Project Manager shall provide advanced written notice of temporary traffic disruptions to the affected area's businesses and the general public. This notice shall be provided at least two weeks prior to disruptions.
- MM 4.3-2** The Project Manager shall ensure that construction activities requiring more than 16 truck (i.e., multiple axle vehicle) trips per hour, such as excavation and concrete pours, shall be limited between June 1 and September 1 to avoid traffic

conflicts with beach and tourist traffic. At all other times, such activities shall be limited to 25 truck (i.e., multiple axle vehicle) trips per hour unless otherwise approved by the City's Traffic Engineer. Haul operations shall be monitored by the Public Works Department, and additional restrictions may be applied if traffic congestion problems arise. A staging area will be designated on-site for construction equipment and supplies to be stored during construction. No construction vehicles would be allowed to stage on West Coast Highway during the grading and construction period.

Site Access and Circulation

MM 4.3-3 Prior to the start of grading, emergency fire access to the site shall be approved by the City Public Works Department and the Fire Department.

MM 4.3-4 Prior to the start of grading, the Project Manager shall demonstrate to the City Fire Department that all existing and new access roads surrounding the Project site shall be designated as fire lanes, and no parking shall be permitted unless the accessway meets minimum width requirements of the Public Works and Fire Departments. Parallel parking on one side may be permitted if the road is a minimum 32 feet in width.

4.3.9 LEVEL OF SIGNIFICANCE AFTER MITIGATION

The Project's contribution and all Project-specific cumulative traffic, circulation, and parking impacts can be mitigated to a level considered less than significant.

Letter P2 **Bruce Bartram**
November 16, 2009

Response 1

The requested information about cumulative and committed projects is in Appendix B of the Sunset Ridge Traffic Impact Analysis. The Traffic Impact Analysis is in the Draft EIR.

From: parahdigm@aol.com [mailto:parahdigm@aol.com]
Sent: Thursday, November 19, 2009 6:01 AM
To: b.bartram@verizon.net
Cc: Kiff, Dave; Badum, Steve; Wood, Sharon; Hunt, David; Selich, Edward
Subject: Re: Sunset Ridge Park Road Question Follow Up

Letter P3

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: 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; christopherburryan@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

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?

P3-1

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

P3-2

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?

P3-2
cont.

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)

P3-3

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.

P3-4

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 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

Letter P3 **Bruce Bartram**
November 17, 2009

Response 1

The City is currently negotiating an access agreement with the Newport Banning Ranch property owner. The City Council will consider approving this agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines. The access agreement is intended to be independent and does not presuppose development by the Newport Banning Ranch applicant.

Response 2

The commenter is incorrect that the proposed park Project requires the use of the adjacent Newport Banning Ranch property for the stockpiling of export soil from the Sunset Ridge Park site. Section 4.4, Air Quality, identifies two options for the disposal of excess material from the Sunset Ridge Park site: the adjacent Newport Banning Ranch property or an alternative off-site location. Page 4.4-30 of the Draft EIR states:

The City proposes that the exported soil would be placed on the adjacent Newport Banning Ranch property, with a round trip haul distance of less than one mile. This air quality analysis also evaluates the scenario that some or all of the soil may be exported off site to a destination not determined at this time. For purposes of calculating maximum daily emissions, a reasonable worst-case haul distance of 40 miles per round trip was used, based on known available spoils sites (Scenario B).

The City has proposed to export the soil to the Newport Banning Ranch site to minimize the vehicular travel distance associated with this construction activity and the Newport Banning Ranch property owner's willingness to accept the excess soil. Soil export to the Newport Banning Ranch site would be a component of the access agreement between the City and the property owner but is not a mandate for Project implementation. The access agreement is intended to be independent and does not presuppose development by the Newport Banning Ranch applicant.

Response 3

Please refer to the responses to Comments 1 and 2. The opinions of the commenter are noted. With respect to the timing of the two proposed projects, the Sunset Ridge Park Project is proposed for construction in January 2011 through March 2012. Should the Newport Banning Ranch Project be approved, the applicant proposes to commence remediation activities in 2014.

Response 4

Please refer to the responses to Comments 1, 2, and 3. The potential impacts of the proposed Newport Banning Ranch development project are being addressed in an EIR under preparation by the City of Newport Beach. Both the Sunset Ridge Park Project and the Newport Banning Ranch Project are independently addressing the potential environmental impacts of the respective projects. Neither project requires the other project to be approved and/or constructed in order for the other project to be approved and constructed. The opinions of the commenter are noted.

From: Bruce Bartram [mailto:b.bartram@verizon.net]
Sent: Mon 11/23/2009 7:43 AM
To: Brown, Janet
Subject: Sunset Ridge Park DEIR Question

Letter P4

November 23 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 Question

Dear Ms. Brown:

I have a question concerning the draft Environmental Impact Report for Sunset Ridge Park Project (DEIR). On Pg. 4.1-16 of the DEIR the following is stated:

"The access road from West Coast Highway for the proposed Sunset Ridge Project would be constructed on the Newport Banning Ranch property and would generally follow the alignment identified in the City's General Plan Master Plan of Streets and Highways and the Orange County OPAH. Both the Sunset Ridge Park Project and the proposed Newport Banning Ranch project would use the same access roadway from West Coast Highway. However, since the park requires a smaller roadway, only the eastern half of the access road would be constructed as a part of the park project.."

What is meant by the eastern half of the access road? Please use Exhibit 3-9 to illustrate your answer.

Thank you for your expected cooperation and prompt response in this matter.

Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

P4-1

Letter P4 **Bruce Bartram**
November 23, 2009

Response 1

Exhibit 3-9 depicts the proposed park access road associated with the Sunset Ridge Park Project. As discussed in Section 4.3, Transportation and Circulation, of the Draft EIR, “The access road would intersect West Coast Highway approximately 980 feet west of Superior Avenue. The road would extend northward from West Coast Highway for about 850 feet, and then would follow a northwest-to-southeast alignment for about 550 feet to connect to the park parking lot. The north-south leg of this access road would be constructed as a 28-foot-wide undivided roadway with 2 travel lanes. The east-west leg of the road would vary in width, with a portion being 28 feet with 2 lanes, and a portion being 44 feet wide with 2 travel lanes and parallel parking along the north side.”

The Newport Banning Ranch project proposes an expansion of the access road to accommodate four travel lanes. The widening would occur on the west side of the park access road.

From: Bruce Bartram [mailto:b.bartram@verizon.net]

Sent: Wednesday, December 02, 2009 7:00 AM

Letter P5

To: Brown, Janet

Cc: Terry Welsh; slgenis@stanfordalumni.org; jtmansfield@ca.rr.com; mezzohiker@msn.com; dkoken@hmausa.com; marktabbert@sbcglobal.net; steveray4surfcity@hotmail.com; jenniferfrutig@aol.com; knelson@web-conferencing-central.com; greenp1@cox.net; jonfox7@yahoo.com; evenkeel4@sbcglobal.net; jimcassidy52@earthlink.net; jamesquigg@yahoo.com; 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; Ginny Lombardi; Gary Garber

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

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?

P5-1

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.

P5-1
cont.

In reponse 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.

P5-2

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.

P5-3

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 Jnauary, 2010. Thus, simultaneous environmental review of both can be easily accomplished.

P5-4

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: 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; cmcevov@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

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 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

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 <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.daily Pilot.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 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

Letter P5 **Bruce Bartram**
December 2, 2009

Response 1

Please refer to Letter P3, responses to Comments 1 and 2.

Response 2

Please refer to Letter P3, response to Comment 2. Use of the Newport Banning Ranch property for the stockpiling of export soil from the Sunset Ridge Park site is not required to implement the proposed park Project. Transport of the soil to another location is evaluated in the Draft EIR.

Response 3

The commenter's opinion that the proposed Sunset Ridge Park project and the proposed Newport Banning Ranch project are one project is noted. Neither project must be approved and constructed for the other project to be approved and constructed. An EIR for the proposed Newport Banning Ranch development project is currently being drafted and will evaluate that development's project-specific impacts and contribution to cumulative impacts. Based on information provided to the City by the Newport Banning Ranch applicant, site remediation would commence in 2014 which is subsequent to the anticipated completion of the Sunset Ridge Park Project.

Response 4

Please refer to Letter P3, responses to comments 1 through 4, as well as the response to comment 3 above.

From: Bruce Bartram [mailto:b.bartram@verizon.net]
Sent: Friday, December 04, 2009 7:48 AM
To: Brown, Janet
Subject: Re: Sunset Ridge Park DEIR Question Follow Up

Dear Ms. Brown

What is the status of the answers to my Sunset Ridge Park DEIR questions below? I understand that Mr. Ramirez "fobbed off" the first one on you and that you are pressed for time. However, I do need the information in connection with the Sunset Ridge Park DEIR comment period which ends December 11, 2009.

Thanks for your assistance.

Bruce Bartram

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

From: [Brown, Janet](#)
To: [Bruce Bartram](#)
Sent: Wednesday, November 25, 2009 10:40 AM
Subject: RE: Sunset Ridge Park DEIR Question

Mr. Bartram,

I am currently out of the office due to an illness and am unable to answer your question at this time. I will respond to your email when I return to the office next week.

Thank you in advance for your understanding.

Regards,

Janet Johnson Brown
Associate Planner
City of Newport Beach

From: Bruce Bartram [mailto:b.bartram@verizon.net]
Sent: Mon 11/23/2009 7:43 AM
To: Brown, Janet
Subject: Sunset Ridge Park DEIR Question

November 23 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 Question

Dear Ms. Brown:

I have a question concerning the draft Environmental Impact Report for Sunset Ridge Park Project (DEIR). On Pg. 4.1-16 of the DEIR the following is stated:

} P6-1

"The access road from West Coast Highway for the proposed Sunset Ridge Project would be constructed on the Newport Banning Ranch property and would generally follow the alignment identified in the City's General Plan Master Plan of Streets and Highways and the Orange County OPAH. Both the Sunset Ridge Park Project and the proposed Newport Banning Ranch project would use the same access roadway from West Coast Highway. However, since the park requires a smaller roadway, only the eastern half of the access road would be constructed as a part of the park project..."

P6-1
cont.

What is meant by the eastern half of the access road? Please use Exhibit 3-9 to illustrate your answer.

Thank you for your expected cooperation and prompt response in this matter.

Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

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

From: [Ramirez, Gregg](#)
To: [Bruce Bartram](#)
Sent: Thursday, November 19, 2009 1:12 PM
Subject: RE: General Plan Question Follow Up

Mr. Bartram,

I have forwarded you question to Janet Brown, the project planner for the Sunset Ridge Park Project.

Gregg Ramirez
City of Newport Beach
Planning Department
949-644-3219

From: Bruce Bartram [mailto:b.bartram@verizon.net]
Sent: Monday, November 16, 2009 3:33 PM
To: Ramirez, Gregg
Subject: General Plan Question Follow Up

Dear Mr. Ramirez:

On pg. 4.3-8 of the Traffic and Circulation Section of the draft Environmental Impact Report (DEIR) for the Sunset Ridge Park Project contains "TABLE 4.3-4 CITY OF NEWPORT BEACH COMMITTED PROJECTS." The Table lists 18 projects already approved for construction in the City of Newport Beach. With reference to your prior email below, what are the traffic trips and new commercial and office space that will be generated by these new projects. The Traffic and Circulation Section of the DEIR is attached for your reference.

Thank you so much for your expected prompt response to my question.

Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

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

From: [Ramirez, Gregg](#)

To: [Bruce Bartram](#)

Sent: Friday, July 17, 2009 3:21 PM

Subject: RE: General Plan Question

Mr. Bartram,

Please see my responses below. Let me know if you have any follow-up questions.

- Reducing traffic citywide by nearly 30,000 trips each day over the life of the plan;
- Reducing potential new commercial and office space by more than 2,000,000 sq. ft.;

This data is found in the GP traffic studies. The numbers above were arrived at by doing a plan to plan comparison of the old General Plan to the adopted 2006 General Plan). The final transportation report included a discussion and tables that summarize land use data of old General Plan and land use data for the adopted General Plan. I have attached two tables that support the numbers mentioned above and the Land Use discussion from that report as a PDF file.

- Supporting efforts to acquire Banning Ranch for permanent open space ;

Land Use Element, Page 3-10, Policy LU 3.4. Also, see the entire Banning Ranch section beginning on page 3-67, in particular look at policy LU 6.3 on Page 3-71 and polices LU 6.3.1 and LU 6.3.2 on page 3-72.

- Taking strong action to prevent or reduce water pollution in the bay and ocean;

Natural Resources Element, Goals NR 3, NR 4 and NR 5 and related polices which can be found on Pages 10-19 through 10-23.

- Enhancing natural resources such as Upper Newport Bay;

Natural Resources Element, Goal NR 16 and the supporting polices which can be found on page 10-32. Additionally, there are other Goals and polices in the Natural Resources Element that address natural resources.

- Preserving public views of the ocean, harbor and bay; "

Natural resources Element, Goal NR 20 and related polices, page 10-36

Again, let me know if you have any follow-up questions

Sincerely,

Gregg Ramirez
City of Newport Beach
Planning Department
949-644-3219

From: Bruce Bartram [mailto:b.bartram@verizon.net]

Sent: Thursday, July 16, 2009 1:19 PM

To: Ramirez, Gregg

Subject: General Plan Question

Dear Mr. Ramirez:

According to the Newport Beach Chamber of Commerce sponsored Coalition for General Plan Accountability website.....

"members of the General Plan Advisory Committee or GPAC – developed this (general plan) after thorough study of input from thousands of their neighbors that was received during the most extensive public outreach in the City's history.

After receiving community input, GPAC developed a "Vision Statement" – a description of the City that residents want Newport Beach to be now and in 2025 – to serve as a blueprint for this General Plan Update. GPAC, with the assistance of planning professionals and using the Vision Statement as a guide, then developed this General Plan to ensure that the City achieves the vision by, among many other things, doing the following (including):

- Reducing traffic citywide by nearly 30,000 trips each day over the life of the plan;
- Reducing potential new commercial and office space by more than 2,000,000 sq. ft.;
- Supporting efforts to acquire Banning Ranch for permanent open space ;
- Taking strong action to prevent or reduce water pollution in the bay and ocean;
- Enhancing natural resources such as Upper Newport Bay;
- Preserving public views of the ocean, harbor and bay; "

The weblink to the Coalition for General Plan Accountability webpage stating the above is:
http://www.generalplanaccountability.org/planPriorities/?_c=xvnz4yj1wxk0d

After reviewing the General Plan I was unable to locate most of the above "Vision Goals" within the Plan's contents. Could you explain where in the Plan by section and page these "Goals" are located and/or addressed? If not, then why are such "Goals" listed on the Coalition website?

Thank you for your expected cooperation in this matter.
Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, Ca 92663

Letter P6 **Bruce Bartram**
December 4, 2009

Response 1

The comment is noted. Please refer to Letter P4, response to Comment 1.

From: Bruce Bartram [mailto:b.bartram@verizon.net]

Letter P7

Sent: Friday, December 11, 2009 10:37 AM

To: Brown, Janet

Cc: Terry Welsh; slgenis@stanfordalumni.org; jtmansfield@ca.rr.com; mezzohiker@msn.com; dkoken@hmausa.com; marktabbert@sbcglobal.net; steveray4surfcity@hotmail.com; jenniferfrutig@aol.com; knelson@web-conferencing-central.com; greenp1@cox.net; jonfox7@yahoo.com; evenkeel4@sbcglobal.net; jimcassidy52@earthlink.net; jamesrquigg@yahoo.com; 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; Ginny Lombardi; Gary Garber; Robb Hamilton

Subject: Sunset Ridge Park DEIR Comment III

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 (DEIR)
for Sunset Ridge Park Project Comment III

Dear Ms. Brown:

A review of Sunset Ridge Park Project DEIR Section 6.0 Alternatives to the Proposed Project reveals that, except for Alternatives A-No Project and B-Alternative Site, the Alternatives listed presuppose the need for on-site parking. With the on-site parking comes the need for the accompanying access road whether from West Coast Highway through Banning Ranch property or, as is perfunctorily discussed in the Superior Avenue Access Road Alternative, from Superior Avenue through City owned property. In rejecting this alternative is stated that "[T]his 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 this site."

What is not discussed in any of the Alternatives is that the City of Newport Beach has no requirement that City parks must provide off-street parking. As stated in Sunset Ridge Park Project DEIR Section 4.3 Traffic and Circulation Pg. 4.3-16 "[T]he City's Zoning Code (Chapter 20.66.030 Off-Street Parking and Loading Spaces Required) does not specify a parking rate for city parks, but rather indicates that the parking requirement for Park and Recreation Facilities would be 'As specified by Use Permit.'" This no on-site parking requirement obviously gives the City needed flexibility in providing park facilities. A survey of City parks reveals many examples of no on-site parking facilities being provided. These include such active City parks such as Irvine Terrace Park and Bob Henry Park as well as passive parks such as Castaways Park Yet, no discussion of this fact occurs anywhere in Section 6.0 Project Alternatives.

What makes this omission so egregious is the exclusion from any analysis in the DEIR of the existing City-owned 60 plus space parking lot located at Superior Avenue and PCH directly across from the proposed park site. The parking lot is clearly depicted in Sunset Ridge Park Project DEIR Section 3.0 Project Description Conceptual Site Plan Exhibit 3-9 and DEIR Section 4.2 Aesthetics Site Constraints Exhibit 4.2-1. Yet the existence of this facility is nowhere discussed DEIR Section 3.0 Project Description. Interestingly, the vacant property adjacent to the parking lot in Exhibit 3-9 is listed as for "Future Park Development." This indicates its City ownership and availability for provision of additional parking spaces. In DEIR Section 4.3 Traffic and Circulation Pg. 4.3-16 it is stated that the parking requirement for the proposed Sunset Ridge Park would be "96 spaces." It is submitted that expansion of the existing City-owned Superior Avenue and PCH parking lot could provide the necessary 96 parking spaces. Whether this could be an environmentally, let alone economically, superior alternative to the proposed Sunset Ridge Park on-site parking and the necessary access road should have been discussed but is not.

California Environmental Quality Act (CEQA) Guidelines Section 15126.6(a) and (b) provide guidance on the scope of alternatives to a proposed project that must be evaluated. The CEQA Guidelines state:

(a) An EIR shall 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

P7-1

P7-2

significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives, which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

(b) Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

In light of the CEQA Guideline Section 15126.6 above one can only conclude the failure to include a non on-site parking alternative renders Sunset Ridge Park Project DEIR Section 6.0 Alternatives to the Proposed Project deficient. To list just one environmental impact that could be lessened through the use of the Superior Avenue and PCH parking lot and the elimination of the Banning Ranch access road DEIR Section 4.6 Biological Resources Pg. 4.6-22 states as follows: "The California gnatcatcher has been observed on the Newport Banning Ranch property (including the area proposed for the access road for the Park) over several years (BonTerra Consulting 2009c). The Project site is within designated critical habitat for this species." Just as critically, the lack of an non on-site parking alternative defeats "informed decision making and public participation" the fundamental purpose of the California Environmental Quality Act. Perhaps the best "impact" that results from the elimination of the Banning Ranch access road is that the Sunset Ridge Park Project's interrelationship, interconnection and interdependence with the Banning Ranch Project discussed in my November 9 and December 2, 2009 Sunset Ridge Park Project DEIR comments would be diminished.

Please let me know your response to the foregoing as soon as possible.

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

P7-2
cont.

Letter P7 **Bruce Bartram**
December 11, 2009

Response 1

The comment is noted. In order to operate and function effectively, active sports parks must have on-site parking available. Of the examples cited in the commenter's letter (Irvine Terrace Park and Bob Henry Park), Irvine Terrace Park has adequate street parking on two sides and the Bob Henry Park has an on-site parking lot. The passive Castaways Park also has a small public lot at the corner of Dover Drive and 16th Street as well as ample street parking in the Dover Shores community. In addition, the parking lot on the northeast corner of West Coast Highway and Superior Avenue was developed in order to provide beach access parking due to the loss of on-street parking in conjunction with the widening of West Coast Highway in 1992.

Response 2

Please refer to the response to Comment 1.

From: Gary Garber [mailto:garbergary@yahoo.com]
Sent: Thursday, November 05, 2009 8:20 AM
To: Brown, Janet
Subject: Response to Draft Environmental Impact Report (DEIR) for Sunset Park Project

Letter P8

November 5, 2009

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

Ref: Draft Environmental Impact Report (DEIR)
For Sunset Ridge Park Project

Ms. Brown:

The Summary Of Significant Environmental Impacts in the DEIR Executive Summary indicates under Air Quality that "During the three-month mass grading phase, on days when and if, soil is exported to distant off-site soils locations, nitrogen oxide (NOx) emissions could exceed the South Coast Air Quality Management District's (SCAQMD) CEQA significant thresholds. This temporary impact would be significant and unavoidable." It further indicates "During the periods of mass grading when work would be concentrated within 164 feet of the Newport Crest condominiums, particulate emissions from the Project site have the potential for short-term exceedance of the 24-hour PM10' and PM2.5 ambient air quality standards at the nearest residents. This temporary, local impact would be significant and unavoidable."

Section 4.4-2 discusses various Significant Impacts and Mitigation Measures for Air Quality. There is no discussion and or Mitigation Measures cited for those individuals with respiratory and heart disease in Newport Crest who live within the 164 feet of the construction site. The NOx emissions and exceedance of 24-hour PM10' and PM2.5 ambient quality standards could have a major effect on these individuals short and long term health. I am one of these individual that has a heart condition and asthma. I daily take medication for both. I am also aware of at least four other individuals that live within 164 feet of the construction site that have similar conditions. My concern along with others is that environmental impact due to the construction does not take into effect ocean breezes that will blow even more contaminates into our homes. I do not believe the DEIR takes this into consideration. My concern also is that three months of being exposed to condiments and poor quality air will have serous effects on my heart and asthma conditions. Additional Mitigation Measures that should be considered is the City should install air conditioning filtration system in all affected units. A further Mitigation Measure that should be considered is installing triple pain windows and sliding doors in all affected units to decrease drafts allowing pollutants in. This would help alleviate possible damage claims against the City in the future due to health issues becoming worst due to exposure of all construction contaminates. I realize that all Significant Impacts of the construction can not be avoided. At least an attempt needs to be made by the City to alleviate any health hazards.

P8-1

It is also my understanding that soil being moved possibly contains contaminates that are known to cause cancer. Significant Impact and Mitigation Measures do not address this issue. This is a major concern of individuals already dealing with cancer.

P8-2

It is indicated that the mass grading will only take three months. Is this guaranteed? If it takes

P8-3

more then three months what is the Significant Impact and Mitigation Measures that will be taken?

} P8-3
cont.

I have brought up many of the above issues and other issues with City Council and the previous City Manager in the past.

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

Sincerely,

Gary A. Garber
8 Landfall Court
Newport Beach

Letter P8 **Gary Garber**
November 5, 2009

Response 1

The commenter expresses concern that short-term local pollutant concentrations of NO_x, PM₁₀, and PM_{2.5} could be detrimental to the health of the commenter and other residents of the Newport Crest Condominium community. With respect to NO_x, please note that potential exceedance of SCAQMD NO_x emissions thresholds would only occur if extensive off-site haul of excavated soil is required. Local concentrations of NO_x at the Newport Crest condominiums would be affected only by on-site emissions, and the analysis on page 4.4-31 shows that the NO_x emissions would be less than 15 percent of the LST threshold.

With respect to the PM₁₀ and PM_{2.5} exceedances, the City notes the following:

- (1) The SCAQMD LST lookup table methodology is limited to a maximum site size of five acres; the project site is greater than five acres. The emissions thresholds increase with an increase in site size. Therefore, if the SCAQMD methodology was extended to the project area that is to be graded, on the order of 15 acres, then the project emissions would exceed the threshold by a smaller amount, or might not exceed the thresholds. The SCAQMD suggests that dispersion modeling be conducted for sites larger than five acres; however the topography and grading plan for the park site is too complex for dispersion modeling to yield meaningful results.
- (2) A substantial amount of grading will occur at distances from the Newport Crest community where PM₁₀ and PM_{2.5} effects to the residents would be minimal.
- (3) Compliance with SCAQMD Rule 403, Fugitive Dust, which is required by law and by the project Standard Condition 4.4-1 is expected to provide greater emissions reductions than are calculated by the URBEMIS emissions model.

Notwithstanding the above factors, the City understands the concern of the commenter and similar comments from other parties. As noted in the responses to the SCAQMD comment letter and the EQAC comment letter, additional mitigation measures for construction emissions have been incorporated into the EIR as noted below:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM₁₀ will not exceed 40 pounds per day and on-site emissions of PM_{2.5} will not exceed 11 pounds per day.

MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;
- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;
- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is

determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.

MM 4.4-3 The following actions shall be implemented as a part of the construction of the Sunset Ridge Park Project:

- a. Watering and visible dust control shall exceed the requirements of SCAQMD Rule 403 as follows: The Contractor shall suspend grading operations when wind gusts exceed 15 miles per hours.
- b. In windy conditions, the dust control measures of SCAQMD Rule 403, Table 2 (Large Operations) shall be applied.
- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.
- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the investigation. The City contact person shall maintain a log of all complaints and resolutions.

Response 2

As described in Section 4.9 of the Draft EIR, the Project site is not listed on federal, State, local, tribal, or other hazardous materials databases. The oil well sites within the boundaries of the Project site have been abandoned and remediated. Any impacted oil field equipment would be removed and soil remediation would occur, as necessary. All potential impacts can be mitigated to a level that is less than significant.

Response 3

The air quality impacts were calculated with the assumption of a three month period of relatively intense grading resulting in the estimated emissions described in the Draft EIR. A mass grading period of three months is not guaranteed. However, if mass grading extends beyond three months, the intensity of grading is anticipated to be less than assumed. Further, the additional mitigation measures described in the response to Comment 1, above, would minimize the impacts to the Newport Crest residents.

From: Gary Garber [mailto:garbergary@yahoo.com]

Sent: Thursday, November 12, 2009 10:23 AM

To: Brown, Janet

Cc: Curry, Keith; Daigle, Leslie; Gardner, Nancy; Henn, Michael; Rosansky, Steven; Selich, Edward; Don Webb

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

Letter P9

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:

Please note I am in complete agreement with Bruce Bartram November 9th letter (**see below**) to you regarding the Draft Environmental Impact Report (DEIR) for Sunset Ridge Park Project. I concur that Sunset Ridge Park and the Newport Banning Ranch comprise one "Project." Sunset Ridge Park is Phase one of this project since proposed "South Bluff Road" is part of road system for Newport Banning Ranch. This overlapping common road system for Sunset Ridge Park and Newport Banning Ranch appears to constitute one project with Sunset Ridge being Phase One. Based on this I concur they must be subject to a single environmental review under CEQA by the City of Newport Beach. I also agree 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 is needed 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.

P9-1

See below Mr. Bartram's November 9th letter and fax to you. I look forward to receiving a timely response from you and City Council regarding this issue.

Sincerely,

Gary A. Garber
8 Landfall Court
Newport Beach, CA

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 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.

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 Sonoma* (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

Letter P9 **Gary Garber**
November 12, 2009

Response 1

The opinion of the commenter is noted. Please refer to Topical Responses 1 and 2.

Letter P10

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

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

P10-1

--- 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@ducd.net; jessp77@gmail.com; bmserv@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: 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 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

Letter P10 Gary Garber
November 15, 2009

Response 1

The opinions of the commenter are noted. Please refer to Topical Responses 1 and 2. The City is currently negotiating an access agreement with the Newport Banning Ranch property owner. The City Council will consider approving this agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines. The access agreement is intended to be independent and does not presuppose development by the Newport Banning Ranch applicant.

GARY A. GARBER, MAI, SRPA, SRA
8 LAND FALL COURT
NEWPORT BEACH, CALIFORNIA 92663-2307

Letter P11

Phone (949) 650-6661 – Fax (949) 650-6661
E-Mail garbergary@yahoo.com

November 28, 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 (PRIVATE VIEWS) for Sunset Ridge Park Project

Dear Ms. Brown:

The following represents my comments regarding Views in Section 4.2 Aesthetics of the DEIR for Sunset Ridge Park Project.

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 “implementation 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. There should be a study undertaken to determine if there is a Market Value change in Newport Crest units due to change of visual character and use of the Sunset Ridge project. The DEIR does not address this issue.

P11-1

Additionally, in the Executive Summary, under 1.6 AREAS OF CONTROVERSA AND ISSUES TO BE RESOLVED, the issue of impacts on public and private views is raised. The DEIR acknowledges that it must address “whether 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 “the 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. The EIR should address and support potential value changes of Newport Crest units due to changes in character of the existing aesthetic environment.

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 discussions of the resolution of this identified controversy/issue” as promised in the DEIR itself.

P11-2

Section 15123 (b) (3) of the CEQA Guidelines requires that an EIR contain a discussion of issues to be resolved. The Executive Summary states, “the EIR has taken into consideration the comments received from the public, agencies, and jurisdictions” concerning the controversy/issue above adverse affects on public and private views. Some even opened their homes to the City to enable access and determination of the view issues. There is no discussion, at all, of the adverse effects/impact (possible negative Market Value change) on the *private* views of the community of Newport Crest (the residential community of 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 the 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 area, 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.

P11-2
cont.

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.” Evaluation of the adverse effects is and must be based on data, on the actual design of the Park, structures and all. There needs to be a study regarding estimated Market Value of Newport Crest units before the project was announced and after development is completed to determine if there is a negative Market Value change.

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 significantly important area of concern:

We were assured by the City that every effort would 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.

P11-3

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 view shed 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.

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?

P11-4

Nothing in the DEIR addresses these legitimate points and concerns. The DEIR should be revised to include discussion of these concerns. There needs to be an appraisal of Newport Crest individual units before the project was announced and as of date of completion of Sunset Ridge Park to determine if there is a Market Value change in units due to the project. This is known as a before and after development appraisal.

P11-5

All of the above issues are a major valuation concern since Newport Crest units are major investment for the homeowners. I have brought up many of the above issues and other issues with City Council and the previous City Manager. I seriously object to the approval of this project in its present form. The above comments and all references contained therein are hereby incorporated into official record of proceeding of this project and its successors.

P11-6

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

Sincerely,

Gary A. Garber
8 Landfall Court
Newport Beach

Letter P11 Gary Garber
November 28, 2009

Response 1

The commenter is directed to Section 4.2, Aesthetics, which provides a detailed analysis of aesthetics and visual resources as it is applicable to the proposed Project, as well as six visual simulations. The visual simulations show existing site conditions and the site with development of the park as proposed by the City. No public views would be significantly impacted by the Project.

While Natural Resources Element Goal NR 20 is the “Preservation of significant visual resources”, the policies of the Natural Resources Element are applicable to public views and public resources not private views or private resources. As identified in Table 4.1-2, the following General Plan policies address only the protection of public views.

NR Policy 20.1: Enhancement of Significant Resources: Protect and, where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and harbor from **public vantage points** (emphasis added), as shown in Figure NR3. (*Imp 2.1*)

NR Policy 20.3: Public Views: Protect and enhance **public view corridors** (emphasis added) from the following roadway segments (shown in Figure NR3), and other locations may be identified in the future: (Note: only geographical areas applicable to the Project are identified below.)

- Superior Avenue from Hospital Road to Coast Highway (*Imp 2.1, 20.3*)

NR Policy 20.4: Public View Corridor Landscaping: Design and site new development, including landscaping, on the edges of **public view corridors** (emphasis added), including those down public streets, to frame, accent, and minimize impacts to **public views** (emphasis added). (*Imp 2.1*)

NR Policy 20.5: Public View Corridor Amenities: Provide public trails, recreation areas, and viewing areas adjacent to **public view corridors** (emphasis added), where feasible. (*Imp 2.1, 16.11, 23.2*)

Cross sections are included in Section 4 of this Responses to Comments document.

With respect to property values, CEQA Guidelines Section 15064(e), Determining the Significance of the Environmental Effects Caused by a Project, states:

Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility

and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

This comment does not present or raise an issue regarding the adequacy of analysis of the potential environmental impacts of the Project in the Draft EIR, but states the opinion of the commenter. No documentation has been provided to support the suggestion that the proposed community park would negatively affect the property values of surrounding existing development. The opinions of the commenter are noted.

Response 2

Please refer to the response to Comment 1.

Response 3

Please refer to the response to Comment 1.

Response 4

The proposed park facility would be subject to regular litter and trash collection consistent with park maintenance at other City parks in Newport Beach. The City does not provide hourly maintenance at its public parks and does not consider this necessary to provide for adequate maintenance at its facilities.

Response 5

The opinion of the commenter is noted. Please also refer to the response to Comment 1.

Response 6

The opinions of the commenter are noted.

GARY A. GARBER, MAI, SRPA, SRA
8 LAND FALL COURT
NEWPORT BEACH, CALIFORNIA 92663-2307

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Letter P12

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 – 4.2 Aesthetics (LIGHTING) for Sunset Ridge Park Project

Dear Ms. Brown:

The following represents my comments regarding lighting in Section 4.2 Aesthetics of the DEIR for Sunset Ridge Park Project.

The DEIR concludes that there is no impact caused by the proposed lighting for the Project site. 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.” 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. There should also be a study undertaken to determine if there is a Market Value change in Newport Crest units and other communities due to change in lighting in Sunset Ridge project. The DEIR does not address this issue.

P12-1

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 the 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 discussions, 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 sections 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. Adequate support for statement “not

P12-2

adversely impact” would be a Fair Market Appraisal of Newport Crest Units with current lighting and after proposed lighting is installed in Sunset Ridge Park.

P12-2
cont.

The DEIR also states that the assessment of the level of lighting is “subjective: (see “Methodology 4.2.5” as 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 property procedure and evaluation? If not, will the public be privy to the study and be invited for comment?

P12-3

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 supports 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. Another concern is how the new lighting will affect front line residents at Newport Crest when it is time to go to bed. 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. A before and after appraisal of the Newport Crest front line units should be undertaken to determined effect of proposed new lighting at Sunset Ridge.

P12-4

If the park goes in, Mitigation Measures that should be incorporated in the EIR is that the City should install tinted windows in all affected units to reduce effect of lighting in Sunset Ridge Park at night.

All of the above issues are a major valuation concern since Newport Crest units are major investment for the homeowners. I have brought up many of the above issues and other issues with City Council and the previous City Manager. I seriously object to the approval of this project in its present form. The above comments and all references contained therein are hereby incorporated into official record of proceeding of this project and its successors.

P12-5

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

Sincerely,

Gary A. Garber
8 Landfall Court
Newport Beach

Letter P12 Gary Garber
November 29, 2009

Response 1

Lighting would consist of low-profile bollard security lighting of 50 watts or less that are approximately 36 inches in height along the pedestrian paths and at the perimeter paths for pedestrian safety. Low-profile security lighting fixtures would also be located around the perimeter of the restroom structure. All lighting fixtures would be appropriately shielded to minimize light and glare from spilling on adjacent properties. The lighting fixtures would be similar to lighting fixtures in other City parks such as Castaways Park, San Miguel, and Bonita Creek Sports Park, which have not caused an impact to the surrounding community.

Response 2

Please refer to the response to Comment 1.

Response 3

Please refer to the response to Comment 1.

Response 4

Please refer to the response to Comment 1.

With respect to property values, CEQA Guidelines Section 15064(e), Determining the Significance of the Environmental Effects Caused by a Project, states:

Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

This comment does not present or raise an issue regarding the adequacy of analysis of the potential environmental impacts of the Project in the Draft EIR, but states the opinion of the commenter. No documentation has been provided to support the suggestion that the proposed the low-profile bollard lighting for safety and along pedestrian walkways would negatively affect the property values of surrounding existing development. Lighting would consist of low-profile bollard security lighting of 50 watts or less that are approximately 36 inches in height along the pedestrian paths and at the perimeter paths for pedestrian safety. Low-profile security lighting fixtures would also be located around the perimeter of the restroom structure. All lighting fixtures would be appropriately shielded to minimize light and glare from spilling on adjacent properties. The lighting fixtures would be similar to lighting fixtures in other City parks such as Castaways

Park, San Miguel, and Bonita Creek Sports Park, which have not caused an impact to the surrounding community. The opinions of the commenter are noted.

Response 5

Please refer to the responses to Comments 1 through 4. The opinions of the commenter are noted.

GARY A. GARBER, MAI, SRPA, SRA
8 LAND FALL COURT
NEWPORT BEACH, CALIFORNIA 92663-2307

Letter P13

Phone (949) 650-6661 – Fax (949) 650-6661
E-Mail garbergary@yahoo.com

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

Dear Ms. Brown:

The following represents my comments regarding Section 4.5 Noise of the DEIR for Sunset Ridge Park Project.

Bottom of fp. 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 portions 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.

P13-1

P13-2

There should also be a study undertaken to determine if there is a Fair Market Value change in Newport Crest units and other communities due to additional noise in proposed Sunset Ridge project. The study should contain estimates of Fair Market Value Appraisal of all units before the project is started and after completed. The DEIR does not address this issue.

P13-3

Noise during the day is a major issue with me and many neighbors since we work at home with our windows open. My work area overlooks the proposed Sunset Ridge Park. If the park goes in, Mitigation Measures that should be incorporated in the EIR is that the City should install air conditioning units in all affected units so there is no need for opening windows and doors. A further Mitigation Measure that should be considered is installing triple pain windows and sliding glass doors in all affected units to decrease the noise level. Presently noise levels during the day are acceptable for a good work environment. The DEIR does not take this into consideration. There are also individuals that work at night and sleep during the day. Presently noise levels during the day are acceptable for sleeping. The DEIR does not take this into consideration. There is also a concern regarding noise levels at night might increase due to some of the improvements.

P13-4

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

P13-5

All of the above issues are a major valuation concern since Newport Crest units are major investment for the homeowners. I have brought up many of the above issues and other issues with City Council and the previous City Manager. I seriously object to the approval of this project in its present form. The above comments and all references contained therein are hereby incorporated into official record of proceeding of this project and its successors.

P13-6

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

Sincerely,

Gary A. Garber
8 Landfall Court
Newport Beach

Letter P13 Gary Garber
November 29, 2009

Response 1

The noise contours presented on Exhibit 4.5-3 of the Draft EIR were not derived from the results of the noise level measurements. The noise contours were obtained from the future noise contours for buildout conditions included in the City's General Plan Noise Element. The exhibit shows that the active park areas will be located well outside the 65 dBA CNEL noise contour. The active park areas would be exposed to noise levels that are compatible with park uses.

Response 2

Section 4.5, Noise, page 4.5-17, of the Draft EIR addresses the potential cumulative noise increase that result from the combination of traffic noise and park activities to the noise-sensitive receptor locations at the northern edge of the park site.

The greatest noise increase related to park activities would occur at Buildings C and D in the Newport Crest Condominium development, nearest to the soccer and baseball fields. Table 4.5-11 in the Draft EIR shows that there would be no increases in traffic noise at Buildings C and D. Traffic noise increases due to topography would occur at Buildings A and B, farthest from the proposed soccer and baseball fields. Due to distance and topography, noise impacts from park-related activities are expected to be negligible at Buildings A and B. Therefore, there would be negligible cumulative topography-related and park activity-related noise increases.

Response 3

Please refer to Section 4.5, Noise, of the Draft EIR and the response to Comment 2. With the exception of construction-related significant unavoidable noise impacts that would cease upon completion of the Project, the Sunset Ridge Project would not result in significant noise impacts on a Project-specific or cumulative basis. The opinions of the commenter are noted.

CEQA Guidelines Section 15064(e), Determining the Significance of the Environmental Effects Caused by a Project, states:

Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

Response 4

Page 4.5-8 in the Draft EIR acknowledges that noise-sensitive receptors are generally considered to be those people engaged in activities or utilizing land uses that may be subject to

the stress of significant interference from noise. Activities usually associated with sensitive receptors include, but are not limited to, talking, reading, and sleeping. Land uses often associated with sensitive receptors include residential dwellings, hotels, hospitals, day care centers, and educational facilities. The nearest noise-sensitive receptors to the Project site are the Newport Crest condominiums located immediately north of the Project site.

Tables 4.5-9 and 4.5-10 present the noise increases over existing conditions and the resulting noise to the nearest noise-sensitive uses due to park activities. While park activities would generate perceptible noise increases, they would result in noise levels well below the City of Newport Beach 55 dB L_{eq} daytime noise standard for residential uses during the daytime hours. Because the Project would not result in long-term noise impacts, the suggested measures are not required.

Response 5

Please refer to the response to Comment 1.

Response 6

The commenter's objection to the Project is noted.

From: Gary Garber [mailto:garbergary@yahoo.com]

Sent: Tuesday, December 01, 2009 1:20 PM

To: Brown, Janet

Cc: Curry, Keith; Gardner, Nancy; Henn, Michael; Rosansky, Steven; Selich, Edward; Don Webb; Daigle, Leslie

Subject: Fw: General Habitat Loss & Wildlife Loss-p4.625

Letter P14

December 1, 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 – **4.6-25 General Habitat Loss and Wildlife Loss**

Dear Ms. Brown:

The following represents my comments regarding Section 4.6 Biological Resources - 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.

There is no 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?

Please provide analysis of the potentially affected species, and impacts to their self sustaining levels.

Where have all the birds and ground squirrels gone?

- Please see attached five photos taken over the years since 1997 of various birds that I once was able to see from my balcony overlooking Sunset Ridge Park . Please note three birds are sitting on my balcony railing.
- Also note in three cases there is green ground cover in background. In one case there is some green ground cover,
- In one case (most recent photo of bird) only dead ground cover in background due to what appears to be grass and weed killing agents.
- At present the dirt is now darken and most if not all of the lovely ground squirrels are dead. Only their holes are left. I would be happy to send you photographs of the area now after someone dropped poison down the ground squirrel wholes.
- To see enlarged photo's click picture, then down load and then open. At that point you can enlarge the picture or reduce it.

P14-1

P14-2

Threshold 4.6-6: 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.

P14-3

A diagram showing the relevant Central/Coastal Subregion Reserve System NCCP/HCP areas under discussion should be provided.

p.4.6-33, MM 4.6-4 and 4.6-5: Implementation of the Project would result in the loss of 0.41 acres of coastal sage scrub habitat. Permanent impacts on coastal sage scrub vegetation must be mitigated at a two-to-one (2:1) ration on the Project site or in suitable off-site locations in the Newport Beach/Costa Mesa area. 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?

P14-4

All of the above issues are a major valuation concern since Newport Crest front line unit owners paid a premium for their units to be close to nature and watch the wonders of wildlife from their balconies. I have brought up many of the above issues and other issues with City Council and the previous City Manager. I seriously object to the approval of this project in its present form. The above comments and all references contained therein are hereby incorporated into official record of proceeding of this project and its successors.

P14-5

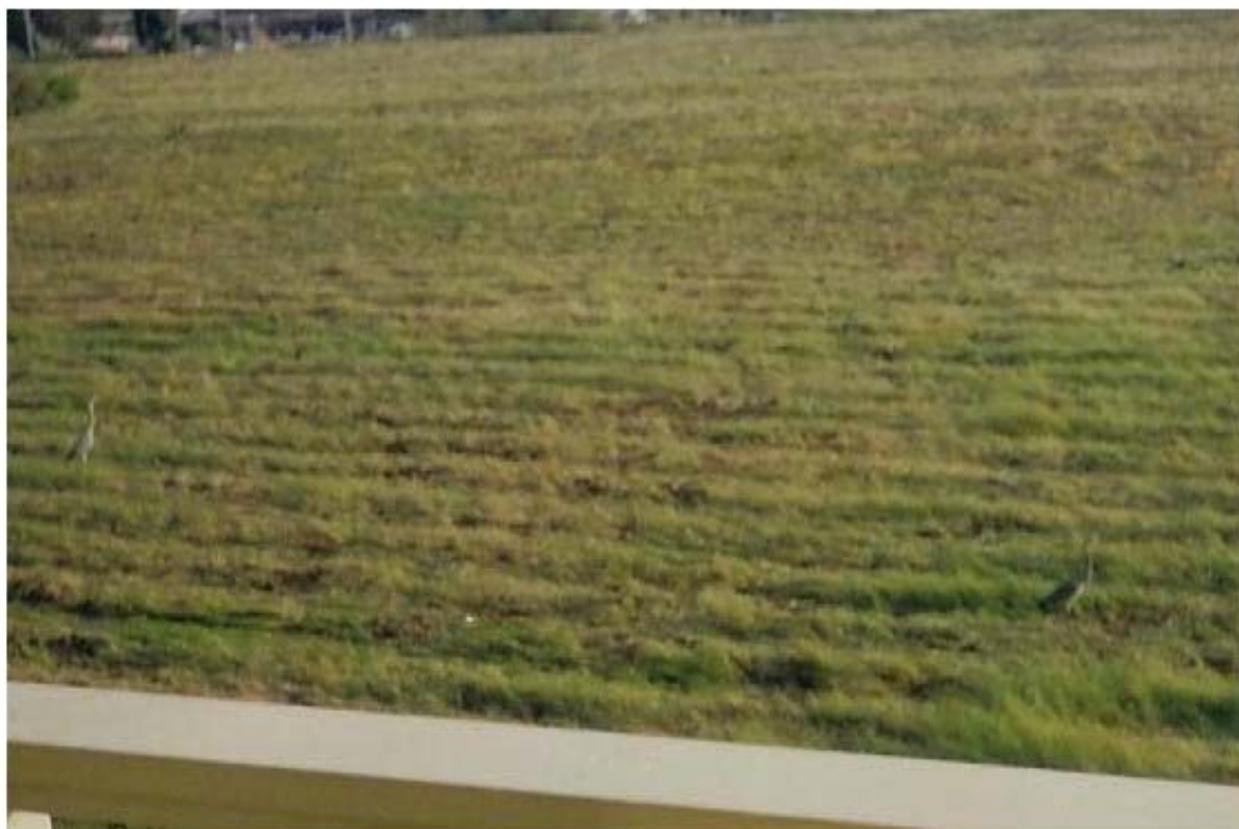
I look forward to receiving your timely response from you and the City Council on this matter.

Gary A. Garber
8 Landfall Court
Newport Beach

See Attachments Above











Letter P14 Gary Garber
December 1, 2009

Response 1

The City respectfully disagrees with the commenter. Section 4.6.7, Biological Resources, Environmental Impacts, of the Draft EIR evaluates potential impacts on wildlife associated with the construction of the proposed Project. These include impacts to special status wildlife species (refer to pages 4.6-24 through 4.6-27) as well as wildlife movement (refer to page 4.6-29). Additionally, the Draft EIR discusses mitigation measures (MMs) which would reduce the potential impacts on wildlife to less than significant levels (refer MMs 4.6-1 through 4.6-4 on pages 4.6-31 through 4.6-34).

Response 2

The Project site provides moderate quality habitat for wildlife species; please refer to pages 4.6-7 through 4.6-9 of the Draft EIR. As stated in Section 4.6, Biological Resources, implementation of the proposed Project would result in the loss of approximately 5.06 acres of native habitat that provides nesting, foraging, roosting, and denning opportunities for a variety of wildlife species. On-site vegetation could support nesting birds. Impacts to migratory nesting birds are prohibited under the Migratory Bird Treaty Act (MBTA). In addition, common raptor species such as red-tailed hawk have potential to nest on the Project site.

Through analysis in Section 4.6, Biological Resources, of the Draft EIR, it has been determined that the loss of any active nesting bird/raptor nest occurring on the Project site would be considered significant. Impacts on nesting birds/raptors would be reduced to less than significant levels with implementation the Mitigation Program described in Section 4.6. Impacts to Special Status Wildlife would be less than significant with implementation of the Mitigation Program described in Section 4.6.

Response 3

Exhibit 5 of the Biological Technical Report (Appendix E of the Draft EIR) depicts the Project site boundary along with the Natural Communities Conservation Plan/Habitat Conservation Plan (NCCP/HCP) Existing Use Area boundaries within the Central/Coastal Subregion. This exhibit shows that the entire Sunset Ridge Project Site is within an Existing Use Area of the NCCP/HCP.

Response 4

Pursuant to consultation with all appropriate regulatory agencies, the final design of the landscaping for the non-active portions of the park would accommodate as much on-site mitigation as possible while still maintaining the intended design for an active public park.

Response 5

This commenter's opposition to the Project is noted.

GARY A. GARBER, MAI, SRPA, SRA
8 LAND FALL COURT
NEWPORT BEACH, CALIFORNIA 92663-2307

Letter P15

Phone (949) 650-6661 - Fax (949) 650-6661
E-Mail garbergary@yahoo.com

RECEIVED BY
PLANNING DEPARTMENT

December 6, 2009

DEC 08 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 - 4.5 Noise and 4.8 Geology and Soils

Dear Ms. Brown:

The following represents my additional comments regarding Sections 4.4 Noise and 4.8 Geology and Soils of the DEIR.

Section 4.5 Noise

Section 4.5 of Table 1-1 of the DEIR discusses potential Noise issues. PDF 4.5-1 indicates "The Project includes landscaped berms between active park uses and Newport Crest Condominium development to provide for noise attenuation. There is no discussion as to how close to the Newport Crests lot line this berm will be. There is no discussion where soil for this berm will come from. There is no discussion as to various security problems this berm will cause. These should be discussed.

P15-1

The DEIR does not discuss if the City of Newport Beach has received an easement for the land between the existing Newport Crest Condominium Project retaining wall and Newport Crest's lot line and Sunset Ridge to install the landscaped berm discussed in PDF4.5-1. If there is no easement in place, has a fair Market Value been estimated and agreed upon between all parties transferring ownership for this portion of the land owned by Newport Crest? It appears if this land is not transferred to the City of Newport Beach before the EIR is approved the Mitigation Measure for Noise would not take place. When will this easement issue be resolved?

P15-2

Section 4.8 Geology and Soils

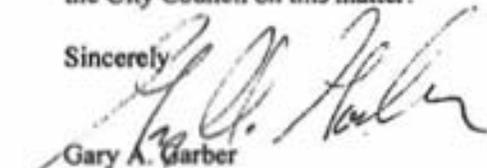
Section 4.8 of Table 1-1 of DEIR discusses Geology and Soils issues. Page 4.8-5, Section 4.8-7 regarding need for Fill. The DEIR needs to clarify what the "Fill" material is exactly. The developer needs to make sure the Fill material is clean and tested before being picked up, delivered and used at the project site for berm between Newport Crest Condominium and Sunset Ridge Park and other parts of the proposed park. This should be done to protect children and adults at the sport fields, general public, parking areas and affected Newport Crest Residents.

P15-3

I have brought up many of the above issues and other issues with City Council Members and the previous City manager in the past. I seriously object to the Sunset Ridge project in the present form. The above comments and all references contained here should be incorporated into the official record of proceeding of this project and its successors.

Please note I am also e-mailing a copy of this letter to you. I look forward to receiving a timely response from you and the City Council on this matter.

Sincerely,


Gary A. Garber
8 Landfall Court
Newport Beach, CA

Letter P15 Gary Garber
December 6, 2009

Response 1

To evaluate a worst-case scenario, the noise effects from park activities to the nearest noise-sensitive uses were calculated as a part of the Draft EIR for an unmitigated condition: without a landscaped berm. If a berm is constructed, the predicted noise levels to the adjacent noise-sensitive uses (the Newport Crest condominiums) would be less than the levels presented in Tables 4.5-9 and 4.5-10 of the Draft EIR.

It is unclear what type of security issue the commenter is addressing regarding the proposed landscaped berm. With respect to protecting neighborhoods and residents, the City has designed the park, at the request of the adjacent Newport Crest Condominium development, to preclude direct access between the condominiums and the park. As identified on page 3-10 of the Draft EIR, "a retaining wall ranging in height from approximately four to ten feet would be constructed north of the active park uses and extend from approximately the parking lot in the west to the end of the soccer field (upper field) in the east. A landscaped berm would also be constructed north of the retaining wall but in the same general location as the retaining wall, and would extend to the northern property line (to the condominium residences north of the park). An approximate six-foot-high security fence would be located at the northern terminus of the landscape berm between the active park uses and the residential uses. Landscaping is proposed along the northern and southern side of the fence. No gated access from the existing residences into the park is proposed."

The concept of the landscape berm was developed after the numerous public meetings regarding the concept plan for the Project. The intent was to provide a separation of approximately 100 feet between the Newport Crest community and the proposed active sports areas. A security fence is proposed between the Newport Crest properties and the berm area, assuming concurrence from the Newport Crest Homeowners Association (HOA). It is proposed that the fence would be constructed by the City and maintained by the Newport Crest HOA. If this is unacceptable to the HOA, no fence would be constructed.

With respect to the source of soil for the berm, the proposed landscaped berm would be formed using on-site soil.

Response 2

The City is in discussions with the Newport Crest HOA for the appropriate approvals and construction access for any work on the adjacent properties. An existing Newport Crest HOA retaining wall meanders along the property line and in some areas is located on City property. The intent of the landscape berm is to eliminate the retaining wall, which is showing signs of failure. However, if an agreement cannot be reached with the Newport Crest HOA, the City could redesign the wall without the landscape berm. This alternative is similar to Option C identified in Section 6.0, Alternatives to the Proposed Project, of the Draft EIR. The noise analysis completed for the Project did not show a significant benefit from the berm and therefore the berm is not considered a mitigation measure for the project. The excess material that would have been placed in the berm could be either placed across the entire active sports area (thus raising the grade accordingly) or hauled off site.

Response 3

The following clarifying text has been added to page 4.8-5, Section 4.8, Geology and Soils, second paragraph and incorporated into the Final EIR as follows:

On-site soils that are free of organic material, debris, cobbles, boulders, or rock that are six inches or larger are suitable to be used as general fill.

From: Gary Garber [mailto:garbergary@yahoo.com]
Sent: Friday, December 11, 2009 12:26 PM
To: Brown, Janet
Subject: Fw: Sunset Ridge Park DEIR Comment III

Letter P16

Ms. Brown

I am in one hundred percent agreement with Bruce Bartram attached December 11, 2009 e-mail to you as I was with his November 9, 2009 e-mail regarding the DEIR for Sunset Ridge Park.

Please enter this comment regarding the DEIR for Sunset Ridge Park Project into the record.

} P16-1

Gary A. Garber
8 Landfall
Newport Beach, CA

--- On Fri, 12/11/09, Bruce Bartram <b.bartram@verizon.net> wrote:

From: Bruce Bartram <b.bartram@verizon.net>
Subject: Sunset Ridge Park DEIR Comment III
To: "Brown, Janet" <JBrown@newportbeachca.gov>
Cc: "Terry Welsh" <terrymwelsh@hotmail.com>, slgenis@stanfordalumni.org, jtmansfield@ca.rr.com, mezzohiker@msn.com, dkoken@hmausa.com, marktabbert@sbcglobal.net, steveray4surfcity@hotmail.com, jenniferfrutig@aol.com, knelson@web-conferencing-central.com, greenp1@cox.net, jonfox7@yahoo.com, evenkeel4@sbcglobal.net, jimcassidy52@earthlink.net, jamesrquigg@yahoo.com, 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, "Ginny Lombardi" <ginnylombardi@yahoo.com>, "Gary Garber" <garbergary@yahoo.com>, "Robb Hamilton" <robb@hamiltonbiological.com>
Date: Friday, December 11, 2009, 10:36 AM

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 (DEIR)
for Sunset Ridge Park Project Comment III

Dear Ms. Brown:

A review of Sunset Ridge Park Project DEIR Section 6.0 Alternatives to the Proposed Project reveals that, except for Alternatives A-No Project and B-Alternative Site, the Alternatives listed presuppose the need for on-site parking. With the on-site parking comes the need for the accompanying access road whether from West Coast Highway through Banning Ranch property or, as is perfunctorily discussed in the Superior Avenue Access Road Alternative, from Superior Avenue through City owned property. In rejecting this alternative is stated that "[T]his 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 this site."

What is not discussed in any of the Alternatives is that the City of Newport Beach has no requirement that City parks must provide off-street parking. As stated in Sunset Ridge Park Project DEIR Section 4.3

Traffic and Circulation Pg. 4.3-16 "[T]he City's Zoning Code (Chapter 20.66.030 Off-Street Parking and Loading Spaces Required) does not specify a parking rate for city parks, but rather indicates that the parking requirement for Park and Recreation Facilities would be 'As specified by Use Permit.'" This no on-site parking requirement obviously gives the City needed flexibility in providing park facilities. A survey of City parks reveals many examples of no on-site parking facilities being provided. These include such active City parks such as Irvine Terrace Park and Bob Henry Park as well as passive parks such as Castaways Park Yet, no discussion of this fact occurs anywhere in Section 6.0 Project Alternatives.

What makes this omission so egregious is the exclusion from any analysis in the DEIR of the existing City-owned 60 plus space parking lot located at Superior Avenue and PCH directly across from the proposed park site. The parking lot is clearly depicted in Sunset Ridge Park Project DEIR Section 3.0 Project Description Conceptual Site Plan Exhibit 3-9 and DEIR Section 4.2 Aesthetics Site Constraints Exhibit 4.2-1. Yet the existence of this facility is nowhere discussed DEIR Section 3.0 Project Description. Interestingly, the vacant property adjacent to the parking lot in Exhibit 3-9 is listed as for "Future Park Development." This indicates its City ownership and availability for provision of additional parking spaces. In DEIR Section 4.3 Traffic and Circulation Pg. 4.3-16 it is stated that the parking requirement for the proposed Sunset Ridge Park would be "96 spaces." It is submitted that expansion of the existing City-owned Superior Avenue and PCH parking lot could provide the necessary 96 parking spaces. Whether this could be an environmentally, let alone economically, superior alternative to the proposed Sunset Ridge Park on-site parking and the necessary access road should have been discussed but is not. California Environmental Quality Act (CEQA) Guidelines Section 15126.6(a) and (b) provide guidance on the scope of alternatives to a proposed project that must be evaluated. The CEQA Guidelines state:

(a) An EIR shall 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. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives, which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

(b) Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

In light of the CEQA Guideline Section 15126.6 above one can only conclude the failure to include a non on-site parking alternative renders Sunset Ridge Park Project DEIR Section 6.0 Alternatives to the Proposed Project deficient. To list just one environmental impact that could be lessened through the use of the Superior Avenue and PCH parking lot and the elimination of the Banning Ranch access road DEIR Section 4.6 Biological Resources Pg. 4.6-22 states as follows: "The California gnatcatcher has been observed on the Newport Banning Ranch property (including the area proposed for the access road for the Park) over several years (BonTerra Consulting 2009c). The Project site is within designated critical habitat for this species." Just as critically, the lack of a non on-site parking alternative defeats "informed decision making and public participation" the fundamental purpose of the California Environmental Quality Act. Perhaps the best "impact" that results from the elimination of the Banning Ranch access road is that the Sunset Ridge Park Project's interrelationship, interconnection and interdependence with the Banning Ranch Project discussed in my November 9 and December 2, 2009 Sunset Ridge Park Project DEIR comments would be diminished.

Please let me know your response to the foregoing as soon as possible.

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

Letter P16 **Gary Garber**
December 11, 2009

Response 1

The comment is noted. In order to operate and function effectively, active sports parks must have on-site parking available. Of the examples cited in the commenter's letter (Irvine Terrace Park and Bob Henry Park), Irvine Terrace Park has adequate street parking on two sides and the Bob Henry Park has an on-site parking lot. The passive Castaways Park also has a small public lot at the corner of Dover Drive and 16th Street as well as ample street parking in the Dover Shores community. In addition, the parking lot on the northeast corner of West Coast Highway and Superior Avenue was developed in order to provide beach access parking due to the loss of on-street parking in conjunction with the widening of West Coast Highway in 1992.

Letter P17

From: Lisa Lawrence [mailto:lrllawrence@prodigy.net]
Sent: Monday, November 02, 2009 3:09 PM
To: Jackson, Marilee
Subject: Contact the City from NewportBeachCA.gov

To Newport Beach City Council and City Planners,

After reviewing the Sunset Ridge Park plans, I think it is wonderful to keep the park as open space as planned. I don't understand why a road extending off PCH that goes into Banning Ranch is included? All looks well and fine, just omit that road.

} P17-1

Keep it all as open space.

Thank you!

Lisa Lawrence

(949)631-4073

lrllawrence@prodigy.net

Letter P17 **Lisa Lawrence**
November 2, 2009

Response 1

Please refer to Topical Responses 1 and 2. Vehicular access to the park site is necessary the scenic easement imposed by Caltrans as a term of the sale of the property to the City precludes development on that portion of the City's property.

From: Lisa Lawrence [mailto:lr Lawrence@prodigy.net]
Sent: Friday, November 13, 2009 7:00 PM
To: Brown, Janet
Subject: RE: Contact the City from NewportBeachCA.gov

Letter P18

Thank you for your response. Looking over the possible plans for the park, it looks like deleting the road and putting it in to go from the play area straight down to PCH, rather than ruining the land that goes through Banning. Why not put the play area where the Vehicular Access is and put the road where the play area is. It seems like the other is quite a stretch.

Sincerely
Lisa Lawrence

} P18-1

--- On Mon, 11/9/09, Brown, Janet <JBrown@newportbeachca.gov> wrote:

From: Brown, Janet <JBrown@newportbeachca.gov>
Subject: RE: Contact the City from NewportBeachCA.gov
To: lr Lawrence@prodigy.net
Date: Monday, November 9, 2009, 11:01 AM

Good morning, Ms. Lawrence.

This is to acknowledge receipt of your e-mail. Thank you for your comments on the Sunset Ridge Park DEIR. It has been entered into the record.

Janet Johnson Brown

Associate Planner

City of Newport Beach

(949) 644-3236

jbrown@newportbeachca.gov

From: Alford, Patrick
Sent: Monday, November 02, 2009 3:11 PM
To: Brown, Janet
Subject: FW: Contact the City from NewportBeachCA.gov

From: Jackson, Marilee
Sent: Monday, November 02, 2009 3:11 PM
To: Wood, Sharon; Alford, Patrick

Subject: FW: Contact the City from NewportBeachCA.gov

for the record ...

Marilee Jackson, PIO

City of Newport Beach

3300 Newport Boulevard

Newport Beach, CA 92663

mjackson@newportbeachca.gov

949-644-3031

From: Lisa Lawrence [mailto:lr Lawrence@prodigy.net]

Sent: Monday, November 02, 2009 3:09 PM

To: Jackson, Marilee

Subject: Contact the City from NewportBeachCA.gov

To Newport Beach City Council and City Planners,

After reviewing the Sunset Ridge Park plans, I think it is wonderful to keep the park as open space as planned. I don't understand why a road extending off PCH that goes into Banning Ranch is included? All looks well and fine, just omit that road.

Keep it all as open space.

Thank you!

Lisa Lawrence

(949)631-4073

lr Lawrence@prodigy.net

Letter P18 **Lisa Lawrence**
November 13, 2009

Response 1

Please refer to Topical Responses 1 and 2. Vehicular access to the park site is necessary. As addressed in the Draft EIR, the site contains a 197,720-square-foot (sf) scenic easement imposed by the California Department of Transportation (Caltrans) as a term of the sale of the property to the City. The easement is located generally from the property line adjacent to West Coast Highway to approximately halfway into the site. This easement restricts development rights to those permitted in the City's Open Space-Active (OS-A) zoning with additional limitations on the placement of permanent structures and pavement in the scenic easement area. Therefore, a road cannot be constructed through the scenic easement.

Letter P19

From: Lisa Lawrence [mailto:lrilawrence@prodigy.net]
Sent: Friday, November 13, 2009 7:04 PM
To: Jackson, Marilee

Subject: Re: Road coming off PCH into Sunset Ridge Park

While it does eliminate the only entrance as currently planned, it just seems like it's ruining the land for nothing. Why not put the road and parking lot where the play area is, which would put the road from PCH to the play area, and put the play area where the Vehicular Access and parking lot is. This would eliminate the road that is pretty obviously put there to help Banning Ranch for further development.

} P19-1

Sincerely,

Lisa Lawrence

--- On Tue, 11/3/09, Jackson, Marilee <MJackson@newportbeachca.gov> wrote:
From: Jackson, Marilee <MJackson@newportbeachca.gov>
Subject: Road coming off PCH into Sunset Ridge Park
To: lrilawrence@prodigy.net
Date: Tuesday, November 3, 2009, 4:20 PM

Thank you for your comments regarding Sunset Ridge Park and your inquiry as to why a road is extending off PCH that goes inland into the Banning Ranch area is included. Briefly, there is no entrance planned to the Park coming down off Superior. Eliminating the road off PCH would mean eliminating the only entrance way going into the park.

Marilee Jackson, PIO
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663
mjackson@newportbeachca.gov
949-644-3031

Letter P19 **Lisa Lawrence**
November 13, 2009

Response 1

The comments are noted. Please refer to Responses 1 in Letters P17 and P18.

From: Aline Monin-Doremus [mailto:vasy@earthlink.net]
Sent: Monday, November 09, 2009 3:56 PM
To: Brown, Janet

Subject: Sunset Ridge Park Study-

Good Afternoon Ms. Brown,

Please find below copy of letter regarding the study for Sunset Ridge Park- Sport Activity and my concerns regarding this issue.

I apologize for the lengthy email, unfortunately my computer is acting up and does not hold attachment.

Sincerely,
Aline Monin-Doremus
Villa Balboa

FROM:
ALINE MONIN-DOREMUS
260 Cagney Lane #301
Newport Beach, CA.92663
Email: vasy@earthlink.net

Monday, November 09, 2009

Ms. Janet Johnson Brown
Newport Beach Planning Dept.
3300 Newport Blvd.
Newport Beach, CA 92658-8915
RE: Sunset Ridge Park

Dear Ms. Brown,

In regard to the in-depth study of Sunset Ridge Park planned for open space at Superior Avenue and West Coast Highway, and after reviewing the study at NewportBeachCA.gov web page. I have the following concerns.

The idea of putting a Sports Activity Park at Superior and PCB seems like feasible idea, but there are some important things to consider for all who live in the area in particular all of the residents of Newport Crest, Villa Balboa, etc...

I would like to address some of these.

Per study:

1) **Access to the park.** There are (2) pedestrian access ways to the park from Superior Ave. As we know, Superior Ave. and Pacific Coast Highway **is one of the busiest intersections in Newport Beach.**

Motorists usually exceed the speed limit in both directions on Superior. The curvature of the avenue from Hospital Road to PCH makes it even more dangerous. I have lived near this location and in the last 24 years that I have lived here there have been several fatalities.

P20-1

My question is: How do we prevent a soccer mom from stopping on Superior to let her child gain access to the park?

P20-1
cont.

2. **Two-lane access road into the park from PCH.**

My questions are:

- Will there be a traffic light at that intersection? "
- Will there be a lock down of this road at a particular time in the evening?

P20-2

3. **Parking Lot.**

My questions: Will the 75 or so 'Parking spaces that the access road leads to have **metered Parking? Will the parking lot be part of a lock down at specific hour in the evening?**

If the spaces are not metered, what is to stop people from parking there, walking to the beach to spend an entire day, go down to Jack in the Box or other stores nearby where long parking is prohibited or just going across to nearby New Port Crest, or Villa Balboa/Sea Fair condominiums strolling along Sunset Ridge walkway. While we are aware that the boardwalk above Hoag and along Villa Balboa is Public access, the foot traffic will increase drastically from Newport Beach/Costa Mesa non-residents, and for sure infringing on everyone privacy in their homes or, leaving more trash on our grounds certainly increasing what we already have to deal with.

P20-3

Sports Activity Park – (page 2)

4. Rest Rooms. If a restroom is put into the park as planned, I can tell you that the park will then become a "Newport Beach Resort for Transients". Or like Laguna Beach will the City of Newport Beach find a nearby empty parking lot, or possibly CREATE ONE on some of the land reserved for "Sports Activity Park"

Currently the transients use the area at the end of the Sunset Ridge Park near Hoag Power Plant, located on the opposite corner of the planned Sports Activity next to the parking lot for sleeping and relieving themselves, or smoking Marijuana.

I have contacted the police on few occasions when driver license was found in that area along with sleeping bags and was told it was a common area for the transients to go? That particular area is littered with sleeping bags, mattresses, pillows, clothing, the ground is littered with broken glass, empty bottles, food containers, and toilet paper, both used and unused left in that area which cannot be seen from PCH nor Superior Ave. They currently use the restroom at Jack in the Box or the tree covered area to relieve themselves in parking lot below.

How is the city going to monitor activity such as described, and more importantly, will the Restrooms be locked down in the evening?

P20-4

I trust this correspondence will have reached the proper department, if not would you be kind enough to forward accordingly to proper authority for their knowledge of such concern, review, decisions, and hopefully modifications to the existing study/reports.

Sincerely,

Aline Monin-Doremus

Letter P20 Aline Monin-Doremus
November 9, 2009

Response 1

There is currently no stopping or parking along Superior Avenue. The proposed parking area within Sunset Ridge Park would include a drop-off area convenient and safe within the park. The City would hope that common sense would prevail and motorists would not stop along either Superior Avenue or West Coast Highway to drop off passengers. However, if the City Public Works Department determines that signage near the pedestrian entrances to the proposed park is necessary, appropriate signage can be provided.

Response 2

As stated on page 3-7 in Section 3.6 in the Project Description for the Draft EIR:

The City proposes to develop the approximate 18.9-acre site with active and passive recreational uses and an access road to the park through Newport Banning Ranch. No nighttime lighting is proposed, other than for public safety. The access road would be constructed from West Coast Highway to Sunset Ridge Park through the Newport Banning Ranch property (5.2 of the 18.9 acres). The park would be open from 6:00 AM until 11:00 PM daily. The park gate would be open from 8:00 AM to dusk every day; no vehicles would be allowed entry into the park between 11:00 PM and 6:00 AM. The park access road would be gated near the entrance at West Coast Highway. In addition to these on-site improvements, there would be off-site improvements on West Coast Highway, including widening and signalization. Off-site improvements are discussed in Section 3.6.3. Exhibit 3-9, Conceptual Site Plan, depicts the proposed land uses associated with the Project.

Response 3

As stated on page 3-9 in Section 3.6 in the Project Description for the Draft EIR and clarified for incorporation into the Final EIR as follows:

Because of the park site's proximity to the beach, parking would be metered ~~and limited~~ to two hours intervals during peak time periods (summer months) annually between May 15 and September 15 to ensure adequate spaces for park uses. Parking rates would be consistent with the existing Superior Parking Lot located at the northeastern corner of West Coast Highway at Superior Avenue. Between September 16 and May 14, the City proposes no time restrictions on parking; however, parking fees would apply; paid parking would ensure that adequate parking spaces would be available for park uses. Annual and Master City Parking Passes would be allowed. However, if the City determines that pass holders are not adhering to the two-hour parking time limit during peak time periods, passes could be restricted or prohibited. To restrict overnight parking, vehicles within the lot prior to the parking lot opening the following morning ~~would~~ may be towed.

Response 4

Although the commenter does not raise an environmental issue, the City of Newport Beach and the City's Park Rangers are responsible for the monitoring of public parks and park facilities in the City. No overnight parking or use of the park is proposed. While the City does not lock public

restrooms at its other park facilities, the City has the right to close restrooms at the time of park closure should it deem this action necessary and appropriate.

Ribaudo
260 Cagney Lane No. 320
Newport Beach, CA 92663

Letter P21

9 November 2009

RECEIVED BY
PLANNING DEPARTMENT

NOV 12 2009

Janet Johnson Brown
Newport Beach Planning Dept.
3300 Newport Blvd.
Newport Beach, CA 92658-8915

CITY OF NEWPORT BEACH

Dear Ms. Brown,

The idea of putting a Sports Activity Park at Superior and PCH seems like a noble idea, but there are some important things to consider for all who live in the area. I would like to address some of these.

1. Access to the park. There are (2) pedestrian access ways to the park from Superior Ave. Superior Ave. and PCH is one of the busiest intersections in Newport Beach. Motorists usually exceed the speed limit in both directions on Superior. The curvature of the avenue from Hospital Road to PCH makes it even more dangerous. In the 26 years that I have lived here there have been several fatalities.

P21-1

My question is: How do we prevent a soccer mom from stopping on Superior to let her child gain access to the park?

2. Two lane access road into the park from PCH. My questions are:

- a. Will there be a traffic light at that intersection?
- b. Will there be a lock down of this road at a particular time in the evening?

P21-2

3. Parking Lot. Will the 75 or so parking spaces that the access road leads to have metered parking?

P21-3

My question is: If the spaces are not metered, what is to stop people from parking there and walking to the beach to spend the day. Also will this parking lot be part of a lock down at a particular time in the evening?

4. Rest Rooms. If a restroom is put into the park as planned, I can tell you that the park will then become a "Newport Beach Resort for Transients". Currently they use the area on the opposite corner next to the parking lot for sleeping and relieving themselves.

P21-4

Sports Activity Park

11-9-09

page two

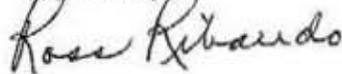
I have seen sleeping bags, mattresses, pillows, clothing, empty bottles, food containers, and toilet paper, both used and unused left in that area which cannot be seen from PCH or Superior Ave. They currently use the restroom at Jack in the Box or the tree covered area to relieve themselves.

How is the city going to monitor activity such as described, and more importantly, will the restroom be locked down in the evening?

Ms. Brown, will the answers to these questions come from your office or should I contact another source?

Thank you,

Respectfully,



Ross Ribaldo

} P21-4
cont.

:b

Letter P21 **Ross Ribaud**
November 9, 2009

Response 1

There is currently no stopping or parking along Superior Avenue. The proposed parking area within Sunset Ridge Park would include a drop-off area convenient and safe within the park. The City would hope that common sense would prevail and motorists would not stop along either Superior Avenue or West Coast Highway to drop off passengers. However, if the City Public Works Department determines that signage near the pedestrian entrances to the proposed park is necessary, appropriate signage can be provided.

Response 2

As stated on page 3-7 in Section 3.6 in the Project Description for the Draft EIR:

The City proposes to develop the approximate 18.9-acre site with active and passive recreational uses and an access road to the park through Newport Banning Ranch. No nighttime lighting is proposed, other than for public safety. The access road would be constructed from West Coast Highway to Sunset Ridge Park through the Newport Banning Ranch property (5.2 of the 18.9 acres). The park would be open from 6:00 AM until 11:00 PM daily. The park gate would be open from 8:00 AM to dusk every day; no vehicles would be allowed entry into the park between 11:00 PM and 6:00 AM. The park access road would be gated near the entrance at West Coast Highway. In addition to these on-site improvements, there would be off-site improvements on West Coast Highway, including widening and signalization. Off-site improvements are discussed in Section 3.6.3. Exhibit 3-9, Conceptual Site Plan, depicts the proposed land uses associated with the Project.

Response 3

As stated on page 3-9 in Section 3.6 in the Project Description for the Draft EIR and clarified for incorporation into the Final EIR as follows:

Because of the park site's proximity to the beach, parking would be metered ~~and limited~~ to two hours intervals during peak time periods (summer months) annually between May 15 and September 15 to ensure adequate spaces for park uses. Parking rates would be consistent with the existing Superior Parking Lot located at the northeastern corner of West Coast Highway at Superior Avenue. Between September 16 and May 14, the City proposes no time restrictions on parking; however, parking fees would apply; paid parking would ensure that adequate parking spaces would be available for park uses. Annual and Master City Parking Passes would be allowed. However, if the City determines that pass holders are not adhering to the two-hour parking time limit during peak time periods, passes could be restricted or prohibited. To restrict overnight parking, vehicles within the lot prior to the parking lot opening the following morning ~~would~~ may be towed.

Response 4

Although the commenter does not raise an environmental issue, the City of Newport Beach and the City's Park Rangers are responsible for the monitoring of public parks and park facilities in the City. No overnight parking or use of the park is proposed. While the City does not lock public

restrooms at its other park facilities, the City has the right to close restrooms at the time of park closure should it deem this action necessary and appropriate.

From: Frank Peters [mailto:fxpeters@gmail.com]
Sent: Monday, November 09, 2009 8:34 AM
To: Brown, Janet
Subject: Sunset Ridge Park

Letter P22

Hi Janet,

I saw the front page story on Sunset Ridge Park in the Daily Pilot. May I share a comment:

As a member of the new Bike Safety Committee, I propose that the road entrance to the park be developed with bike paths, perhaps separated from the roadway and away from any roadside parallel parking. See attached 'Colored bike lanes' from the [LA Bicycle plan](#).

Also, bicycle racks: LA and Huntington Beach have this right and we don't. See photo of 28th Street bike racks, attached, versus LA's inverted U bicycle racks.

Thanks for listening and good luck with the project.

--

Frank
Chairman Emeritus, Tech Coast Angels
(949) 673-5022 studio
(949) 422-1749 mobile
Skype: fxpeters
<http://twitter.com/FrankPetersShow>
<http://theFrankPetersShow.com>
<http://AfterTheCottage.com>

P22-1

5.8.2. Inverted - U Bicycle Racks

Design Summary

Rack Dimensions: 42.63" high by 30" long.

Construction: 2 3/8" x 2" x .188" wall single Schedule 40 ASTM A53 Steel pipe, constructed of a single 180 degree bend.

Base Plate will be constructed of ASTM A36 with a thickness of 3/8" and will be welded onto the steel pipe. The base plate should be welded to the steel pipe and be constructed to receive mounting hardware with three 0.50" diameter holes at 120 degrees of each plate.

Mounting Hardware: Mushroom Head, Stainless Steel Spike, 2 3/4" long by 1/2" diameter or equivalent vandal resistant hardware. Unacceptable fasteners include "Threaded Spike" or anything that contains sharp edges or can be vandalized.

Coating Material Finish: Long wearing, mildew and ultraviolet ray resistant coating made of polyester, polyvinyl, thermoplastic or TGIC Powder Coating. Coated in the factory prior to delivery. Any damaged surface area resulted from the Contractor's operation shall be repaired with approved materials in accordance to the manufacturer's specifications.

Discussion

These racks are a common existing facility found in many areas in Los Angeles. Care should be taken to ensure that they are placed and installed correctly.

Design Example



Guidance

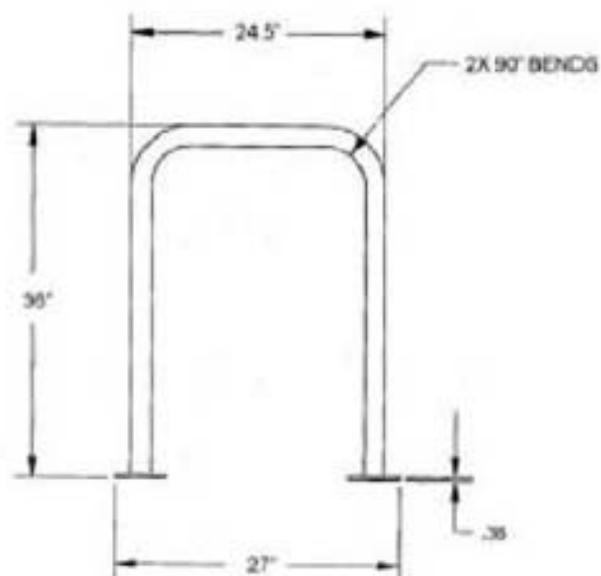
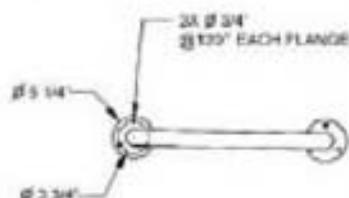
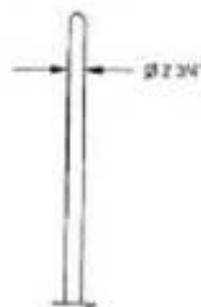
- APBP Bicycle Parking Guidelines

Preferred Design

NOTES:

1. MATERIAL:
- PIPE: ASTM A53 2" SCH40 PIPE
- PLATE: ASTM A36 3/8" PLATE

2. FINISH:
- SANDBLAST
- PRIMER
- TGIC POWDER COAT (COLOR PER SPEC)



Additional Discussion - Unacceptable Bicycle Racks

Examples of inferior bicycle racks abound. The use of unacceptable bicycle parking facilities can discourage bicycling. Racks with the following characteristics should not be employed:

- Support bicycles at 1 point of contact;
- Support bicycles by one wheel;
- Allow bicycles to fall which bends the wheel and blocks the pedestrian right-of-way;
- Has sharp edges that can be hazardous to pedestrians;
- Suspends bicycle in the air in any way.

Examples of unacceptable bicycle racks:



5.10.8. Colored Bicycle Lanes

Design Summary

Bicycle Lane Width:
5' minimum and 7' maximum. (See sections Chapter 1 and 5.4.3 for more detailed discussion of bicycle lane widths.)

Discussion

A contrasting color for the paving of bicycle lanes can also be applied to continuous sections of roadways. These situations help to better define road space dedicated to bicyclists and make the roadway appear narrower to drivers resulting in beneficial speed reductions.

Colored bicycle lanes require additional cost to install and maintain. Techniques include:

- Paint – less durable and can be slippery when wet
- Colored asphalt – colored medium in asphalt during construction – most durable.
- Colored and textured sheets of acrylic epoxy coating.
- Thermoplastic – Expensive, durable but slippery when worn.

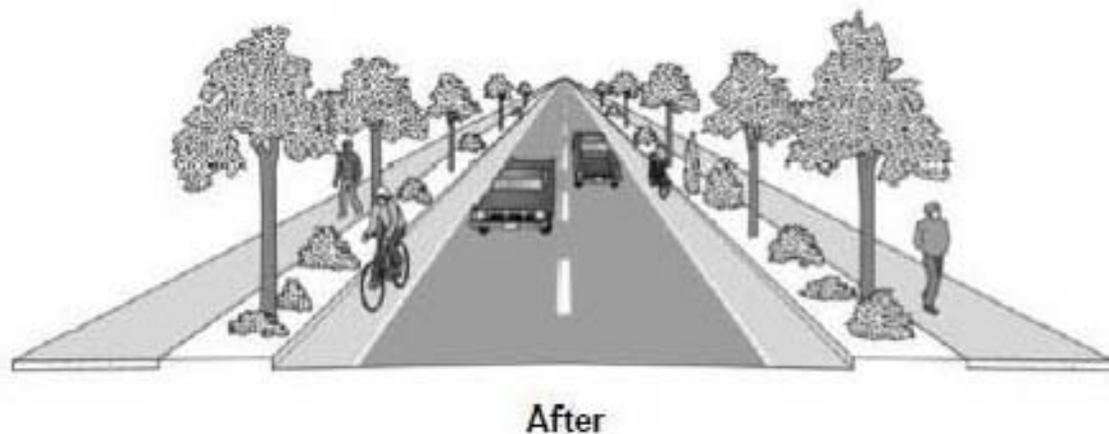
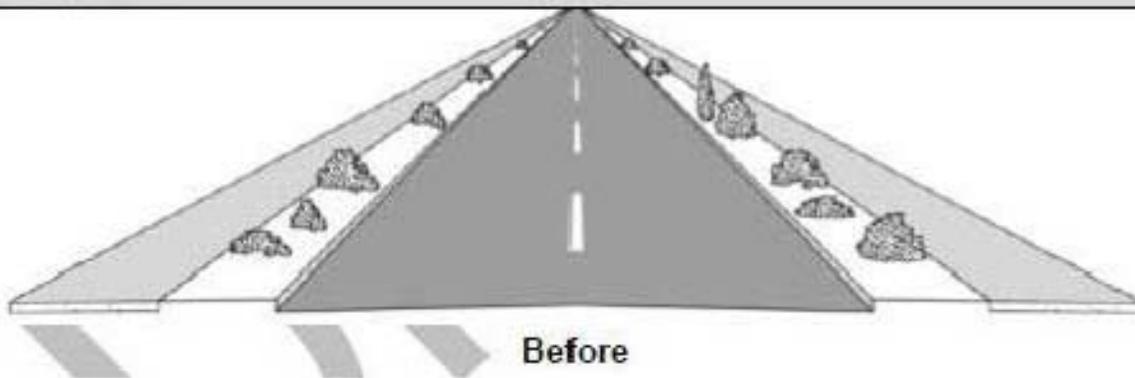
Design Example



Guidance

- This treatment is not currently present in any State or Federal design standards

Recommended Design





28TH STREET

SIDEWALK
USERS
8
SPEED LIMIT
KEEP RIGHT

NO
• MOTORIZED
SCOOTERS
• SKATEBOARDING

Letter P22 **Frank Peters**
November 9, 2009

Response 1

The Project Description of the Draft EIR notes that bike racks would be provided within the proposed park. There are Class I and Class II bikeway facilities along Superior Avenue and West Coast Highway. A Class I bikeway (Bicycle Path) provides bicycle travel on a paved right-of-way separated from any street or highway. It includes sidewalk bikeways adjacent to a street. A Class II bikeway (Bicycle Lane) provides a striped and stenciled lane for bicycle travel on a street or highway. A Class I and Class II facility are designated on the south side of West Coast Highway. A Class II facility is located on both Superior Avenue and West Coast Highway abutting the Project site. Currently, no bikeways are planned along the park access road. However, the park can be accessed at pedestrian access points via bikeways along Superior Avenue and West Coast Highway.

Letter P23

From: s mankarious [mailto:smankar2004@yahoo.com]

Sent: Monday, November 16, 2009 4:50 PM

To: Brown, Janet

Cc: Bruce Bartram; Sharon Boles; Don Bruner; Barbara Dust-Taylor; Dorothy Krauss; ginny lombardi; Cathy Malkemus; Paul Malkemus; Sami Mankarias; Jim Mansfield; Terry Welsh

Subject: Sunset Ridge Park DEIR - Alternatives

November 16, 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:

I have been reviewing the DEIR issued by the city of Newport Beach, as suggested by the Notice of Availability I received.

Under section 1.5 PROJECT ALTERNATIVES; it is stated that CEQA Guidelines Section 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 any of the significant effects of the Project.....etc.

Several Access Road Alternatives are then provided and the Alternatives are analyzed in section 1.5.2.

One alternative is clearly missing, which I believe should be included, and that is Alternative C: Passive Park Alternative, without car access. Such an alternative for walk-ins would not require an auto access road or car parking area. It would have less impact on the environment in terms of project cost, noise, traffic, air quality, pollutant release, biological resources, as well as requiring minimum excavation and grading of the contaminated soil.

Could you please comment on your reasons for not considering this alternative in your analysis?

Thank you in advance for your response.

Sincerely,

Sami Mankarious
7 Tribute Ct.
Newport Beach, CA 92663

P23-1

Letter P23 Sami Mankarious
November 16, 2009

Response 1

The Draft EIR addresses several alternatives to the proposed Project, including a Passive Park Alternative (Alternative C). Section 6, Alternatives to the Proposed Project, in the Draft EIR identifies that this alternative scenario assumes that only passive park uses would be developed on the Project site. Under this alternative scenario, no playing fields (i.e., baseball or soccer fields) would be constructed. Sunset Ridge Park would be developed with lawns, pedestrian paths, gardens, restroom facilities, and parking. No nighttime lighting except for public safety would be provided. Alternative C would require a zone change on that portion of the Project site in the City (13.7 acres) from Open Space-Active (OS-A) to Open Space-Passive (OS-P). Unlike the commenter's suggested alternative, the Draft EIR's Passive Park Alternative assumes a park access road would be constructed from West Coast Highway through the Newport Banning Ranch property, an on-site parking area, and improvements on West Coast Highway.

The Draft EIR notes that while Alternative C would have a slight reduction in grading, implementation of a passive park would still result in significant and unavoidable short-term, construction-related local air quality impacts and short-term construction-related noise impacts. These significant impacts would cease upon the completion of construction. All other impacts would be similar or the same and can be mitigated to a less than significant level. Although Alternative C would provide a park in this location, it would not achieve all of the Project objectives, specifically, to create more active parkland in West Newport Beach. The *City of Newport Beach General Plan* contains goals and policies that include developing Sunset Ridge Park with active and passive park uses, including facilities for picnicking, active sports, and other facilities that serve a larger population. Alternative C would not be consistent with these General Plan goals and policies.

With respect to the commenter's suggested alternative, the size of the park would be 13.7 acres because the Newport Banning Ranch property would not be a part of the Sunset Ridge Park Project (no vehicular access to the park site would be provided).

From: Sinacori, Mike
Sent: Wed 11/25/2009 2:04 PM
To: 'pramowski@gmail.com'
Cc: Brown, Janet
Subject: Re: sunset ridge park question

Letter P24

Mr. Pedmowaki,

It is planned if the Banning Ranch Development moves forward or if the Open Space team finds the funds to buy the land. Until one of those two happen we won't have rights to that private property.

Mike

From: Piotr Pramowski <pramowski@gmail.com>
To: Sinacori, Mike
Sent: Wed Nov 25 13:58:55 2009
Subject: Re: sunset ridge park question

Mike,

Thanks for getting back to me. I hope this is something that can be added later to provide for a shorter rout to the park and beach ;-)

Thanks,
Piotr

On Tue, Nov 24, 2009 at 1:08 AM, Sinacori, Mike <MSinacori@newportbeachca.gov> wrote:

Hello Mr. Pramowski,

In our current plans, there will be no access from that location. The closest access point will be at Superior just south of Ticonderoga.

Michael J. Sinacori, P.E.
Assistant City Engineer
City of Newport Beach
Phone: 949-644-3342 * Fax: 949-644-3308 * Cell: 949-795-8948
Email: MSinacori@newportbeachca.gov
Public Works Department - A Web-Engineered Machine
Protecting and providing quality public improvements and services

From: Piotr Pramowski [mailto:pramowski@gmail.com]
Sent: Monday, November 23, 2009 3:49 PM
To: Sinacori, Mike
Subject: sunset ridge park question

Mike,

I am looking forward to the new Sunset Ridge Park. I live at 8 Nautical Mile Dr. Newport Beach. Can you tell me if there are any plans or will there be a way to access the park (even a walking trail) from 15th street and Manrovia? }

P24-1

Thanks for your time,

Piotr Pramowski

Letter P24 Piotr Pramowski
November 23, 2009

Response 1

The opinion of the commenter is noted. The commenter also asks if there are plans to access the park via 15th Street and Monrovia Avenue. As a part of the Sunset Ridge Park Project, the park plans do not include access from that location. The closest access point would be at Superior Avenue just south of Ticonderoga Avenue.

KONDACE M. GARBER
8 LAND FALL COURT
NEWPORT BEACH, CALIFORNIA 92663-2307

Phone (949) 645-2011 – Fax (949) 650-6661
E-Mail kandicemthayer@yahoo.com

November 28, 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 – 4.4 Air Quality for Sunset Ridge Park Project

Dear Ms. Brown:

The following represents my comments regarding the Section 4.4 Air Quality of the DEIR for Sunset Ridge Park Project.

Page 4.4- 31: The first paragraph states that NOx emissions during the mass grading phase of construction will exceed the SCAQMD threshold for maximum daily emissions, resulting in a significant impact, if the projected 34,000 cubic yard export of soil is disposed of other than at the neighboring Newport Banning Ranch property. If such soil is exported, the only mitigation that was addressed is the reduction of haul truck vehicle miles traveled which would extend the estimated 13 week export period to 30 weeks, which the DEIR states is unreasonable mitigation because of the substantial extension of the mass grading period and the prolonged problems of noise and other negative impacts. Since the NOx emissions threshold would not be exceeded if exported soil is exported only to the Newport Banning Ranch property, why is this not made a mitigation/ construction requirement?

P25-1

Page 4.4-31: In the third line of the second paragraph, should the phrase "spoils site" be "soils site"?

P25-2

Page 4.4-32: The DEIR states (and Table 4.4-9 indicates) that when the grading work is within 50 meters (164) of sensitive receptors, the maximum daily estimated PM (10) 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. Does this include Adults and children with compromised immune systems? 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 of 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. 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. This should be addressed.

P25-3

Page 4.4-35: The last paragraph of this page states that "GHGs would be emitted by off road and on road construction equipment and worker vehicles, and that the same would vary depending on how much soil is exported to Newport Banning Ranch property and how much soil would be exported to an undetermined

P25-4

destination site. The DEIR has no discussion of why all soil exportation would not be limited to the Banning Ranch property. In fact, the DEIR states (p.1-2) that "The City proposes that all of the exported soil (34,000 cubic yards) would go to identified locations on the adjacent Banning Ranch property". This inconsistency needs to be clarified.

P25-4
cont.

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. Why was there no reference to the Banning Ranch project and its status/schedule?

P25-5

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 and 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." These exceptional mitigation measures and when they will be employed should have and need to be addressed.

P25-6

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. Why?

P25-7

Both the June 8, 2009 NOP letter from the Newport Crest Homeowners Association and my husbands (Gary A. Garber) June 3, 2009 NOP email expressed concern about the excavation of dirt at the Project. My husband also 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 address in Section 4.4. Why? Was the soil tested?

P25-8

All of the above issues are a major concern since my husband and many neighbors in Newport Crest have serious repertory and heart problems. There are also many individuals that are battling cancer.

My husband has brought up many of the above issues and other issues with City Council and the previous City Manager. I seriously object to the approval of this project in its present form. The above comments and all references contained therein are hereby incorporated into official record of proceeding of this project and its successors.

P25-9

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

Sincerely,

Kondace M. Garber
8 Landfall Court
Newport Beach

Letter P25 **Kondace M. Garber**
November 28, 2009

Response 1

The Newport Banning Ranch property is not owned by the City of Newport Beach and the City cannot require the adjacent Newport Banning Ranch property to receive the soil from the Project site.

The commenter expresses concern that short-term local pollutant concentrations of NO_x, PM₁₀, and PM_{2.5} could be detrimental to the health of the commenter and other residents of the Newport Crest Condominium community. With respect to NO_x, please note that potential exceedance of SCAQMD NO_x emissions thresholds would only occur if extensive off-site haul of excavated soil is required. Local concentrations of NO_x at the Newport Crest condominiums would be affected only by on-site emissions, and the analysis on page 4.4-31 shows that the NO_x emissions would be less than 15 percent of the LST threshold.

With respect to the PM₁₀ and PM_{2.5} exceedances, the City notes the following:

- (1) The SCAQMD LST lookup table methodology is limited to a maximum site size of five acres; the project site is greater than five acres. The emissions thresholds increase with an increase in site size. Therefore, if the SCAQMD methodology was extended to the project area that is to be graded, on the order of 15 acres, then the project emissions would exceed the threshold by a smaller amount, or might not exceed the thresholds. The SCAQMD suggests that dispersion modeling be conducted for sites larger than five acres; however the topography and grading plan for the park site is too complex for dispersion modeling to yield meaningful results.
- (2) A substantial amount of grading will occur at distances from the Newport Crest community where PM₁₀ and PM_{2.5} effects to the residents would be minimal.
- (3) Compliance with SCAQMD Rule 403, Fugitive Dust, which is required by law and by the project Standard Condition 4.4-1 is expected to provide greater emissions reductions than are calculated by the URBEMIS emissions model.

As noted in the responses to the SCAQMD comment letter and the EQAC comment letter, additional mitigation measures for construction emissions have been incorporated into the EIR as noted below:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM₁₀ will not exceed 40 pounds per day and on-site emissions of PM_{2.5} will not exceed 11 pounds per day.

MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;
- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;
- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.

MM 4.4-3 The following actions shall be implemented as a part of the construction of the Sunset Ridge Park Project:

- a. Watering and visible dust control shall exceed the requirements of SCAQMD Rule 403 as follows: The Contractor shall suspend grading operations when wind gusts exceed 15 miles per hours.
- b. In windy conditions, the dust control measures of SCAQMD Rule 403, Table 2 (Large Operations) shall be applied.
- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.
- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the investigation. The City contact person shall maintain a log of all complaints and resolutions.

Response 2

Spoils site is the correct terminology. Excavated soils are called spoils.

Response 3

Please refer to the response to Comment 1.

Response 4

Please see response to Comment 1.

Response 5

Construction at the Newport Banning Ranch project is anticipated to start after the proposed Sunset Ridge Park Project is completed. Thus, construction of the Newport Banning Ranch project would not occur concurrently with the proposed Project.

Response 6

Please refer to the response to Comment 1.

Response 7

Page 4.9-7 states:

Within that portion of the Project site proposed for the access road, the two abandoned well sites are located in a portion of the park site not proposed for grading. One of the wells is near the access road's east-west leg into the park and is very near the grading limits. If modifications to the grading plan occur that could result in cuts greater than six feet, the casing pipe associated with the well abandonment would need to be lowered to remain below ground surface (bgs).

With respect to the other two well sites, one is located within the proposed haul road alignment, and one is within a location identified for soil export. The well casing tops for both of these wells are approximately eight feet bgs. Because no site disturbance to that depth is proposed as a part of the Project, no impacts would be anticipated. With respect to all of the abandoned well sites, any alterations would require approval from the regulatory agencies. Any changes to an abandoned well casing would also require repair, testing of the repairs, and re-approval from DOGGR.

The NOP letter from the Department of Conservation indicates that gas venting would be required if construction would occur over a well site. As addressed in the Draft EIR, the Project does not propose to construct over the well sites.

Response 8

As described in Section 4.9 of the Draft EIR, "The Project site is not listed on federal, State, local, tribal, or other hazardous materials databases. The oil well sites within the boundaries of the Project site have been abandoned and remediated. Any impacted oil field equipment would be removed and soil remediation would occur, as necessary. All potential impacts can be mitigated to a level that is less than significant with the implementation of MM 4.9-1 and MM

4.9-2” and “With the implementation of MM 4.9-1, there would be a less than significant impact associated with the potential need to transport of soils.

Response 9

The opinion of the commenter is noted.

Letter P26

From: s mankarious [mailto:smankar2004@yahoo.com]
Sent: Saturday, December 05, 2009 5:52 PM
To: Brown, Janet
Subject: Draft Environmental Impact Report (DEIR) for Sunset Ridge Park Project

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

Dear Ms Brown:

On June 5, 2009 we received a message from Mr. Mike Sinacori [you were copied] in response to some issues/concerns we had expressed to Mr. Patrick Alford in an e-mail dated May 23, 2009 with respect to the Sunset Ridge Park project.

One of our concerns [paraphrased] was: If no night time park uses are proposed, what measures will be taken after dark to prevent this park from becoming a magnet for undesirable elements that would threaten the privacy, safety and security of the adjacent residences. Mr. Sinacore's answer was: "The park will be gated and closed at dusk every night. A City Park Ranger will be on site to perform the closure and will escort park users off the site at park closure..... Police are available if residents see unlawful activities in the park after park closure."

Now that we have reviewed the Executive Summary of the DEIR, we would like to voice the following concerns:

- o No clear design is described to show how the park will be fenced and gated to limit access once the park ranger closes the park at dusk.

- o To offer police availability if residents see unlawful activities is to suggest that we the residents have to be part of policing the park activities instead of designing the park in a manner that mitigates the risks and avoids any future problem.

- o Additionally, when reviewing the DEIR executive summary, we noted the absence of any mention of the fate of the Sound Barrier in the north east corner of the property, despite the fact that we were initially told the wall will be maintained to reduce the noise.

Superior avenue is not a residential street but is a commercial thoroughfare with access for trucks, busses and motorcycles [revving up their engines to climb that hill] at all hours - day and night.

The existing wall reduces the noise somewhat. In addition to the noise reduction, it would offer a measure of future safety to the park visitors.

What are the plans for replacing it and what type, height and extent will be specified for the new wall as well as for the gates that will allow pedestrian access "approx.30 meters" from our homes.

As residents of the city of Newport Beach, we would greatly appreciate reviewing the park design to address our concerns.

Ramzy & Sami Mankarious
7 Tribute Ct.
Newport Beach

P26-1

P26-2

Letter P26 Ramzy and Sami Mankarious
December 5, 2009

Response 1

As stated on page 3-7 in Section 3.6 in the Project Description for the Draft EIR:

The City proposes to develop the approximate 18.9-acre site with active and passive recreational uses and an access road to the park through Newport Banning Ranch. No nighttime lighting is proposed, other than for public safety. The access road would be constructed from West Coast Highway to Sunset Ridge Park through the Newport Banning Ranch property (5.2 of the 18.9 acres). The park would be open from 6:00 AM until 11:00 PM daily. The park gate would be open from 8:00 AM to dusk every day; no vehicles would be allowed entry into the park between 11:00 PM and 6:00 AM. The park access road would be gated near the entrance at West Coast Highway. In addition to these on-site improvements, there would be off-site improvements on West Coast Highway, including widening and signalization. Off-site improvements are discussed in Section 3.6.3. Exhibit 3-9, Conceptual Site Plan, depicts the proposed land uses associated with the Project.

The City of Newport Beach and the City's Park Rangers are responsible for the monitoring of public parks and park facilities in the City. No overnight parking or use of the park is proposed. Low-profile bollard security lighting would be provided throughout the site along the meandering interior pedestrian paths and perimeter paths for pedestrian safety. Low-profile bollard security lighting would also be provided in the parking lot and along that portion of the access road into the parking lot for vehicular safety. In addition, security lighting would be located around the perimeter of the restroom structure.

In addition, the Newport Beach Police Department was contacted to determine if the proposed would significantly impact the Department's ability to provide service. The Police Department stated that while implementation of the proposed Project would introduce active and passive park uses to the currently undeveloped site and would result in increased activity at the Project site. This additional activity would generate an incremental increase in the demand for police protection services and the department would be able to provide continued to serve to the site and the City.

Additionally, as stated on Section 3.0, Project Description, of the Draft EIR, an approximate six foot-high security fence would be located at the northern terminus of the landscape berm between the active park uses and the residential uses. Landscaping is proposed along the northern and southern side of the fence. No gated access from the existing residences into the park is proposed.

Response 2

As stated in Section 3.0, Project Description, page 3-10 of the EIR:

A retaining wall ranging in height from approximately four to ten feet would be constructed north of the active park uses and extend from approximately the parking lot in the west to the end of the soccer field (upper field) in the east. A landscaped berm would also be constructed north of the retaining wall but in the same general location as the retaining wall, and would extend to the northern property line (to the condominium residences north of the park). An approximate six foot-high security fence would be located at the northern terminus of the landscape berm between the

active park uses and the residential uses. Landscaping is proposed along the northern and southern side of the fence. No gated access from the existing residences into the park is proposed.

Section 4.1, Land Use (page 4.1-14) is hereby clarified and incorporated into the Final EIR as follows:

Currently, those residents with condominium units facing the Project site view an undeveloped property. With the implementation of the proposed Project, residents with existing views of the site would view park uses rather than an undeveloped parcel. While the proposed park would be contiguous to the existing residential development, a landscaped buffer would be provided on the park between the residences and the active park uses. The buffer would vary in height from approximately 10 feet to 18 feet above the active park area. The height of the landscaped buffer is planned to be 60 to 64 feet above mean sea level [msl] with an average height of 60 to 61 feet above msl and would vary in width from approximately 60 feet to 80 feet. All active park uses would be sited south of the buffer. Park uses would range in distance from approximately 105 feet (pedestrian walkway) to 133 feet (north soccer field) to 156 feet (baseball field) from the existing residences. At its closest point, the access road into the park would be approximately 82 feet from the nearest condominium unit; the parking lot would be approximately 134 feet from the nearest unit. No pedestrian access would be provided into or out of the park from the residential development.

The potential effects of the removal of the existing sound wall and grading are analyzed in Section 4.5, Noise, of the Draft EIR; please refer to pages 4.5-15 through 4.5-17. The traffic noise impacts were modeled for future conditions with the FHWA's Traffic Noise Model (TNM) version 2.5). The noise impacts were modeled for first floor patios and second floor balconies at 20 Newport Crest condominiums at the buildings adjacent to the Project site. Due the grading and the implementation of landscaping, the proposed grading would result in traffic noise level changes to patios and balconies facing the Project site from -5 to 2 dBA. Most patios and balconies at the buildings on Swift Court, Land Fall Court, and Ima Loa Court would experience a reduction in traffic noise levels due to changes in topography and landscaping.

The change in site topography with Project implementation is expected to result in permanent traffic noise increases of up to 2 dBA at some of the patios and balconies facing the Project site. These increases would not exceed the significance criteria for traffic noise increases included in the City's General Plan Noise Element. Noise increases of up to 3 dBA are "barely perceptible" to most people. Therefore, the change in site topography with Project implementation would not result in significant increases in traffic noise to nearby noise sensitive receptors.

The existing wall along Superior Avenue is depicted in Exhibits 4.2-3a and 4.2-3b in Section 4.2, Aesthetics. As stated on page 4.2-7 in the Draft EIR:

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 slope along Superior Avenue would be retained at an approximate height of 80 feet above msl. This slope would be landscaped with trees, shrubs, and groundcover of varying heights (see Exhibit 4.2-4b). Views from this viewpoint would be similar to existing conditions: the views of the ocean would still be present, and after the traveler has past the curve on Superior Avenue, s/he would have unobstructed views of the ocean. The proposed landscape plan has been designed to enhance the view of the Project site from this public view corridor consistent with the General Plan Natural Resources Element

Policy 20.4 which states that “design and site new development, including landscaping, on the edges of public view corridors, including those down public streets, to frame, accent, and minimize impacts to public views”. No significant impact would occur related to Superior Avenue, a Coastal View Road, and no mitigation is required.

Letter P27

From: cmf51@aol.com [mailto:cmf51@aol.com]
Sent: Monday, December 07, 2009 7:36 PM
To: Brown, Janet
Subject: Sunset Ridge Park Project

Dear Ms. Brown;

I am writing concerning the Sunset Ridge Park Project.

Although I think the recreational project sounds beneficial on paper, I am concerned the parking area will just become one more parking area for access to the beach. This would bring more "day-trippers" making the beach area between 40th and 50th street even more crowded and take away from the family/residential atmosphere this beach area.

Would you be kind enough to explain the City's plan to assure parking is for park usage and not for beach access?

Thank you in advance for addressing this concern.

Mrs. Christine Fisher
Villa Balboa
240 Nice Lane
#106
Newport Beach, Ca
92663

} P27-1

Letter P27 **Christine Fisher**
December 7, 2009

Response 1

As stated on page 3-9 in Section 3.6 in the Project Description for the Draft EIR and clarified for incorporation into the Final EIR as follows:

Because of the park site's proximity to the beach, parking would be metered ~~and limited~~ to two hours intervals during peak time periods (summer months) annually between May 15 and September 15 to ensure adequate spaces for park uses. Parking rates would be consistent with the existing Superior Parking Lot located at the northeastern corner of West Coast Highway at Superior Avenue. Between September 16 and May 14, the City proposes no time restrictions on parking; however, parking fees would apply; paid parking would ensure that adequate parking spaces would be available for park uses. Annual and Master City Parking Passes would be allowed. However, if the City determines that pass holders are not adhering to the two-hour parking time limit during peak time periods, passes could be restricted or prohibited. To restrict overnight parking, vehicles within the lot prior to the parking lot opening the following morning ~~would~~ may be towed.

Letter P28

From: Gerard Proc [mailto:GRAVYTRAIN1@roadrunner.com]
Sent: Tuesday, December 08, 2009 7:01 PM
To: Brown, Janet
Subject: Sunset Ridge Park

Hello Ms. Brown,

My name is Gerard Proccacino a 38 year resident of Newport, Beach, 35 of which have been in the Lido Sands Community. I want to start out with saying that I am strongly opposed to an additional, major, all turn,signalized intersection on West Coast Highway for access to the proposed Sunset Ridge Park. I know that the 82 home owners of Lido Sands have the same feelings. The following comments are from me only and not necessarily those of the home owners of Lido Sands. I am also opposed to the park being so active as to have the need for up to 97 parking spaces. It appears that this "park" is going to be more of a sports mini stadium rather than a more passive park. What a shame that if all 97 spaces were filled from people from all over Orange Cty. and a Newport Beach family were turned away. I propose to have no vehicles enter the park at all. People will go, they will walk, bike, skateboard and find other means. These people would be more from the community rather than not. If vehicle access is approved I see no need for an additional major intersection on West Coast Highway. If the city feels the need for such access I would suggest re-engineering the West PCH, Superior Ave, Balboa Ave. to a five point intersection at least there would not be an additional major intersection on West PCH. If an additional intersection is approved I see no need for it to be signalized. West bound traffic could enter and exit and u-turn at Prospect to go back east. East bound traffic could u-turn at Hoag @ PCH and head West to enter the park. We're talking a proposed 97 vehicles, in and out, daylight hours only. Look at the number of restaurants and businesses on PCH that have more traffic day and night without a major intersection at each and every entrance. I am strongly opposed to an additional major intersection on West Coast Highway. We are all aware that a vehicle stopping and then starting expels the most air pollution. An idling vehicle expels more concentrated air pollution then when moving. Noise pollution with vehicles starting and stopping, boom box noise, large trucks with "Jake brakes",motorcycles revving when stopped, not to mention the jack rabbit start to try and make the light at PCH, Superior, and Balboa. It can be seen from this proposed major intersection as its less then 2 tenths of a mile away. Light pollution, flashing red, yellow, green into homes and obtrusive lights from vehicles. I can't imagine the traffic grid lock on an already overwhelmed West Coast Highway. Please, no additional major intersection on West Coast Highway. We tax payers have paid for a "traffic calming" project on River Ave. How can the city possibly propose this traffic "hornets nest" on West Coast Highway, 100 yards north of the River Ave. "traffic calming" project?

I have heard that the widening of West Coast Highway at this intersection follows guidelines of the Orange County Master Plan of Arterial Highways. I have not been able to find anything on this other then what was presented for the long time defunct Pacific Coast Freeway project . My understanding is that this major, signalized intersection on West Coast Highway has been proposed by the city of Newport Beach. I would ask, could this be a start to accommodate the Banning Ranch project?

I appreciate the opportunity to share my views. I hope the fine city of Newport Beach will really review and consider the negative quality of life affects of this major intersection on its residents. Please acknowledge receipt of this correspondence. Thank you.

Respectively,
Gerard Proccacino
5105 Lido Sands Dr.
Newport Beach, CA 92663
949-645-2340
GRAVYTRAIN1@roadrunner.com

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From: parahdigm@aol.com [mailto:parahdigm@aol.com]
Sent: Wednesday, December 09, 2009 7:01 PM
To: GRAVYTRAIN1@roadrunner.com
Cc: Wood, Sharon; Badum, Steve; Kiff, Dave; Detweiler, Laura; City Council
Subject: Re: Sunset Ridge Park

Dear Mr. Proccacino:

Thank you for your comments on the proposed Sunset Ridge Park. By copy of this e-mail I will have them included with the other comments we have been receiving on the Sunset Ridge Environmental Impact Report.

The Sunset Ridge Park has always been proposed to be an active park which, in the current plan, includes a baseball diamond and an overlay of two soccer fields. The Newport Beach General Plan approved by the voters in 2006 shows this property as an active park area. As stated in the General Plan, West Newport is severely deficient in active parks.

In order to properly construct an active park, sufficient parking is necessary. The proposed light on Coast Highway is being considered to provide a safe means of ingress and egress to the park for the families and children that will be users of the park. As you know, traffic moves along quite quickly on Coast Highway, making turns dangerous at times. Please stop by the Public Works Dept. at City Hall and I am sure they will be happy to show you a copy of the Master Plan of Arterial Highways.

Sincerely,

Steven Rosansky

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

From: Gerard Proc <GRAVYTRAIN1@roadrunner.com>
To: CityCouncil@city.newport-beach.ca.us
Sent: Wed, Dec 9, 2009 6:43 pm
Subject: Sunset Ridge Park

Subject: Sunset Ridge Park

Hello to All,

My name is Gerard Proccacino a 38 year resident of Newport, Beach, 35 of which have been in the Lido Sands Community. I want to start out with saying that I am strongly opposed to an additional, major, all turn,signalized intersection on West Coast Highway for access to the proposed Sunset Ridge Park. I know that the 82 home owners of Lido Sands have the same feelings. The following comments are from me only and not necessarily those of the other home owners of Lido Sands. I am also opposed to the park being so active as to have the need for up to 97 parking spaces. It appears that this "park" is going to be more of a sports mini stadium rather than a more passive park. What a shame that if all 97 spaces were filled from people from all over Orange Cty. and a Newport Beach family were turned away. I propose to have no vehicles enter the park at all. People will go, they will walk, bike, skateboard and find other means. These people would be more from the community rather than not. If vehicle access is approved I see no need for an additional major intersection on West Coast Highway. If the city feels the need for such access I would suggest re-engineering the West PCH, Superior Ave, Balboa Ave. to a five point intersection at least there would not be an additional major intersection on West PCH. If an additional intersection is approved I see no need for it to be signalized. West bound traffic could enter and exit and u-turn at Prospect to go back east. East bound traffic could u-turn at Hoag @ PCH and head West to enter the park. We're talking a proposed 97 vehicles, in and out, daylight hours only. Look at the number of restaurants and businesses on PCH that have more traffic day and night without a major intersection at each and every entrance. I am strongly opposed to an additional major intersection on West Coast Highway. We are all aware that a vehicle stopping and then starting expels the most air pollution. An idling vehicle expels more concentrated air pollution than when moving. Noise pollution with vehicles starting and stopping, boom box noise, large trucks with "Jake brakes", motorcycles revving when stopped, not to mention the jack rabbit start to try and make the light at PCH, Superior, and Balboa. It can be seen from this proposed major intersection as its less than 2 tenths of a mile away. Light pollution, flashing red, yellow, green into homes and obtrusive lights from vehicles. I can't imagine the traffic grid lock on an already overwhelmed West Coast Highway. Please, no additional major intersection on West Coast Highway.

We tax payers have paid for a "traffic calming" project on River Ave. How can the city possibly propose this traffic "hornets nest" on West Coast Highway, 100 yards north of the River Ave. "traffic calming" project?

I have heard that the widening of West Coast Highway at this intersection follows guidelines of the Orange County Master Plan of Arterial Highways. I have not been able to find anything on this other than what was presented for the long time defunct Pacific Coast Freeway project . My understanding is that this major, signalized intersection on West Coast Highway has been proposed by the city of Newport Beach. I would ask, could this be a start to accommodate the Banning Ranch project?

I appreciate the opportunity to share my views. I hope the fine city of Newport Beach will deliberately review and consider the negative quality of life affects of this major intersection on its residents. Please acknowledge receipt of this correspondence. Thank you.

Respectfully,
Gerard Proccacino
5105 Lido Sands Dr.
Newport Beach, CA 92663
949-645-2340
GRAVYTRAIN1@roadrunner.com

Letter P28 Gerard Proccacino
December 8, 2009

Response 1

The commenter's opposition to the Project is noted. As addressed in the Draft EIR, the City is proposing a signal at the future West Coast Highway and park access road intersection. The access road would intersect West Coast Highway approximately 980 feet west of Superior Avenue. Please refer to Topical Response 3.

Response 2

A stadium is not proposed as a part of the Project. The opinion of the commenter is noted. As stated on Section 3.0, Project Description, the active components of the Project include the following

Baseball Field

The Project would include one youth baseball field generally located in the central portion of the Project site. As proposed, the baseball field backstop and associated safety fencing would be below the height of the top of adjacent condominium balcony walls. The baseball field is surrounded by passive park uses and meandering pedestrian paths.

Soccer Fields

Two youth soccer fields would be provided in the center of the park area. One soccer field (upper field) would be located contiguous to and east of the baseball field; the second soccer field (lower field) would be to the south of the baseball field.

Playground Area and Picnic Area

The playground area is proposed on the western portion of the park site directly south of the parking lot and west of the lower soccer field. The playground area is proposed to include recreational amenities such as a tot lot. The picnic area would be located to the east of the playground and could include shade structures, picnic tables, and seating areas.

While the park would provide additional parkland in the West Newport Beach area, which currently experiences a parkland deficit; it would also provide active and passive recreational opportunities to those outside of West Newport Beach. As stated on page 3-9 in Section 3.6 in the Project Description for the Draft EIR and clarified for incorporation into the Final EIR as follows:

Because of the park site's proximity to the beach, parking would be metered ~~and limited~~ to two hours intervals during peak time periods (summer months) annually between May 15 and September 15 to ensure adequate spaces for park uses. Parking rates would be consistent with the existing Superior Parking Lot located at the northeastern corner of West Coast Highway at Superior Avenue. Between September 16 and May 14, the City proposes no time restrictions on parking; however, parking fees would apply; paid parking would ensure that adequate parking spaces would be available for park uses. Annual and Master City Parking Passes would be allowed. However, if the City determines that pass holders are not adhering to the two-hour parking time limit during peak time periods, passes could be

restricted or prohibited. To restrict overnight parking, vehicles within the lot prior to the parking lot opening the following morning ~~would~~ may be towed.

Response 3

The Draft EIR addresses several alternatives to the proposed Project, including a Passive Park Alternative (Alternative C). Section 6, Alternatives to the Proposed Project, in the Draft EIR identifies that this alternative scenario assumes that only passive park uses would be developed on the Project site. Under this alternative scenario, no playing fields (i.e., baseball or soccer fields) would be constructed. Sunset Ridge Park would be developed with lawns, pedestrian paths, gardens, restroom facilities, and parking. No nighttime lighting except for public safety would be provided. Alternative C would require a zone change on that portion of the Project site in the City (13.7 acres) from Open Space-Active (OS-A) to Open Space-Passive (OS-P). Unlike the commenter's suggested alternative, the Draft EIR's Passive Park Alternative assumes a park access road would be constructed from West Coast Highway through the Newport Banning Ranch property, an on-site parking area, and improvements on West Coast Highway.

The Draft EIR notes that while Alternative C would have a slight reduction in grading, implementation of a passive park would still result in significant and unavoidable short-term, construction-related local air quality impacts and short-term construction-related noise impacts. These significant impacts would cease upon the completion of construction. All other impacts would be similar or the same and can be mitigated to a less than significant level. Although Alternative C would provide a park in this location, it would not achieve all of the Project objectives, specifically, to create more active parkland in West Newport Beach. The *City of Newport Beach General Plan* contains goals and policies that include developing Sunset Ridge Park with active and passive park uses, including facilities for picnicking, active sports, and other facilities that serve a larger population. Alternative C would not be consistent with these General Plan goals and policies.

With respect to the commenter's suggested alternative, the size of the park would be 13.7 acres because the Newport Banning Ranch property would not be a part of the Sunset Ridge Park Project (no vehicular access to the park site would be provided).

Response 4

It is acknowledged that the park alone would not generate enough traffic to warrant a signal. Please refer to Topical Response 3. Five-legged intersections are not desirable for a number of technical traffic engineering reasons, including the complexities of signal timing and phasing, difficulty in coordinating the timing with adjacent intersections, increased delay for all approaches, constrained turning radii for the turns to and from the angled approaches, inconvenience for pedestrians, and safety issues due to driver confusion with lane assignment and additional turning options. The volume of traffic through the Superior/West Coast Highway intersection would make adding a fifth leg to this intersection particularly challenging and undesirable.

Response 5

Please refer to the response to Comment 4.

Response 6

The analysis of carbon monoxide (CO) hotspots on page 4.4-34 of the Draft EIR indicates that local CO impacts due to traffic congestion at intersections would be less than significant.

Response 7

As discussed on Page 4.5-17 of the Draft EIR, a traffic signal would affect a percentage of vehicles going through the intersection as vehicles would stop at the red signal phases. According to field observations, cars that exit an intersection accelerating subsequent to a red phase generate more noise than if they would be cruising at a constant speed. Field observations also show that an intersection has the overall effect of reducing the average traffic speed near the intersection, thus reducing the average traffic noise level. It is expected that the implementation of the proposed traffic signal may change the character of the traffic noise at nearby residences and would have an effect of lowering the average speed, therefore reducing the noise levels at residences in the vicinity of the intersection.

Response 8

Please refer to the response to Comment 7. The opinion of the commenter is noted.

Response 9

The comment is noted. If a signal is the option preferred by the City Council, Caltrans approval would be needed, and the signal operation would need to be designed to be coordinated with adjacent signals upstream and downstream on West Coast Highway. Please refer to Topical Response 3.

Response 10

Please refer to Topical Responses 1 and 2.

The proposed widening on the north side of West Coast Highway would accomplish the ultimate roadway half-width cross-section, consistent with the standards of the City of Newport Beach General Plan Circulation Element and the Orange County Master Plan of Arterial Highways. The proposed widening would provide enough room for a separate right-turn lane, which would allow right-turning vehicles from westbound West Coast Highway to turn into the park access road without impeding through vehicles on West Coast Highway.

Letter P28

From: Gerard Proc [mailto:GRAVYTRAIN1@roadrunner.com]
Sent: Tuesday, December 08, 2009 7:01 PM
To: Brown, Janet
Subject: Sunset Ridge Park

Hello Ms. Brown,

My name is Gerard Proccacino a 38 year resident of Newport, Beach, 35 of which have been in the Lido Sands Community. I want to start out with saying that I am strongly opposed to an additional, major, all turn,signalized intersection on West Coast Highway for access to the proposed Sunset Ridge Park. I know that the 82 home owners of Lido Sands have the same feelings. The following comments are from me only and not necessarily those of the home owners of Lido Sands. I am also opposed to the park being so active as to have the need for up to 97 parking spaces. It appears that this "park" is going to be more of a sports mini stadium rather than a more passive park. What a shame that if all 97 spaces were filled from people from all over Orange Cty. and a Newport Beach family were turned away. I propose to have no vehicles enter the park at all. People will go, they will walk, bike, skateboard and find other means. These people would be more from the community rather than not. If vehicle access is approved I see no need for an additional major intersection on West Coast Highway. If the city feels the need for such access I would suggest re-engineering the West PCH, Superior Ave, Balboa Ave. to a five point intersection at least there would not be an additional major intersection on West PCH. If an additional intersection is approved I see no need for it to be signalized. West bound traffic could enter and exit and u-turn at Prospect to go back east. East bound traffic could u-turn at Hoag @ PCH and head West to enter the park. We're talking a proposed 97 vehicles, in and out, daylight hours only. Look at the number of restaurants and businesses on PCH that have more traffic day and night without a major intersection at each and every entrance. I am strongly opposed to an additional major intersection on West Coast Highway. We are all aware that a vehicle stopping and then starting expels the most air pollution. An idling vehicle expels more concentrated air pollution then when moving. Noise pollution with vehicles starting and stopping, boom box noise, large trucks with "Jake brakes",motorcycles revving when stopped, not to mention the jack rabbit start to try and make the light at PCH, Superior, and Balboa. It can be seen from this proposed major intersection as its less then 2 tenths of a mile away. Light pollution, flashing red, yellow, green into homes and obtrusive lights from vehicles. I can't imagine the traffic grid lock on an already overwhelmed West Coast Highway. Please, no additional major intersection on West Coast Highway. We tax payers have paid for a "traffic calming" project on River Ave. How can the city possibly propose this traffic "hornets nest" on West Coast Highway, 100 yards north of the River Ave. "traffic calming" project?

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I appreciate the opportunity to share my views. I hope the fine city of Newport Beach will really review and consider the negative quality of life affects of this major intersection on its residents. Please acknowledge receipt of this correspondence. Thank you.

Respectively,
Gerard Proccacino
5105 Lido Sands Dr.
Newport Beach, CA 92663
949-645-2340
GRAVYTRAIN1@roadrunner.com

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From: parahdigm@aol.com [mailto:parahdigm@aol.com]
Sent: Wednesday, December 09, 2009 7:01 PM
To: GRAVYTRAIN1@roadrunner.com
Cc: Wood, Sharon; Badum, Steve; Kiff, Dave; Detweiler, Laura; City Council
Subject: Re: Sunset Ridge Park

Dear Mr. Proccacino:

Thank you for your comments on the proposed Sunset Ridge Park. By copy of this e-mail I will have them included with the other comments we have been receiving on the Sunset Ridge Environmental Impact Report.

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Sincerely,

Steven Rosansky

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

From: Gerard Proc <GRAVYTRAIN1@roadrunner.com>
To: CityCouncil@city.newport-beach.ca.us
Sent: Wed, Dec 9, 2009 6:43 pm
Subject: Sunset Ridge Park

Subject: Sunset Ridge Park

Hello to All,

My name is Gerard Proccacino a 38 year resident of Newport, Beach, 35 of which have been in the Lido Sands Community. I want to start out with saying that I am strongly opposed to an additional, major, all turn,signalized intersection on West Coast Highway for access to the proposed Sunset Ridge Park. I know that the 82 home owners of Lido Sands have the same feelings. The following comments are from me only and not necessarily those of the other home owners of Lido Sands. I am also opposed to the park being so active as to have the need for up to 97 parking spaces. It appears that this "park" is going to be more of a sports mini stadium rather than a more passive park. What a shame that if all 97 spaces were filled from people from all over Orange Cty. and a Newport Beach family were turned away. I propose to have no vehicles enter the park at all. People will go, they will walk, bike, skateboard and find other means. These people would be more from the community rather than not. If vehicle access is approved I see no need for an additional major intersection on West Coast Highway. If the city feels the need for such access I would suggest re-engineering the West PCH, Superior Ave, Balboa Ave. to a five point intersection at least there would not be an additional major intersection on West PCH. If an additional intersection is approved I see no need for it to be signalized. West bound traffic could enter and exit and u-turn at Prospect to go back east. East bound traffic could u-turn at Hoag @ PCH and head West to enter the park. We're talking a proposed 97 vehicles, in and out, daylight hours only. Look at the number of restaurants and businesses on PCH that have more traffic day and night without a major intersection at each and every entrance. I am strongly opposed to an additional major intersection on West Coast Highway. We are all aware that a vehicle stopping and then starting expels the most air pollution. An idling vehicle expels more concentrated air pollution than when moving. Noise pollution with vehicles starting and stopping, boom box noise, large trucks with "Jake brakes", motorcycles revving when stopped, not to mention the jack rabbit start to try and make the light at PCH, Superior, and Balboa. It can be seen from this proposed major intersection as its less than 2 tenths of a mile away. Light pollution, flashing red, yellow, green into homes and obtrusive lights from vehicles. I can't imagine the traffic grid lock on an already overwhelmed West Coast Highway. Please, no additional major intersection on West Coast Highway.

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Respectfully,
Gerard Proccacino
5105 Lido Sands Dr.
Newport Beach, CA 92663
949-645-2340
GRAVYTRAIN1@roadrunner.com

Letter P29 **Matthew Lawrence**
December 9, 2009

Response 1

Please refer to Topical Responses 1 and 2. The commenter's opposition to the Project is noted.

From: Ginny Lombardi [<mailto:ginnylombardi@yahoo.com>]
Sent: Wednesday, December 09, 2009 11:53 AM
To: Brown, Janet
Subject: Draft EIR Sunset Ridge

Letter P30

Janet Johnson-Brown
Associate Planner
City of Newport Beach, Planning Department

Dear Janet,

In the DEIR for Sunset Ridge Park under the section "City of Newport Beach Local Coastal Program Coastal Land Use Plan (CLUP)" it states:

The City of Newport Beach CLUP applies only to properties within the incorporated boundary of the City. Therefore, the CLUP applies to the 13.7 acres of the Project site located within the incorporated boundaries of the City. This portion of the site has a Coastal Land Use Plan designation of Parks and Recreation (PR). The portion of the project site (Newport Banning Ranch property) where the access road is proposed is a Deferred Certification Area (DCA).

What is the significance of the DCA?

How is the DCA processed and by whom?

When and how is a coastal development permit processed for the land outside of the City's boundaries?

What agency is responsible for doing this?

Does the City plan to annex the DCA land that is within its sphere of influence?

Will any LAFCO proceedings be initiated as part of the proposed project?

Will the City need any approvals from the County of Orange with respect to the DCA land?

In the section "Zoning Designations" it states:

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)].

Will a zoning change be required for this DCA land?

Will the County process that zoning change?

Will the City annex the DCA land and change the zoning?

I object to the approval of the Project in its present form. The above comments, questions and all references contained therein are hereby incorporated into the official record of proceedings of this project and its successors.

I would appreciate a response to my questions in a timely manner.

Thank you,

Ginny Lombardi
7 Landfall Court
Newport Beach

P30-1

P30-2

P30-3

P30-4

Letter P30 **Ginny Lombardi**
December 9, 2009

Response 1

Because the City does not have a certified Implementing Actions Program as part of its Local Coastal Program, it does not have the authority to issue Coastal Development Permits (CDPs). Should the City approve the Project and associated discretionary and ministerial approvals, the City would request approval of a corresponding CDP from the California Coastal Commission for the Project.

The City will request one CDP from the California Coastal Commission for the entire Project site. As stated in Section 3.0, Project Description of the Draft EIR:

The entire Project site is within the boundary of the coastal zone as established by the California Coastal Act, and is therefore under the land use planning and regulatory jurisdiction not only of local government agencies but also the California Coastal Commission. Site development must be consistent with the requirements of the Coastal Act.

As shown on Exhibit 3-8, Coastal Land Use Plan, that portion of the Project site located within the City's incorporated boundaries has a Coastal Land Use Plan designation of Parks and Recreation (PR). The PR category applies to land used or proposed for active public or private recreational use. Permitted uses include parks (both active and passive), golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private recreation, and similar facilities.

The portion of the Project site (Newport Banning Ranch property) where the access road, haul road, and export soils sites are proposed is a Deferred Certification Area (DCA). This area is not included in the City's Coastal Land Use Plan.

As stated in the City's Coastal Land Use Plan, "Deferred Certification Area (DCA) refers to an area which has not been officially segmented for purposes of LCP preparation and where both the land use plan and implementation plan have been deferred to some future date in order to avoid delay in certifying the balance of the LCP. The Coastal Commission retains permit jurisdiction in all deferred certification areas." As such, the California Coastal Commission would issue the CDP for the entire Project.

Response 2

The City is not proposing to annex any portion of the Newport Banning Ranch property located within the City's Sphere of Influence as part of the proposed Sunset Ridge Park Project. The City is the lead agency for properties within its jurisdictional boundaries as well as properties within its Sphere of Influence.

Use of the adjacent Newport Banning Ranch property for the park access road would require an access easement from the Newport Banning Ranch property owner. The City is currently negotiating an access agreement with the Newport Banning Ranch property owner. The City Council will consider approving this agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines.

Response 3

The existing zoning designation for the portion of the Project site in the City of Newport Beach (13.7 acres) is Open Space Active (OS-A); there is not a City zoning designation for the unincorporated portion of the Project site. 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)]. The Orange County Zoning Code states that “The C1 District is established to provide for the development and maintenance of medium intensity commercial uses serving the needs of both the surrounding neighborhood and the local community”. In any district where the district symbol is followed by the letter “O”, thus (O), oil drilling and production of oil, gas, and other hydrocarbon substances is permitted. Therefore, the proposed development of the Project site as an active park is consistent with the City’s zoning designations for that portion of the site in the City. The proposed use of the Newport Banning Ranch property for the access road, temporary haul road and export soils sites are allowed uses under the County’s zoning designations; a zone change would be required. The proposed park access road is shown on the City’s General Plan Circulation Element Master Plan of Streets and Highways and the Orange County Master Plan of Arterial Highways (MPAH).

Response 4

The commenter’s opposition to the Project is noted.

Letter P31

From: Deborah Lucas [<mailto:deborahlucas@gmail.com>]
Sent: Wednesday, December 09, 2009 11:46 AM
To: Brown, Janet
Subject: re: Sunset Ridge

Hello Ms. Brown-

We are writing because we've viewed the plan for the Sunset Ridge Park and are very concerned about the road proposed for vehicular access.

It seems clear that putting the road there makes it more likely that future approval of further development in the Banning Ranch area would be likely. We are against further development of the Banning Ranch area, now or in the future.

Now is the time to lay out the park in a way that will ensure saving the area instead of preparing it for further building.

Please have the park plan revised so that the vehicular access road is Moved to a more direct route to the park.

Thank you.
Deborah Lucas

P31-1

Letter P31 **Deborah Lucas**
December 9, 2009

Response 1

Please refer to Topical Responses 1 and 2. The opinion of the commenter is noted.

From: Flesvig_Christine [mailto:Flesvig_Christine@Allergan.com]
Sent: Wednesday, December 09, 2009 10:38 AM
To: Brown, Janet
Subject: Sunset Ridge Concerns

Letter P32

November 5, 2009

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

Ref: Sunset Ridge Park Project

Ms. Brown:

As a resident at 9 Landfall in Newport Crest, I am extremely concerned about the the following :

- Safety: My home has already been invaded by one unknown person. I filed a police report. I am concerned about trespassers in and around my home
- Noise: Slamming car doors when parking and dropping off, voices, screaming, yelling, cheering and noise after the park is closed
- Pollution in the air that could effect my health
- Dirt and dust in my home that could ruin the interior
- Animals that will no longer have a place to live because their habitat has been destroyed
- Traffic Safety and potential accidents at the extremely busy corner of PCH and Superior. Multiple accidents have occurred and lives have been destroyed at this intersection. This will only exacerbate with the park a children are running across the street to get to the park.

} P32-1
} P32-2
} P32-3
} P32-4
} P32-5

I look forward to your response.

Sincerely,

Christy Flesvig
9 Landfall Court
Newport Beach

Christy Flesvig
Business Development Manager
Allergan

Letter P32 Christy Flesvig
December 9, 2009

Response 1

Although the commenter does not raise an environmental issue, it should be noted that the City of Newport Beach and the City's Park Rangers are responsible for the monitoring of public parks and park facilities in the City. No overnight parking or use of the park is proposed. Low-profile bollard security lighting would be provided throughout the site along the meandering interior pedestrian paths and perimeter paths for pedestrian safety. Low-profile bollard security lighting would also be provided in the parking lot and along that portion of the access road into the parking lot for vehicular safety. Security lighting would be located around the perimeter of the restroom structure. In addition, an approximate six-foot-high security fence would be located at the northern terminus of the landscape berm between the active park uses and the residential uses. Landscaping is proposed along the northern and southern side of the fence. No gated access from the existing residences into the park is proposed.

In addition, the Newport Beach Police Department was contacted to determine if the proposed would significantly impact the Department's ability to provide service. The Police Department stated that while implementation of the proposed Project would introduce active and passive park uses to the currently undeveloped site and would result in increased activity at the Project site. This additional activity would generate an incremental increase in the demand for police protection services and the department would be able to provide continued to serve to the site and the City.

Response 2

As stated in Section 4.5, Noise, of the Draft EIR, the proposed park would include a baseball field and two youth soccer fields. Activities in these areas would have the potential to create noise impacts to the residential areas north of the site. The park would not be equipped with nighttime lighting so all activities would occur during the daytime. As the analysis in Section 4.5, Noise (pages 4-13 through 4.5-17) demonstrates, that while park activities would generate perceptible noise increases to some noise-sensitive persons, the noise levels would be below the City of Newport Beach 55 dB L_{eq} daytime noise standard. There would be no exposure of persons to or generation of noise levels in excess of the applicable standards or would there be a substantial increase in permanent noise levels.

Response 3

The comment expresses concern that short-term local pollutant concentrations of NO_x, PM₁₀, and PM_{2.5} that could be detrimental to the health of the commenter and other residents of the Newport Crest community. With respect to NO_x, please note that potential exceedance of SCAQMD NO_x emissions thresholds would only occur if extensive off-site haul of excavated soil is required. Local concentrations of NO_x at the Newport Crest condominiums would be affected only by on-site emissions, and the analysis on page 4.4-31 shows that the NO_x emissions would be less than 15 percent of the LST threshold.

With respect to the PM₁₀ and PM_{2.5} exceedances, the City notes the following:

- (1) The SCAQMD LST lookup table methodology is limited to a maximum site size of five acres; the project site is greater than five acres. The emissions thresholds increase with an increase in site size. Therefore, if the SCAQMD methodology was extended to the project area that is to be graded, on the order of 15 acres, then the project emissions

would exceed the threshold by a smaller amount, or might not exceed the thresholds. The SCAQMD suggests that dispersion modeling be conducted for sites larger than five acres; however the topography and grading plan for the park site is too complex for dispersion modeling to yield meaningful results.

- (2) A substantial amount of grading will occur at distances from the Newport Crest community where PM10 and PM2.5 effects to the residents would be minimal.
- (3) Compliance with SCAQMD Rule 403, Fugitive Dust, which is required by law and by the Project Standard Condition 4.4-1 is expected to provide greater emissions reductions than are calculated by the URBEMIS emissions model.

Notwithstanding the above factors, the City understands the concern of the EQAC and similar comments from other parties. In order to reduce the potential for elevated short-term PM10 and PM2.5 concentrations at the Newport Crest community, the City has added the following mitigation incorporated into the Final EIR as follows:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.

MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;
- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;
- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.

MM 4.4-3 The following actions shall be implemented as a part of the construction of the Sunset Ridge Park Project:

- a. Watering and visible dust control shall exceed the requirements of SCAQMD Rule 403 as follows: The Contractor shall suspend grading operations when wind gusts exceed 15 miles per hours.

- b. In windy conditions, the dust control measures of SCAQMD Rule 403, Table 2 (Large Operations) shall be applied.
- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.
- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the investigation. The City contact person shall maintain a log of all complaints and resolutions.

Through analysis in Section 4.4, Air Quality and Climate Change, in the Draft EIR, it was determined that during the periods of mass grading when work would be concentrated within 164 feet of the Newport Crest Condominium development, particulate emissions from the Project site have the potential for a short-term exceedance of the 24-hour PM10 and PM2.5 ambient air quality standards at the nearest residences. This temporary, local impact would be significant and unavoidable. However, long-term operational emissions would be less than the SCAQMD thresholds.

As stated in Section 4.4, the Project would be required to implement SCAQMD Rule 403, Fugitive Dust (SC 4.4-1), and the maximum particulate emission reductions available in the URBEMIS model have been included in the calculations. Rule 403 represents the feasible mitigation measures for dust control, and prohibits visible dust beyond the property line of the Project site. This limitation may result in a reduction of impacts, but the reduction cannot be quantified. Additionally, because the condominiums are located at an elevation higher than the elevation where most grading would occur, concentrations would likely be less than implied by the analysis; however, this reduction cannot be quantified. Even with implementation of Standard Condition 4.4-1 in Section 4.4 of the Draft EIR, the local PM10 and PM2.5 impact would be significant and unavoidable for the short-term periods when mass grading would occur near the condominiums.

Response 4

The Project site provides moderate quality habitat for wildlife species. Please refer to pages 4.6-7 through 4.6-9 of the Draft EIR. As stated in Section 4.6, Biological Resources, implementation of the proposed Project would result in the loss of approximately 5.06 acres of native habitat that provides nesting, foraging, roosting, and denning opportunities for a variety of wildlife species. On-site vegetation could support nesting birds. Impacts to migratory nesting birds are prohibited under the Migratory Bird Treaty Act (MBTA). In addition, common raptor species such as red-tailed hawk have potential to nest on the Project site.

Through analysis in Section 4.6, Biological Resources, of the Draft EIR, it has been determined that the loss of any active nesting bird/raptor nest occurring on the Project site would be considered significant. Impacts on nesting birds/raptors would be reduced to less than significant levels with implementation the Mitigation Program described in Section 4.6. Impacts to Special Status Wildlife would be less than significant with implementation of the Mitigation Program described in Section 4.6.

Response 5

There is currently no stopping or parking along Superior Avenue. The proposed parking area within Sunset Ridge Park would include a drop-off area convenient and safe within the park. The City would hope that common sense would prevail and motorists would not stop mid-block along either Superior Avenue or West Coast Highway to drop off passengers in a location that would require children to run across the street. However, if the City Public Works Department determines that signage near the pedestrian entrances to the proposed park is necessary, appropriate signage can be provided.

From: White, Kathy --- WW Acct Mgr-Corp Accts--- FTA [mailto:kathy.white@fedex.com] **Letter P33**

Sent: Thursday, December 10, 2009 2:40 PM

To: Brown, Janet; Rosansky, Steven

Cc: Curry, Keith; Daigle, Leslie; Kiff, Dave; Rosansky, Steven; Selich, Edward; Gardner, Nancy; Henn, Michael; don2webb@earthlink.net; don_bruner@hotmail.com; P A SULLIVAN; Ginny Lombardi

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

Ms. Brown

I haven't had the time to write letters concerning all this, but I do agree with Gary Garber on this, and also agree with Bruce Bartram's email of November 9, 2009, to you, regarding Draft EIR for Sunset Ridge Park.

It feels very much like the City is not being forthcoming on the real information about both projects and who is paying for what along with answering (or non-answering) the many questions that are being asked by the Citizens of Newport Beach.

I also would like to know who has poisoned all the squirrels and rabbits that were in the field in Sunset Ridge. 18 months ago when I moved in, animals were prolific.. Now they are gone. I haven't seen bunnies or squirrels in months in the field. My only thought is that they must have been killed.

Since I am included in all the emails that go around, I'm questioning why nothing has been answered at all, either by you or by Steve Rosansky, who is included in this email. Yes, I have seen the acknowledgements by you, but no answers.

Thanks,

Kathy White

--- On Thu, 11/12/09, Gary Garber <garbergary@yahoo.com> wrote:

From: Gary Garber <garbergary@yahoo.com>

Subject: Draft Environmental Impact Report (DEIR) 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: Thursday, November 12, 2009, 10:23 AM

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:

Please note I am in complete agreement with Bruce Bartram November 9th letter (**see below**) to you regarding the Draft Environmental Impact Report (DEIR) for Sunset Ridge Park Project. I concur that Sunset Ridge Park and the Newport Banning Ranch comprise one "Project." Sunset

P33-1

P33-2

P33-3

Ridge Park is Phase one of this project since proposed "South Bluff Road" is part of road system for Newport Banning Ranch. This overlapping common road system for Sunset Ridge Park and Newport Banning Ranch appears to constitute one project with Sunset Ridge being Phase One. Based on this I concur they must be subject to a single environmental review under CEQA by the City of Newport Beach . I also agree 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 is needed 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.

See below Mr. Bartram's November 9th letter and fax to you. I look forward to receiving a timely response from you and City Council regarding this issue.

Sincerely,

Gary A. Garber
8 Landfall Court
Newport Beach, CA

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 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.

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

GARY A. GARBER, MAI, SRPA, SRA
8 LAND FALL COURT
NEWPORT BEACH, CALIFORNIA 92663-2307

Phone (949) 650-6661 – Fax (949) 650-6661
E-Mail garbergary@yahoo.com

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

Dear Ms. Brown:

The following represents my comments regarding Section 4.5 Noise of the DEIR for Sunset Ridge Park Project.

Bottom of fp. 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 portions 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 date 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 date 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.

There should also be a study undertaken to determine if there is a Fair Market Value change in Newport Crest units and other communities due to additional noise in proposed Sunset Ridge project. The study should contain estimates of Fair Market Value Appraisal of all units before the project is started and after completed. The DEIR does not address this issue.

Noise during the day is a major issue with me and many neighbors since we work at home with our windows open. My work area overlooks the proposed Sunset Ridge Park. If the park goes in, Mitigation Measures that should be incorporated in the EIR is that the City should install air conditioning units in all affected units so there is no need for opening windows and doors. A further Mitigation Measure that should be considered is installing triple pain windows and sliding glass doors in all affected units to decrease the noise level. Presently noise levels during the day are acceptable for a good work environment. The DEIR does not take this into consideration. There are also individuals that work at night and sleep during the day. Presently noise levels during the day are acceptable for sleeping. The DEIR does not take this into consideration. There is also a concern regarding noise levels at night might increase due to some of the improvements.

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

All of the above issues are a major valuation concern since Newport Crest units are major investment for the homeowners. I have brought up many of the above issues and other issues with City Council and the previous City Manager. I seriously object to the approval of this project in its present form. The above comments 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.

Sincerely,

Gary A. Garber
8 Landfall Court
Newport Beach

Letter P33 **Kathy White**
December 10, 2009

Response 1

The opinion of the commenter is noted.

Response 2

While it is correct that the Sunset Ridge Park site does support habitat that provides nesting, foraging, roosting, and denning opportunities for a variety of wildlife species, the City does not have a program to systematically eradicate rabbits and squirrels.

Response 3

As stated in the Notice of Availability for the Sunset Ridge Park Draft EIR, all interested parties were invited to submit written comments on the Draft EIR during the public response period beginning October 27, 2009 and ending December 11, 2009, and during the extended public comment response period beginning January 8, 2010 and ending February 22, 2010. The City Council will consider the Project and the findings (including written comments) at the March 23, 2010 City Council Meeting.

From: Koken, Debby [HMA] [mailto: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

Letter P34

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.

P34-1

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.

P34-2

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.

P34-3

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.

P34-4

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.

P34-5

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

P34-6

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.

P34-6
cont

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.*”

P34-7

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.

P34-8

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.

P34-9

Deborah Koken
Costa Mesa, CA

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Letter P34 Debby Koken
December 10, 2009

Response 1

The access road that would serve the park is planned to be 28 feet wide for most of its length, with two travel lanes – one in each direction. The section of the road approaching the parking area within the park is proposed to be 44 feet wide, to allow for the two travel lanes plus parallel parking along one side of the road. Only the entrance immediately adjacent to West Coast Highway would be four lanes – two lanes in each direction, to accommodate vehicles turning onto and from the road in both directions.

It is acknowledged that, if development were to occur on the Newport Banning Ranch property, it would take access from the same roadway connection to West Coast Highway, which would be consistent with the City of Newport Beach General Plan and Orange County Master Plan of Arterial Highways. Please refer to Topical Responses 1 and 2.

Response 2

The comment is noted. Please refer to Topical Response 2. Based on information provided to the City by the Newport Banning Ranch applicant, site remediation would commence in 2014 which is subsequent to the completion of the Sunset Ridge Park Project.

Response 3

Regarding a four-lane road, please refer to the response to Comment 1.

It is acknowledged that the park alone would not generate enough traffic to warrant a signal. Please refer to Topical Response 3.

It is acknowledged that some parks do not have on-site parking. A dedicated parking lot is proposed for Sunset Ridge Park as a positive site amenity and convenience, to accommodate the needs of park users.

Response 4

As stated in Section 4.2, Aesthetics of the Draft EIR and depicted on Exhibit 4.2-1, the site contains a 197,720-square-foot (sf) scenic easement imposed by the California Department of Transportation (Caltrans) as a term of the sale of the property to the City. The easement is located generally from the property line adjacent to West Coast Highway to approximately halfway into the site. This easement restricts development rights to those permitted in the City's Open Space-Active (OS-A) zoning with additional limitations on the placement of permanent structures and pavement in the scenic easement area.

Response 5

The City's Public Works Department has identified that access along the Superior Avenue and West Coast Highway frontages would not meet current traffic engineering standards and would therefore be unsafe. While additional studies would most likely further validate the denial of access at this point, the findings that the Traffic Engineer has previously identified are sufficient evidence to support denial of any access at these locations. The following are a few of the City identified issues associated with an access road along Superior Avenue and West Coast Highway:

Superior Avenue

- The measured speeds on Superior Avenue are 46 mph. At this speed, a driver needs 480 feet to decelerate into an access point.
- Given the grades of the slope between Superior Avenue and the Project site, it appears that the only logical location to consider access is at the northeast corner of the property. At this location, the City sight distance requirement of 450 feet cannot be met because of the curvature of the roadway.
- There is an on-street striped bike lane.

West Coast Highway

- The measured speeds on Coast Highway are 52 mph. At this speed, a driver needs 500 feet to decelerate into an access point. The length of the property frontage for Sunset Ridge Park on Coast Highway is approximately 350 feet. There is insufficient length for deceleration into the property.
- There is an existing lane drop across the entire property frontage on Coast Highway. Within a short segment of roadway there would be a mix of through traffic in the lane drop area with vehicles attempting to decelerate into a project driveway.
- The existing grade from Coast Highway to the Project site is steep. The maximum driveway grade per City standard is 15 percent. To provide a driveway into the site, the length of the driveway would approach approximately 200 feet.
- There is an existing on-street striped bike lane.
- There are dual right turn lanes from southbound Superior Avenue onto Coast Highway. This presents an additional volume of vehicles required to merge with through traffic and with vehicles trying to access the park driveway.

Response 6

Section 6.0, Alternatives to the Proposed Project, in the Draft EIR, identifies that the Superior Avenue Access Road Alternative assumes that active and passive park uses are developed on the Sunset Ridge Park site. Vehicular access into the Project site would be provided from Superior Avenue between the existing Newport Crest Condominium development to the north and West Coast Highway to the south and across from the existing parking lot entrance on the east side of Superior Avenue.

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. This would not only result in the reduction of 5.2 acres of Newport Banning Ranch Property it would also result in the loss of additional usable park land on the City-owned property due to the construction of the road at this location.

As stated in Section 6.0, Alternatives to the Proposed Project, 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.

Response 7

Section 6.0, Alternatives to the Proposed Project, of the Draft EIR, acknowledges that the *City of Newport Beach General Plan's* Land Use Element prioritizes the retention of Newport Banning Ranch for open space. As described in the General Plan, the open space acquisition option would include consolidation of oil operations; restoration of wetlands; the provision of nature education facilities, 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 Road extending from West Coast Highway to a connection with an east/west arterial roadway. With respect to the park, Land Use Policy 6.5.2 of the City's General Plan states:

“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”.

The General Plan identifies that if the Newport Banning Ranch property is not acquired for open space, the property could be developed as a residential village (RV) 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 (sf) 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 Primary Road is assumed for both the OS and RV designations of the Newport Banning Ranch property consistent with the *City of Newport Beach General Plan's* Circulation Element Master Plan of Streets and Highways.

The City's General Plan also identifies the Sunset Ridge site for active and passive park uses and does not preclude the development of this site if/when the Newport Banning Ranch property is retained for open space. The feasibility of the City's purchase of the property from Newport Banning Ranch is speculative as the Newport Banning Ranch property owner proposes the development of the 401-acre property including a 22-acre community park. This is not the same park as the proposed Sunset Ridge Park.

Response 8

Section 6.0, Alternatives to the Proposed Project, of the Draft EIR discusses the proposed Project and all Project alternatives in detail. The Superior Avenue Access Road Alternative falls under Section 6.4, Alternative Considered But Not Carried Forward, which states:

The following alternative has not been carried forward in this EIR because it does not substantially avoid or minimize impacts that were not accommodated in other alternatives and that are evaluated in this EIR. The following provides a discussion of the alternative and reasons for not selecting it for further evaluation.

Section 6.4.1 further discusses the Superior Avenue Access Road Alternative and gives reasons why this alternative was not feasible; please refer to pages 6-3 – 6-4:

The Superior Avenue Access Road Alternative assumes that active and passive park uses are developed on the Sunset Ridge Park site. Vehicular access into the Project site would be provided from Superior Avenue between the existing Newport Crest Condominium development to the north and West Coast Highway to the south and across from the existing parking lot entrance on the east side of Superior Avenue.

Therefore, no park development or access into the park from West Coast Highway would be provided through the adjacent Newport Banning Ranch property to the west. 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.

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.

Under this alternative scenario, vehicular right-turn ingress and right-turn egress would be provided from southbound Superior Avenue; no access from northbound Superior Avenue could be provided. 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. 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 feasible.

While the proposed roadway does impact coastal sage scrub, it is a very small amount (0.41 acre). Section 4.6.7, Biological Resources, of the Draft EIR addresses impacts to the coastal California gnatcatcher and associated coastal sage scrub vegetation. The biological value of this area was sufficiently studied. Focused gnatcatcher surveys were conducted by a qualified Biologist and all gnatcatcher territories were documented. Additionally, implementation of included MMs would reduce any impacts to less than significant (refer to MMs 4.6-3 and 4.6-4 on pages 4.6-32 – 4.6-34).

Response 9

The parking lot on the northeast corner of West Coast Highway and Superior Avenue was developed in order to provide beach access parking due to the loss of on-street parking in conjunction with the widening of West Coast Highway in the early 1990s. In order for an active sports park to function effectively, adequate parking must be provided on site that includes a convenient and safe drop-off area within the park. The installation of a pedestrian bridge across Superior Avenue would result in impacts to public views along this portion of Superior Avenue, which is designated as a Coastal View Road by the General Plan Natural Resources Element.

From: Don Bruner [mailto:don_bruner@hotmail.com]

Letter P35

Sent: Thursday, December 10, 2009 1:58 PM

To: Brown, Janet

Cc: Curry, Keith; Daigle, Leslie; Kiff, Dave; Rosansky, Steven; Selich, Edward; Gardner, Nancy; Henn, Michael; don2webb@earthlink.net

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

Dear Ms. Brown:

I concur with Gary Garber's email of November 12, 2009 and agreeing with Bruce Bartram's email of November 9, 2009, to you, regarding Draft EIR for Sunset Ridge Park.

} P35-1

Don Bruner
11 Serena Court
Newport Beach, CA 92663

Date: Thu, 10 Dec 2009 13:43:36 -0800

From: garbergary@yahoo.com

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

To: don_bruner@hotmail.com

--- On Thu, 11/12/09, Gary Garber <garbergary@yahoo.com> wrote:

From: Gary Garber <garbergary@yahoo.com>

Subject: Draft Environmental Impact Report (DEIR) 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: Thursday, November 12, 2009, 10:23 AM

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:

Please note I am in complete agreement with Bruce Bartram November 9th letter (**see below**) to you regarding the Draft Environmental Impact Report (DEIR) for Sunset Ridge Park Project. I concur that Sunset Ridge Park and the Newport Banning Ranch comprise one "Project." Sunset Ridge Park is Phase one of this project since proposed "South Bluff Road" is part of road system for Newport Banning Ranch. This overlapping common road system for Sunset Ridge Park and Newport Banning Ranch appears to constitute one project with Sunset Ridge being Phase One.

Based on this I concur they must be subject to a single environmental review under CEQA by the City of Newport Beach . I also agree 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 is needed 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.

See below Mr. Bartram's November 9th letter and fax to you. I look forward to receiving a timely response from you and City Council regarding this issue.

Sincerely,

Gary A. Garber
8 Landfall Court
Newport Beach, CA

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 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.

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

Letter P35 Don Bruner
December 10, 2009

Response 1

The opinion of the commenter is noted.



HAMILTON BIOLOGICAL

December 10, 2009

RECEIVED BY
PLANNING DEPARTMENT

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

DEC 10 2009

CITY OF NEWPORT BEACH

**SUBJECT: REVIEW OF BIOLOGICAL RESOURCES ISSUES
SUNSET RIDGE DRAFT EIR**

Dear Ms. Brown,

On behalf of the Banning Ranch Conservancy, Hamilton Biological, Inc., has reviewed the Draft EIR for the proposed Sunset Ridge project, located in the City of Newport Beach (City). The City proposes to develop an active and passive public park on 13.7 acres of City-owned property and 5.2 acres on the adjacent Newport Banning Ranch property, for a total of 18.9 acres of impact. In addition, project implementation would involve export of approximately 34,000 cubic yards of fill from the proposed park site to two areas on the Newport Banning Ranch property that would cover 4.6 acres, plus an additional 3.3 acres of impacts for construction of a new haul road to provide access to the dumping sites on the Newport Banning Ranch property. The City is currently processing a DEIR for the proposed Newport Banning Ranch residential and commercial development project, and the City has hired BonTerra Consulting, Inc., to serve as the biological consultant for both projects.

This letter report provides my review comments on Appendix E to the Sunset Ridge DEIR (BonTerra's biological technical report). As part of this review, I visited the project site on the afternoons of November 4 and 6, 2009. All photos in this letter were taken on those two days. During the course of these two visits I walked the entire City parcel and looked out onto the Newport Banning Ranch parcel from public lands to the north and east. I took samples of some wetland plants to botanist David Bramlet for identification; some plants could not be identified at this time of year. The attached Curriculum Vitae provides my qualifications to conduct this review.

PLANT COMMUNITY MAPPING ERRORS

During my field visits I checked the mapping of plant communities on the City parcel. I was not able to effectively check mapping of communities on the Newport Banning Ranch property, which is not open to the public. I found the mapping to be incorrect in several areas, as show in Figures 1-11 on the following pages.



Figure 1. This photo shows groundwater seeping out of the slope along Superior Avenue, on the project site. Most of the plants visible in this photo are non-native Pampas Grass (*Cortaderia selloana*). The large, dark shrub evident toward the background is Mediterranean Tamarisk (*Tamarix ramosissima*). The DEIR erroneously classifies this area as "ornamental" and does not mention or evaluate the apparent wetland conditions shown here.

P36-1

Figure 2. This photo, taken in the same area shown in Figure 1, shows obligate wetland indicator species Narrowleaf Cattail (*Typha angustifolia*), Marsh Fleabane (*Pluchea odorata*), and spike-rush (*Eleocharis* sp.) growing in mud and standing water. Also present is Spike Bentgrass (*Agrostis exarata*) and the same Mediterranean Tamarisk shown in Figure 1. Four of the plants shown here are not included in the DEIR's plant compendium.



P36-2



Figure 3. The slope above West Coast Highway also shows evidence of wetland conditions. This photo shows moist soils, a conspicuous salt crust, and apparent oxidation stains on the side of the concrete ditch, all indications that the groundwater seepage above Superior Avenue, shown in Figures 1 and 2, also occurs on the slope above West Coast Highway.

P36-3

Figure 4. This photo shows a stand of Salt Heliotrope (*Heliotropium curassavicum*) growing beneath Big Saltbush (*Atriplex lentiformis*) on the slope above West Coast Highway. Salt Heliotrope is classified as an obligate wetland indicator, although it occurs in a variety of wetland and non-wetland habitats. The DEIR's plant compendium does not include Salt Heliotrope. The DEIR erroneously classifies this area as encelia scrub.



P36-4



Figure 5. This photo shows a stand of American Tules (*Scirpus americanus*), a native obligate wetland plant, growing in sediments that have accumulated in the bottom of a concrete drainage channel west of the proposed park's entry road. Adjacent vegetation includes additional native species, such as Coast Goldenbush (*Isocoma menziesii*) and Emory Baccharis (*Baccharis emoryi*). Narrowleaf Cattail also grows in this general area. The DEIR's plant compendium does not include the cattails, tules, or Emory Baccharis, and the DEIR erroneously classifies this area as "ornamental."

P36-5



Figure 6. This large specimen of Big Saltbush, a native species, grows along the shoulder of West Coast Highway just west of Superior Avenue, in an area that the DEIR erroneously classifies as "ornamental." As discussed subsequently, I observed a pair of California Gnatcatchers foraging in this native shrub on November 6, 2009.

P36-6



Figure 7. The DEIR erroneously classifies these native Big Saltbush plants, growing along the shoulder of West Coast Highway, as "ornamental."

P36-7



Figure 8. This photo, taken at the location of the proposed entry to Sunset Ridge Park, off West Coast Highway, shows mature native scrub dominated by Big Saltbush and Coast Goldenbush. The DEIR erroneously classifies this area as ornamental.



Figure 9. This photo shows large shrubs of native California Buckwheat (*Eriogonum fasciculatum*) growing along the concrete-lined ditch near the park site's border with Newport Banning Ranch. The DEIR misclassifies this area as ruderal (weedy).

P36-8

Figure 10. The DEIR erroneously classifies this substantial stand of native Mulefat (*Baccharis salicifolia*) as ruderal (weedy). As discussed subsequently, I observed a pair of California Gnatcatchers foraging in this Mulefat stand on November 4, 2009. In the foreground is non-native Highway Iceplant (*Carpobrotus edulis*) and growing beneath the Mulefat are numerous shrubs of California Encelia (*Encelia californica*) that have been mowed to within a few inches of the ground.



P36-9



Figure 11. The DEIR classifies this expanse of green vegetation as "ornamental" because of the extensive growth of non-native Highway Iceplant evident in this photo, but examination of this area shows that native California Encelia, Mulefat, and Western Ragweed (*Ambrosia psilostachya*) co-occur in this area. It is not clear whether any of the native shrubs in this area are being mowed along with the rest of the "disturbed encelia scrub" that occurs across most of the flat portion of the City property.

P36-10

FAILURE TO DETECT EXTENSIVE WETLANDS

The project biologists failed to detect up to a half-acre of wetlands on the site (see Figures 1-5 in this letter). The DEIR's Hydrology Section states on Page 4.10-20:

Seepage was observed . . . at the drains near the toe of the slope along Superior Avenue and West Coast Highway. The direction of seepage flow is generally from north to south.

The actual extent of jurisdictional wetlands in this area will depend upon the delineation methods used. The California Coastal Commission's one-parameter methodology will likely yield a greater area of wetlands than will the U.S. Army Corps of Engineer's three-parameter methodology. Since the project will require a Coastal Development Permit, the EIR should report the area of wetlands on the site as delineated using the Coastal Commission's one-parameter method. Impacts to jurisdictional wetlands should be identified as significant and avoidance or specific mitigation measures should be identified to reduce those impacts to below a level of significance.

The seepage shown in Figures 1-3 is very similar to seepage from a cut-slope that formerly occurred directly across Superior Avenue from the project site, at an area referred to as "cattail cove." That site was developed into the lower campus of Hoag Hospital in the early 1990s. I worked on that project as a biologist for LSA Associates (the hospital's consultant). As part of our evaluation, I assisted LSA wetlands specialist Rick Harlacher in a complicated jurisdictional delineation that included the unusual step of completing a WET II Functional Analysis¹. One complicating factor was the dominance of Pampas Grass, an invasive weed from South America that was growing in saturated, gleyed soils on the slopes of that site (just as Pampas Grass dominates seeping slopes on the Sunset Ridge site). The federal government has not graded Pampas Grass as to its wetland indicator status, but in its native range the species grows in damp soils along river margins². In coastal southern California, it has escaped cultivation and spread along sandy, moist ditch banks³. Examination of 82 records of Pampas Grass in California showed that 32% were from wetlands⁴. This suggests that the proper indicator status for Pampas Grass in California lies on the border between "FACU" (occurring in wetlands 1-33% of the time) and "FAC" (occurring in wetlands 34-67% of the time). With roughly one-third of its documented occurrences in California being in wetlands, the species is clearly adapted to wetland conditions.

The delineation that LSA performed at the hospital site yielded a determination of jurisdictional wetlands for the seeping slopes dominated by Pampas Grass (under any applicable methodology). Until the City's biological consultant examines the seeping slopes at the Sunset Ridge site, there is no way of predicting the outcome of a delineation on this site.

¹ Adamus, P. R. 1987. Wetland Evaluation Technique (WET II). U.S. Army Corps of Engineers, Waterways Experiment Station, Vicksburg, MS.

² Connor, H.E. and Charlesworth, D. 1989. Genetics of male-sterility in gynodioecious *Cortaderia* (Gramineae). *Heredity* 63, 373-382.

³ Costas-Lippmann, M. and Baker, I. 1980. Isozyme variability in *Cortaderia selleana* and isozyme constancy in *C. jubata* (Poaceae). *Madroño* 27:186-187.

⁴ Lambrinos, J. G. 2001. The expansion history of a sexual and asexual species of *Cortaderia* in California, USA. *Journal of Ecology* 89:88-98.

STATUS OF THE CALIFORNIA GNATCATCHER ON THE PROJECT SITE

Page 45 in Appendix E provides a terse discussion of the California Gnatcatcher's current status on the project site:

A limited amount of suitable habitat for this subspecies occurs on the Project site. Focused surveys for the coastal California gnatcatcher were conducted in spring/summer 2009; this species was observed nesting on the Project site. A pair nested in a coastal goldenbush shrub in the disturbed mule fat scrub/goldenbush scrub vegetation type on the Project site. The pair fledged three to four chicks during the survey period.

Exhibit 6 in Appendix E represents the location of this on-site breeding pair using a single green dot.

The DEIR mentions that the entire project site is designated as critical habitat for the California Gnatcatcher, but fails to evaluate what this means. Section 3 (5)(A) of the federal Endangered Species Act defines critical habitat as:

the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection . . .

Within areas broadly mapped as critical habitat, the U.S. Fish and Wildlife Service (USFWS) has specified Primary Constituent Elements (PCEs) that define the actual extent of habitats that may be useful to the listed species. PCEs for California Gnatcatcher critical habitat include not only intact sage scrub habitats, but also "non-sage scrub habitats such as chaparral, grassland, riparian areas, in proximity to sage scrub habitats . . . that provide space for dispersal, foraging, and nesting."⁵ As summarized by Atwood and Bontrager (2001)⁶:

Territories defended during nonbreeding season (Preston et al. 1998)⁷; wandering into adjacent territories or unoccupied habitat may result in up to 80% increase in home range size relative to area used during nesting (Bontrager 1991⁸, Preston et al. 1998). Small, disjunct patches of coastal sage scrub, distributed within grassland matrices, may be incorporated into nonbreeding season home range even if too small to support a breeding pair; use of such patches may require regular movements of 25-100 m across grassland gaps (DRB). In San Diego Co., established pairs (n = 11) in Dec spent about 62% of time outside boundaries of territory defended during previous breeding season (Preston et al. 1998).

⁵ Department of the Interior, Fish and Wildlife Service, 50 cfr part 17, RIN 1018-AV38, endangered and threatened wildlife and plants; revised designation of critical habitat for the Coastal California Gnatcatcher (*Polioptila californica californica*). Federal Register 72:72069 (December 19, 2007).

⁶ Atwood, J. L. and D. R. Bontrager. 2001. California Gnatcatcher (*Polioptila californica*). The Birds of North America Online (A. Poole, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America Online: <http://bna.birds.cornell.edu/bna/species/574>.

⁷ Preston, K. L., P. J. Mock, M. A. Grishaver, E. A. Bailey, and D. F. King. 1998b. California Gnatcatcher territorial behavior. *Western Birds* 29:242-257.

⁸ Bontrager, D. R. 1991. *Habitat requirements, home range and breeding biology of the California Gnatcatcher (Polioptila californica) in south Orange County, California*. Report dated April 1991 prepared for Santa Margarita Co., Rancho Santa Margarita, CA.

I hold a current federal permit to conduct presence/absence surveys for the Coastal California Gnatcatcher (No. TE-799557). During my two field visits in November 2009, I observed at least one pair of California Gnatcatchers in the areas shown on Figure 12, below.



Figure 12. Locations where California Gnatcatchers were recorded on November 4 and 6, 2009, relative to the spot where California Gnatcatchers were mapped in the DEIR. The November records demonstrate that this species utilizes native scrub communities throughout the project site.

On the afternoon of November 4, 2009, I initially observed a pair of California Gnatcatchers at the northern location shown in Figure 12. The birds were foraging in a patch of Mulefat that the DEIR maps as "ruderal" (see Figure 10 in this letter). After several minutes, the birds flew off a short distance to the northwest, crossing the property fence between the City property and Newport Banning Ranch.

Approximately 30 minutes later, after walking around the rest of the City property, I encountered either the same pair or a second pair foraging in coastal scrub vegetation approximately 80 m south of the initial encounter. The second period of observation also lasted several minutes, during which I obtained photos of both the male and female as they flew back and forth across the property fence (see Figures 13 and 14 on the following page).

On the afternoon of November 6, 2009, I was inspecting the wetlands along Superior Avenue, at the location of the Mediterranean Tamarisk tree shown in Figures 1 and 2 in this letter, when I heard the mewing call of a California Gnatcatcher from the slope above. A few minutes later I found a pair of gnatcatchers on the slope directly north of the intersection of Superior Avenue and West Coast Highway, foraging in coastal scrub dominated by Big Saltbush. At that location I obtained the photos shown in Figures 15 and 16. The birds then flew to the Big Saltbush shown in Figure 6 of this letter and from there flew to the northwest, at which point I stopped following them.

P36-12
cont.



Figure 13. I photographed this male California Gnatcatcher during my second encounter with this species at the site on November 4, 2009. It was perched on the fence between the City property and Newport Banning Ranch.

Figure 14. I photographed this female California Gnatcatcher, the mate of the bird in Figure 13, on November 4, 2009, as it perched on the property fence near the male shown in Figure 12.



Figure 15. I photographed this male California Gnatcatcher on November 6, 2009, as it foraged in Big Saltbush near the top of the slope above the intersection of Superior Avenue and West Coast Highway. This may be the same bird shown in Figure 13.

Figure 16. I photographed this female California Gnatcatcher, the mate of the bird in Figure 15, on November 6, 2009, as it foraged in a Big Saltbush plant near the top of the slope above intersection of Superior Avenue and West Coast Highway. This may be the same bird shown in Figure 14.



P36-12
cont.

The DEIR's Impact section states:

The Encelia scrub, Encelia scrub/ornamental, and disturbed Encelia scrub on the Project site would not be considered utilized by the gnatcatcher due to the periodic mowing and traffic/pedestrian edge effects in this area.

This finding is disproven by direct observation of a pair of California Gnatcatchers using areas that "would not be considered utilized by the gnatcatcher." As documented in these comments, native scrub communities along the southern and eastern edges of the project site were incorrectly mapped and classified by the project biologists, indicating that those areas were never subjected to careful, credible biological surveys. The superficiality and inadequacy of the survey effort is also indicated by the project biologists' failure to detect groundwater seepage supporting extensive areas of cat-tails and other conspicuous wetland plants along Superior Avenue and West Coast Highway.

P36-12
cont.

In light of my observations, and given multiple lines of evidence demonstrating that the eastern part of the project site was not carefully surveyed by project biologists, the DEIR fails to support its assertion that California Gnatcatchers do not occur in that part of the site, either during the nesting season or during fall/winter. All of the site's scrub communities, and "scrub/ornamental" communities, should be considered to be occupied by the California Gnatcatcher, consistent with (1) the USFWS critical habitat designation, (2) the scientific literature describing the gnatcatcher's habitat requirements, (3) the direct observations of gnatcatchers documented in this letter, and (4) the DEIR's erroneous descriptions of plant communities that exist in areas claimed to have been thoroughly surveyed.

RECENT REMOVAL OF INTACT SAGE SCRUB

The DEIR fails to disclose that extensive areas of sage scrub were removed from the project site between December 31, 2003, and March 28, 2005 (Figures 16, 17).



P36-13

Figures 17, 18. The aerial image at left, dated December 31, 2003, shows generally intact sage scrub habitat in the areas outlined in red, which had been cleared as of March 28, 2005. The DEIR makes no mention of this unauthorized clearing.

The areas shown in Figures 17 and 18 supported two pairs of California Gnatcatchers in 2000⁹, and the clearing was done without consulting with the USFWS, apparently in violation of the federal Endangered Species Act. The EIR must quantify the area of sage scrub illegally cleared, discuss how this violation of federal law is being addressed, and describe how this impact will be mitigated.

P36-13
cont.

MOWING OF ENCELIA SCRUB

California Encelia is a native plant that is dominant in biologically sensitive coastal sage scrub and coastal bluff scrub communities found on the project site and on Newport Banning Ranch. California Gnatcatchers commonly use scrub dominated by California Encelia for nesting and foraging, and this plant grows very fast, typically reaching waist-height when left undisturbed for a growing season.

All of the California Encelia plants growing on the flat portion of the City-owned property have been mowed nearly to ground level (Figure 19, below).



P36-14

Figure 19. "Disturbed encelia scrub" growing on the City property. These native shrubs have been mowed to within a few inches of the ground. Note also the extensive area closest to the structures that is nearly barren.

⁹ PCR Corporation. 2000. *Results of focused Coastal California Gnatcatcher Surveys for the Newport Banning Ranch property in Orange County, California*. Report dated November 1, 2000, prepared for the USFWS Carlsbad Office.

Disturbed encelia scrub covers 3.6 acres on the site, all of it proposed for grading impacts. Page 7 of Appendix E states that "Shrub cover of this area is approximately 50 to 60 percent overall." Page 14 of Appendix E states:

The 3.64 acres of disturbed Encelia scrub is regularly mowed for fuel modification and weed abatement purposes and contains a high percentage of non-native weeds; therefore, it is not considered special status.

With regard to "weed abatement," California Encelia is a native plant and dominant component of a biologically sensitive coastal scrub community that is occupied by the California Gnatcatcher. It is not a "weed" that can be legally mowed down without consulting with the USFWS, and the biologists at the Carlsbad Field Office have no knowledge of the City's mowing of encelia on this site.

With regard to "fuel modification," Page 28 of the Orange County Fire Authority's "Guideline for Fuel Modification Plans and Maintenance Program," dated January 1, 2008, *expressly allows* California Encelia to remain "in all fuel modification wet and dry zones in all locations."¹⁰ Furthermore, the mowing appears to extend out across the entire mesa area, as far as 570 feet from the structures to the north. This is much farther than would be required for any legitimate fuel modification purpose, particularly given that the 100 feet closest to structures is maintained as essentially barren land. Therefore, the DEIR's suggestion that these plants had to be mowed down to meet fuel modification requirements is false.

Page 55 in Appendix E states:

The proposed Project would impact approximately 0.26 acre of Encelia scrub, 0.21 acre of Encelia scrub/ornamental, and 3.64 acres of disturbed Encelia scrub. Impacts on these vegetation types are not considered significant because of their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete v-ditch under the shrubs, presence of trash, proximity to high foot/bicycle, and vehicle traffic, and are not expected to support gnatcatchers during the nesting season. Therefore, no mitigation would be required.

As reviewed previously, California Gnatcatchers have now been observed in three different patches of scrub habitat that the EIR preparer characterizes as not providing habitat for California Gnatcatchers. The disturbance to 3.64 acres of encelia scrub is from "fuel modification and weed abatement" that is being conducted without the approval of the USFWS, and that appears to be in violation of the federal Endangered Species Act. Note that Figure 20, on the next page, appears to show a more intact scrub community in February 2006 than occurs there now.

CEQA requires an EIR preparer to evaluate the existing conditions, but the EIR preparer must also disclose any existing conditions created by possibly illegal actions and modify its analyses and conclusions accordingly. Disturbed encelia scrub extends across most of the City-owned portion of the site, and in the absence of mowing this scrub would undoubtedly be utilized by the federally listed California Gnatcatcher (which I have documented as using scrub all around the mowed encelia). These facts, including the results of any previous biological studies completed on the project site, must be disclosed in the EIR. Appro-

P36-14
cont.

P36-15

¹⁰ http://www.ocfa.org/_uploads/pdf/guiddec05.pdf

appropriate compensatory mitigation must be proposed for the impacts to all native scrub habitats, including those that have been subjected to mowing without the needed regulatory approvals.



P36-15
cont.

Figure 20. This aerial image from the City's web page¹¹, taken in February 2006, appears to show more extensive areas of relatively intact scrub on the lower mesa of project site than occurs there now.

STATUS OF THE BURROWING OWL ON THE SITE

The Burrowing Owl (*Athene cunicularia*), a California Species of Special Concern, is extremely rare in Orange County due to large-scale development of nearly all of the county's suitable grasslands, especially near the coast. In January 2008, Glenn Lukos Associates conducted winter-season surveys for the Burrowing Owl at Newport Banning Ranch and identified two Burrowing Owls in the site's southern grasslands and a third individual 212 feet west of the site (see Figure 21)¹².

P36-16

¹¹ <http://www6.city.newport-beach.ca.us/website/InteractiveMap/map.asp>

¹² Glenn Lukos Associates. 2008. Biological Technical Report for the Newport Banning Ranch Property, Newport Beach, California. Report prepared for Mike Mohler, Newport Banning Ranch LLC.



Figure 21. This map is Exhibit 7 in the 2008 draft biological report prepared by Glenn Lukos Associates for Newport Banning Ranch L.L.C. It shows the point locations where Glenn Lukos Associates documented the occurrence of three wintering Burrowing Owls in January 2008. Since birds do not remain in the same spot, but must move around the grasslands to forage, Burrowing Owls at any of these mapped point-locations could be impacted by project implementation.

P36-16
cont.

As the City's biological consultant for both the Sunset Ridge DEIR and the pending Newport Banning Ranch DEIR, BonTerra Consulting has critically reviewed Glenn Lukos Associates' 2008 draft biological report. It is therefore surprising that the results of the 2008 surveys are suppressed in the Sunset Ridge DEIR, which states only, "In the vicinity of the Project site, this species has been reported from Fairview Park in Costa Mesa (CDFG 2009a)."

Burrowing Owls may be absent at a given site one winter and present the next, and surveyors do not always detect rare species they are searching for, even when individuals are present. As one example, the EIR preparer failed to detect California Gnatcatchers in various parts of the Sunset Ridge project site where the species has now been shown to occur.

Consider also that BonTerra Consulting failed to detect any Side-blotched Lizards (*Uta stansburiana*) on the project site during their numerous site visits, despite the species being abundant throughout the site. I stopped counting at 15 individuals on November 4, and I again easily found the species to photograph on November 6 (Figure 22).

P36-17



Figure 22. 1 photographed this Side-blotched Lizard on the Sunset Ridge project site on November 6, 2009. This individual, like many others I encountered on the site, was in the burrow of a California Ground Squirrel (*Spermophilus beecheyi*).

How can the project biologists have conducted competent biological surveys, including the inspections of burrows that are one component of Burrowing Owl surveys, without repeatedly encountering this common and widespread lizard? If they could not detect this species, how could they have hoped to detect Burrowing Owls?

Having failed to disclose the known occurrence of three Burrowing Owls in January 2008, Page 42 of Appendix E downplays the site's potential value to the species:

Limited suitable habitat and burrow sites for this species are present on the Project site: Focused surveys for the burrowing owl were conducted in winter 2008/2009 and in spring/summer 2009; the burrowing owl was not observed. Therefore, burrowing owl is not expected to occur on the Project site due to lack of detection during focused surveys. However, there is potential for the burrowing owl to occasionally occur on the Project site as a migrant or rare winter visitor.

Concerning the DEIR's deprecating remarks about "Limited suitable habitat and burrow sites" and the potential for only "occasional" or "rare" use by Burrowing Owls, consider that the *Birds of North America* species account¹³ describes the Burrowing Owl's preferred habitat as "Dry, open, shortgrass, treeless plains, often associated with burrowing mammals." As shown in Figure 23 on the following page, the project site's shortgrass grasslands are expansive and riddled with rodent diggings.

P36-17
cont.

P36-18

¹³ Haug, E. A., B. A. Millsap, and M. S. Martell. 1993. Burrowing Owl (*Athene cunicularia*). The Birds of North America Online (A. Poole, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America Online: <http://bna.birds.cornell.edu/bna/species/06>.



Figure 23. This photo shows the shortgrass grasslands of Newport Banning Ranch (part of the Sunset Ridge project site), as seen from the southern terminus of 15th Street, on November 6, 2009. More than a dozen California Ground Squirrels can be seen in just this one group.

On November 6 I observed at least 80 California Ground Squirrels on and near the project site. By any objective measure, the project site's grasslands are among the most suitable habitats for Burrowing Owls in Orange County or anywhere along the coast of southern California, which is why three Burrowing Owls were documented wintering in this area during January 2008.

This episode recalls the "Whispering Hills Final Biological Technical Report" dated March 2, 2000, also prepared by BonTerra Consulting. That report was incorporated into the DEIR for the Whispering Hills project in the City of San Juan Capistrano. The following excerpt is from Page 9 of my comments on that DEIR, provided in a letter dated June 9, 2000:

Page 39 of the DEIR states, "Marginal suitable habitat for the least Bell's vireo is present on the site. This species was not observed during focused surveys in 1999." Biologist Kurt Campbell, who conducted surveys on the project site in 1998, reports¹⁴ that a pair of Least Bell's Vireos raised young in riparian habitat on the project site in 1998, information that was well known to the EIR preparer. It appears that the EIR preparer (a) suppressed Mr. Campbell's observations, (b) characterized successfully utilized nesting habitat as "marginal," and (c) failed to identify significant project effects on the vireo.

In both cases, BonTerra Consulting knowingly withheld the positive results of an earlier focused bird survey and then characterized the habitat as only marginally suitable for the species in question, citing their own negative survey results the following year. The Whispering Hills DEIR ultimately had to be recirculated, and the project has been mired in controversy to this day¹⁵.

¹⁴ Campbell, K.F. Telephone conversation on 5 May 2000.

¹⁵ See http://capistranoinsider.typepad.com/capistrano_insider/2009/10/no-surprise-whispering-hills-sues-school-district.html

POTENTIAL EFFECTS OF DUMPING FILL AT NEWPORT BANNING RANCH

The proposed dumping of 34,000 cubic yards of fill from the park site into 4.6 acres of shortgrass grassland habitat at Newport Banning Ranch, as well as the associated construction of a new haul road to the dumping sites, would have significant adverse effects upon the Burrowing Owl and other grassland species. A short distance north of the project site, the City of Costa Mesa dumped soil on the mesa at Fairview Park in the early 1990s. This act resulted in the conversion of that shortgrass mesa/vernal pool complex into expansive stands of tall mustard and other non-native weeds, which grow out of the fill piles. The extensive ecological damage resulting from that dumping of fill shows no sign of improving over time (see Figure 24).



Figure 24. This photo, taken at Fairview Park on November 6, 2009, shows dried vernal pool habitat in front of tall, dense, dried mustard growing out of fill dirt that was placed there approximately 20 years ago. Unlike the vernal pools and shortgrass mesa that formerly occupied the filled area (which is much bigger than the area shown here), the dense mustard provides poor-quality habitat for most native wildlife species, including Burrowing Owls.

P36-19

The proposed dumping of fill at Newport Banning Ranch would be expected to result in similar establishment of tall weeds where currently the vegetation is short and sparse. This would degrade habitat suitability for Burrowing Owls and for other grassland species, such as Killdeers (*Charadrius vociferus*), Red-tailed Hawks (*Buteo jamaicensis*), American Kestrels (*Falco sparverius*), Loggerhead Shrikes (*Lanius ludovicianus*), American Pipits (*Anthus rubescens*), and Western Meadowlarks (*Sturnella neglecta*).

Concerning the site's grassland, ruderal, ornamental, flood control channel, and disturbed communities, the DEIR's impact analysis states:

These areas generally have low biological value because they are composed of unvegetated areas or are vegetated with non-native species. These areas generally provide limited habitat for native plant and wildlife species although they may occasionally be used by native species. Therefore, impacts on these areas would not be considered significant, and no mitigation would be required.

The DEIR's suggestion that the site's grassland areas "may occasionally be used by native species" is baseless. In just two brief visits I have seen large numbers of grassland bird spe-

cies using the site's grasslands, including two Red-tailed Hawks, an American Kestrel, 14 Killdeers (see Figure 25), 25 American Pipits, 70 Western Meadowlarks, 100 Mourning Doves, and 100 House Finches (minimum estimates provided for the last four species). As discussed previously, these grasslands are known to have supported three Burrowing Owls in January 2008.



Figure 25. Nine out of a flock of 14 Killdeers encountered on the upper (eastern) mesa of the City-owned parcel on November 4, 2009.

P36-19
cont.

If the Sunset Ridge project is implemented, fill should be exported elsewhere and disposed of in a responsible manner. Under no circumstances should fill dirt be dumped on the shortgrass grasslands of Newport Banning Ranch, as this would represent a significant adverse effect upon various species that thrive in this regionally rare habitat.

STATUS OF THE CACTUS WREN ON THE PROJECT SITE

In the 1990s, working for LSA Associates, Richard Erickson and I conducted focused surveys of Newport Banning Ranch for California Gnatcatchers and Cactus Wrens. Some of the resulting maps of Cactus Wren territories are provided as Figures 26-29:



Figure 26. In 1992, one or two Cactus Wren territories existed in the northerly area now being proposed as a haul road and dump for fill dirt. Map provided by the USFWS Carlsbad Office.

P36-20



Figure 27. At least two of the Cactus Wren territories mapped by LSA Associates in 1994 overlap with, or closely border, areas that would be directly affected by implementation of the Sunset Ridge project. Map provided by the USFWS Carlsbad Office.

In 1996, after I had left LSA, Mr. Erickson again surveyed Newport Banning Ranch and produced the following map of Cactus Wren territories.

P36-20
cont.



Figure 28. In 1996, the southeastern area previously occupied by a single Cactus Wren was no longer occupied, but in that year two Cactus Wren territories existed in the northerly area now being proposed as a dump for fill dirt. Map provided by the USFWS Carlsbad Office.

Page 45 of Appendix E states:

In the vicinity of the Project site, this species has been reported from the Newport Banning Ranch property. Suitable habitat for this subspecies (i.e., cactus) is not present on the Project site. Therefore, coastal cactus wren is not expected to occur on the Project site.

I was not able to verify the DEIR's mapping on most of the Newport Banning Ranch portion of the project site, but cactus does occur on and near the site. Figure 29 shows Coast Cholla (*Cylindropuntia prolifera*) and Coastal Prickly-Pear (*Opuntia littoralis*) within several meters of the southwestern corner of the site, next to the "disturbed mulefat scrub/golden-bush scrub" community, where the new entry road is proposed off West Coast Highway. This is the general area that was occupied by a Cactus Wren in 1994, and the where sage scrub habitat was illegally cleared in 2004/2005.



Figure 29. The large Coast Cholla plant in the upper left-hand corner of this photo is located just off the project site, near the southwestern project boundary. A smaller Coastal Prickly-Pear plant is partially visible. This Coast Cholla plant is large enough to provide suitable nesting habitat for Cactus Wrens.

P36-20
cont.

Figure 30 shows a large patch of Coastal Prickly-Pear growing near the northern area on Newport Banning Ranch that would be subject to dumping of fill.



Figure 30. Photo taken from the southern terminus of 16th Street showing a stand of Coastal Prickly-Pear large enough to constitute suitable nesting habitat for Cactus Wrens. This stand is growing within approximately 150 feet of the northern area that would be filled as part of project implementation. Additional cactus resources may occur on or adjacent to this area.

Since the Cactus Wren was documented using the areas shown in Figures 29 and 30 during the 1990s, and since suitable nesting and foraging habitats remain in these areas, it is erroneous for the DEIR to conclude that "Suitable habitat for this subspecies (i.e., cactus) is not present on the Project site." Project implementation would, in fact, impact areas documented as being occupied by Cactus Wrens in 1992, 1994, and 1996.

P36-20
cont.

SUMMARY & CONCLUSION

As documented herein, the biological resources section of the Sunset Ridge DEIR does not reflect the best available science and is severely deficient in many ways:

- The DEIR's map of plant communities (Exhibit 4.6-1) incorrectly classifies numerous plant communities. All of the DEIR's errors in plant community mapping are made in the direction of under-representing biologically sensitive native communities and overstating the extent of ruderal or other communities that the EIR preparer considers to be of low biological sensitivity. Exhibit 4.6-1 includes "disturbed" polygons as small as 0.01 acre in size, making this the minimum polygon size applicable to all of the site's communities. The EIR's plant community mapping must be corrected and the EIR's analyses must accurately reflect the existing conditions.
- The DEIR indicates that project biologists failed to note numerous plant species that are conspicuous on the site, most of which are wetland indicator species. These include Emory Baccharis (*Baccharis emoryi*), Marsh Fleabane (*Pluchea odorata*), Salt Heliotrope (*Heliotropium curassavicum*), Spike Bentgrass (*Agrostis exarata*), spike-rush (*Eleocharis* sp.), Rabbitfoot Grass (*Polypogon monspeliensis*), Narrowleaf Cattail (*Typha angustifolia*), and American Tule (*Scirpus americanus*).
- An adequate EIR would include the results of wetland delineations conducted using both three-parameter (Corps) and one-parameter (Coastal Commission) methods, would seek to avoid any impacts to jurisdictional wetlands, and would proposed specific measures to mitigate any unavoidable impacts to jurisdictional wetlands and associated native plant and wildlife species.
- The occurrence on the site of Broom Baccharis (*Baccharis sarothroides*), reported in the DEIR, is of potential scientific interest since the species is not known to naturally occur in this part of Orange County. A voucher specimen should be obtained and deposited at an appropriate herbarium.
- The DEIR indicates that the Side-blotched Lizard was not observed on the site. Failure to identify this ubiquitous species during the many biological surveys reported by the EIR preparer provides one of several lines of evidence demonstrating the superficiality and inadequacy of the biological survey effort.
- The DEIR states that various scrub communities on the project "would not be considered utilized by the gnatcatcher" despite their containing the Primary Constituent Elements of California Gnatcatcher critical habitat. I documented the occurrence of at least one pair of California Gnatcatchers foraging within three areas of coastal scrub on the project site that the DEIR characterizes as being unsuitable for this species. The

P36-21

P36-22

P36-23

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P36-26

- DEIR's evaluations and findings about the California Gnatcatcher and its habitat usage on the project site are inconsistent with the substantial body of scientific literature concerning this federally listed species and its habitat requirements. These findings must be revised to accurately reflect the existing conditions. } P36-26 cont.
- The DEIR fails to disclose that coastal sage scrub was removed from the project site, apparently illegally, some time around 2004. The affected area was documented as supporting two pairs of California Gnatcatchers in 2000 but only one pair in 2009. } P36-27
 - The DEIR states that 3.64 acres of disturbed encelia scrub that lies within designated critical habitat for the California Gnatcatcher is "regularly mowed for fuel modification and weed abatement purposes," but fails to note (a) that California Encelia is not a "weed;" (b) that the Orange County Fire Authority expressly allows California Encelia to remain "in all fuel modification wet and dry zones in all locations;" (c) that mowing extends as much as 570 feet away from structures; (d) that encelia scrub was apparently more intact at this location in 2005; and (e) that the City has not consulted with the USFWS to determine whether this mowing of native sage scrub violates the federal Endangered Species Act. Ignoring all of these relevant facts, the DEIR concludes that 3.64 acres of disturbed encelia scrub may be graded for project implementation without resulting in any significant biological impacts. An EIR cannot simply assume that all existing conditions are legal and appropriate when there is ample evidence to the contrary. } P36-28
 - While failing to disclose the positive results of 2008 surveys for the Burrowing Owl at Newport Banning Ranch, the EIR preparer characterizes the project site's shortgrass grasslands as being only marginally suitable for Burrowing Owls, citing only their own negative survey results in 2009. Applying the DEIR's logic, a project proponent could simply keep hiring consultants to conduct surveys until negative results were achieved, either by the consultant's negligence or by the species occurring on the site only during certain years or seasons. By ignoring all previous survey results, the desired finding of no significant impact could be made. This is not sound science. } P36-29
 - The EIR preparer fails to recognize that dumping 34,000 cubic yards of fill from the park site into 4.6 acres of shortgrass grassland habitat, together with the associated construction of a new haul road to the dumping sites, would degrade habitat suitability for numerous grassland-dependent species that currently use these grasslands in abundance. In the project vicinity during the late 1980s, severe habitat degradation of precisely this type occurred at nearby Fairview Park. } P36-30
 - The DEIR's characterization of the site's grasslands as having "low biological value," and the DEIR's conclusion that "they may occasionally be used by native species" are not based in fact. It is plain to see that the grasslands in question are teeming with native wildlife of many different species. } P36-31
 - Cactus Wrens have been documented using habitats on the project site during three years that I am aware of, and some large cactus remains in these areas, so it is erroneous for the DEIR to conclude that "Suitable habitat for this subspecies (i.e., cactus) is not present on the Project site." } P36-32

The standard under which CEQA operates is that impact analyses must be made using the best available scientific information, including consideration of the results of other biological surveys conducted at the project site and in nearby areas. The Sunset Ridge DEIR falls far short of this minimal standard, to the point where members of the public are having to document the existence of extensive wetlands, document and explain the apparent illegality of mowing native plant communities that are designated as critical habitat for a listed species, document the occurrence of a listed species in areas the DEIR deems unoccupied, find and publish the results of previous survey efforts on the project site, and generally bring to light numerous highly relevant, factual items that the EIR preparer has overlooked, ignored, suppressed, or misinterpreted.

In cases where the project proponent also serves as CEQA Lead Agency, it is especially important that the public be assured that the Lead Agency and its consultants are not violating the public trust to serve their own, narrowly defined interests. The errors and distorted analyses in the Biological Resources section of the Sunset Ridge DEIR demonstrate clear and consistent bias in favor of the project proponent/Lead Agency, and they are of sufficient scope and magnitude to call into question the impartiality and even the basic competence of the EIR preparer. The pervasive errors in describing the baseline conditions on the site follow through to the DEIR's impact analyses, proposed mitigation measures, and findings of significance, which fail to reflect the actual conditions on the ground or the applicable regulations protecting sensitive biological resources. Thus, the entire Biological Resources section of the DEIR lacks validity as a CEQA planning document.

In my opinion, the DEIR's biological surveys, impact analyses, mitigation program, and findings of significance after mitigation must be thoroughly re-evaluated by a third-party consultant (other than me) acceptable to the Banning Ranch Conservancy. A revised DEIR should then be prepared and recirculated for another round of public review and comment.

I appreciate the opportunity to review the Sunset Ridge Draft EIR on behalf of the Banning Ranch Conservancy. Please provide any responses to these comments to me at the address specified on my letterhead. You may send e-mail to robb@hamiltonbiological.com.

Sincerely,



Robert A. Hamilton
President, Hamilton Biological, Inc.

cc: Christine Medak, U.S. Fish & Wildlife Service
Jae Chung, U.S. Army Corps of Engineers
Matthew Chirton, California Department of Fish & Game
Jonna Engel, California Coastal Commission
Terry Welsh, Banning Ranch Conservancy

attachment: Curriculum Vitae

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Robert A. Hamilton

President, Hamilton Biological, Inc.

Expertise

Endangered Species Surveys
General Biological Surveys
CEQA Analysis
Population Monitoring
Bird Banding
Vegetation Mapping
Open Space Planning
Natural Lands Management

Education

1988. Bachelor of Science degree
in Biological Sciences,
University of California,
Irvine

Professional Experience

1994 to Present. Independent
Biological Consultant,
Hamilton Biological, Inc.
1988 to 1994. Biologist, LSA
Associates, Inc.

Permits

Federal Permit No. TE-799557 to
survey for the Coastal
California Gnatcatcher and
Southwestern Willow
Flycatcher (expires 3/5/12)

Federal Bird Banding Subpermit
No. 2043-1 (expires 1/31/11)

Memorandum of
Understanding with the
California Dept. of Fish and
Game to use playback of
vocalizations to survey for the
San Diego Cactus Wren
(expires 12/31/11).

California Scientific Collecting
Permit No. SC-001107 (expires
11/5/11)

Robert A. Hamilton has been providing biological consulting services in southern California since 1988. He spent the formative years of his career at the firm of LSA Associates in Irvine, where he was a staff biologist and project manager. He has worked as a full-time independent consultant since 1994, incorporating the enterprise as Hamilton Biological, Inc., in 2009. His consultancy specializes in the practical application of environmental policies and regulations to land management and land use decisions in southern California.

A recognized authority on the status, distribution, and identification of birds in California, Mr. Hamilton is the lead author of two standard references describing aspects of the state's avifauna: *The Birds of Orange County: Status & Distribution* and *Rare Birds of California*. Mr. Hamilton has also conducted extensive studies in Baja California, and for seven years edited the Baja California Peninsula regional reports for the journal *North American Birds*. He served a ten-year tenure on the editorial board of *Western Birds* and regularly publishes in peer-reviewed journals. He is a founding member of the Coastal Cactus Wren Working Group and is presently updating the Cactus Wren species account for *The Birds of North America Online*. Mr. Hamilton's expertise includes floral identification and vegetation mapping. He served for a decade as Conservation Chair for the Orange County chapter of the California Native Plant Society and has a working knowledge of native plant restoration.

Mr. Hamilton conducts general and focused biological surveys of small and large properties as necessary to obtain various local, state, and federal permits, agreements, and clearances. He also conducts landscape-level surveys needed by land managers to monitor songbird populations. Mr. Hamilton holds the federal and state permits and MOU's listed to the left, and he is recognized by federal and state resource agencies as being highly qualified to survey for the Least Bell's Vireo. Mr. Hamilton also provides nest-monitoring services in compliance with the federal Migratory Bird Treaty Act and California Fish & Game Code Sections 3503, 3503.5 and 3513. He is an expert photographer and typically provides photo-documentation as part of his services.

Robert A. Hamilton

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Board Memberships, Advisory Positions, Etc.

Coastal Cactus Wren Working
Group (2008–present)

American Birding Association:
Baja Calif. Peninsula
Regional Editor, *North
American Birds* (2000–2006)

Western Field Ornithologists:
Associate Editor of *Western
Birds* (1999–2008)

California Bird Records
Committee (1998–2001)

Nature Reserve of Orange
County: Technical Advisory
Committee (1996–2001)

California Native Plant Society,
Orange County Chapter:
Conservation Chair
(1992–2003)

Professional Affiliations

American Ornithologists' Union
Cooper Ornithological Society
Institute for Bird Populations

California Native Plant Society
Southern California Academy of
Sciences

Western Foundation of
Vertebrate Zoology

Insurance

\$2,000,000 general liability
policy (The Hartford)

\$1,000,000 auto liability policy
(State Farm)

Drawing upon a robust, multidisciplinary understanding of the natural history and ecology of his home region, Mr. Hamilton works with private and public land owners, as well as governmental agencies and interested third parties, to apply the local, state, and federal land use policies and regulations applicable to each particular situation. Mr. Hamilton has amassed extensive experience in the preparation and critical review of CEQA documents, from relatively simple Negative Declarations to complex supplemental and recirculated Environmental Impact Reports. In addition to his knowledge of CEQA and its Guidelines, Mr. Hamilton understands how each Lead Agency brings its own interpretive variations to the CEQA review process.

Representative Project Experience

From 2007 to present, have reviewed biological resources sections of CEQA documents submitted to the County of Los Angeles Department of Regional Planning. Work includes evaluating the accuracy and adequacy of consultants' biological reports, developing impact analyses and mitigation measures, and recommending findings of significance. Under the same contract, prepared a list of drought-tolerant native plants, hyperlinked to web-based information, for use in landscaping in Los Angeles County. The County later revised the list, with some loss of information, but the original list and accompanying map of seven planting zones in the county are available [here](#) and [here](#).

In 2009, under contract to the Palos Verdes Peninsula Land Conservancy, surveyed for the California Gnatcatcher and Cactus Wren across nine habitat reserves that constitute nearly all of the Portuguese Bend Natural Preserve in coastal Los Angeles County. The services provided included mapping and classifying all cactus scrub resources in the areas surveyed.

Under contract to the Conservation Biology Institute in San Diego County, conducted 2008 reconnaissance of those portions of the San Dieguito River Valley that were unburned or only partially burned during the massive Witch Fire, which consumed nearly 200,000 acres in October 2007. Three-pass surveys conducted at 14 sites between Lake Hodges and the San Pasqual Valley determined the presence or absence of Cactus Wrens and California Gnatcatchers. Work products included maps of all unburned and

Robert A. Hamilton Curriculum Vitae, Page 3

partially burned scrub communities, maps of weed infestations, and complete lists documenting the numbers of each vertebrate wildlife species detected during the surveys.

Other Relevant Experience

Field Ornithologist, San Diego Natural History Museum
Scientific Collecting Expedition to Central and Southern Baja California, October/November 1997 and November 2003.

Field Ornithologist, Island Conservation and Ecology Group Expedition to the Tres Marias Islands, Nayarit, Mexico, 23 January to 8 February 2002.

Field Ornithologist, Algalita Marine Research Foundation neustonic plastic research voyages in the Pacific Ocean, 15 August to 4 September 1999 and 14 to 28 July 2000.

Field Assistant, Bird Banding Study, Rio Nambi Reserve, Colombia, January to March 1997.

Under contract to the City of Orange, prepared the Biological Resources section of a hybrid Supplemental EIR/Draft EIR for the 6,900-acre Santiago Hills II/East Orange Planned Community project in central Orange County. This complicated document covered one proposed development area that already had CEQA clearance, but that required updating for alterations to the previously approved plan, and a much larger area that had no previous approvals but that was covered under the Natural Communities Conservation Plan (NCCP) for central and coastal Orange County. The SEIR/EIR was certified in November 2005.

During the 1990s and 2000s, worked with study-design specialists and resource agency representatives to develop the long-term passerine bird monitoring program for the 37,000-acre Nature Reserve of Orange County, and directed its implementation from 1996 to 2001 with additional contract work since then. Tasks have included 1) annual monitoring of 40 California Gnatcatcher and Cactus Wren study sites, 2) oversight of up to 10 constant-effort bird banding stations from 1998 to 2003 under the Monitoring Avian Productivity and Survivorship (MAPS) program, and 3) focused surveys for the Cactus Wren, and detailed mapping of cactus scrub habitat, across the NROC's coastal reserve in 2006 and 2007.

References

Provided upon request.

Third-Party CEQA Review

Under contract to cities, conservation groups, homeowners' associations, and other interested parties, have reviewed EIRs and other project documentation for the following projects:

- The Ranch Plan (residential/commercial, County of Orange)
- Southern Orange County Transportation Infrastructure Improvement Project (Foothill South Toll Road, County of Orange)
- Gregory Canyon Landfill Restoration Plan (proposed mitigation, County of San Diego)

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- ▶ Montebello Hills Specific Plan EIR (residential, City of Montebello)
- ▶ Cabrillo Mobile Home Park Violations (illegal wetland filling, City of Huntington Beach)
- ▶ Newport Hyatt Regency (timeshare conversion project, City of Newport Beach)
- ▶ Lower San Diego Creek "Emergency Repair Project" (flood control, County of Orange)
- ▶ Tonner Hills (residential, City of Brea)
- ▶ The Bridges at Santa Fe Units 6 and 7 (residential, County of San Diego)
- ▶ Villages of La Costa Master Plan (residential/commercial, City of Carlsbad)
- ▶ Whispering Hills (residential, City of San Juan Capistrano)
- ▶ Santiago Hills II (residential/commercial, City of Orange)
- ▶ Rancho Potrero Leadership Academy (youth detention facility/road, County of Orange)
- ▶ Saddle Creek/Saddle Crest (residential, County of Orange)
- ▶ Frank G. Bonelli Regional County Park Master Plan (County of Los Angeles)

Contact Information

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Selected Presentations

- Hamilton, R. A. 2008. Cactus Wren Conservation Issues, Nature Reserve of Orange County. One-hour Powerpoint presentation for Sea & Sage Audubon Society, Irvine, California, 25 November 2008.
- Hamilton, R. A., Miller, W. B., Mitrovich, M. J. 2008. Cactus Wren Study, Nature Reserve of Orange County. Twenty-minute Powerpoint presentation given at the Nature Reserve of Orange County's Cactus Wren Symposium, Irvine, California, 30 April 2008.
- Hamilton, R. A. and K. Messer. 1999-2004 Results of Annual California Gnatcatcher and Cactus Wren Monitoring in the Nature Reserve of Orange County. Twenty-minute Powerpoint presentation given at the Partners In Flight meeting: Conservation and Management of Coastal Scrub and Chaparral Birds and Habitats, Starr Ranch Audubon Sanctuary, 21 August 2004; and at the Nature Reserve of Orange County 10th Anniversary Symposium, Irvine, California, 21 November 2006.
- Hamilton, R.A. Preliminary results of reserve-wide monitoring of California Gnatcatchers in the Nature Reserve of Orange County. Twenty-minute Powerpoint presentation given at the Southern California Academy of Sciences annual meeting at California State University, Los Angeles, 5 May 2001.

Publications

- [Hamilton, R. A. 2008. Cactus Wrens in central & coastal Orange County: How will a worst-case scenario play out under the NCCP? *Western Tanager* 75:2-7.](#)
- [Erickson, R. A., R. A. Hamilton, R. Carmona, G. Ruiz-Campos, and Z. A. Henderson. 2008. Value of perennial archiving of data received through the North American Birds regional reporting system: Examples from the Baja California Peninsula. *North American Birds* 62:2-9.](#)
- [Erickson, R. A., R. A. Hamilton, and S. G. Mlodinow. 2008. Status review of Belding's Yellowthroat *Geothlypis beldingi*, and implications for its conservation. *Bird Conservation International* 18:219-228.](#)
- [Hamilton, R. A. 2008. Fulvous Whistling-Duck \(*Dendrocygna bicolor*\). Pp. 68-73 in Shuford, W. D. and T. Gardali, eds. 2008. *California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California*. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, CA, and California Department of Fish and Game, Sacramento, CA.](#)

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- [California Bird Records Committee \(R. A. Hamilton, M. A. Patten, and R. A. Erickson, editors.\). 2007. Rare Birds of California. Western Field Ornithologists, Camarillo, CA.](#)
- Hamilton, R. A., R. A. Erickson, E. Palacios, and R. Carmona. 2001-2007. *North American Birds* quarterly reports for the Baja California Peninsula Region, Fall 2000 through Winter 2006/2007.
- [Hamilton, R. A. and P. A. Gaede. 2005. Pink-sided × Gray-headed Juncos. *Western Birds* 36:150-152.](#)
- [Mlodinow, S. G. and R. A. Hamilton. 2005. Vagrancy of Painted Bunting \(*Passerina ciris*\) in the United States, Canada, and Bermuda. *North American Birds* 59:172-183.](#)
- Erickson, R. A., R. A. Hamilton, S. González-Guzmán, G. Ruiz-Campos. 2002. Primeros registros de anidación del Pato Friso (*Anas strepera*) en México. *Anales del Instituto de Biología, Universidad Nacional Autónoma de México, Serie Zoología* 73(1): 67-71.
- [Hamilton, R. A. and J. L. Dunn. 2002. Red-naped and Red-breasted sapsuckers. *Western Birds* 33:128-130.](#)
- [Hamilton, R. A. and S. N. G. Howell. 2002. Gnatcatcher sympatry near San Felipe, Baja California, with notes on other species. *Western Birds* 33:123-124.](#)
- [Hamilton, R. A. 2001. Book review: The Sibley Guide to Birds. *Western Birds* 32:95-96.](#)
- Hamilton, R. A. and R. A. Erickson. 2001. Noteworthy breeding bird records from the Vizcaino Desert, Baja California Peninsula. Pp. 102-105 in *Monographs in Field Ornithology* No. 3. American Birding Association, Colorado Springs, CO.
- Hamilton, R. A. 2001. Log of bird record documentation from the Baja California Peninsula archived at the San Diego Natural History Museum. Pp. 242-253 in *Monographs in Field Ornithology* No. 3. American Birding Association, Colorado Springs, CO.
- Hamilton, R. A. 2001. Records of caged birds in Baja California. Pp. 254-257 in *Monographs in Field Ornithology* No. 3. American Birding Association, Colorado Springs, CO.
- Erickson, R. A., R. A. Hamilton, and S. N. G. Howell. 2001. New information on migrant birds in northern and central portions of the Baja California Peninsula, including species new to Mexico. Pp. 112-170 in *Monographs in Field Ornithology* No. 3. American Birding Association, Colorado Springs, CO.
- Howell, S. N. G., R. A. Erickson, R. A. Hamilton, and M. A. Patten. 2001. An annotated checklist of the birds of Baja California and Baja California Sur. Pp. 171-203 in *Monographs in Field Ornithology* No. 3. American Birding Association, Colorado Springs, CO.
- Ruiz-Campos, G., González-Guzmán, S., Erickson, R. A., and Hamilton, R. A. 2001. Notable bird specimen records from the Baja California Peninsula. Pp. 238-241 in *Monographs in Field Ornithology* No. 3. American Birding Association, Colorado Springs, CO.

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- Wurster, T. E., R. A. Erickson, R. A. Hamilton, and S. N. G. Howell. 2001. Database of selected observations: an augment to new information on migrant birds in northern and central portions of the Baja California Peninsula. Pp. 204-237 in *Monographs in Field Ornithology* No. 3. American Birding Association, Colorado Springs, CO.
- [Erickson, R. A. and R. A. Hamilton. 2001. Report of the California Bird Records Committee: 1998 records. *Western Birds* 32:13-49.](#)
- [Hamilton, R. A., J. E. Pike, T. E. Wurster, and K. Rademaker. 2000. First record of an Olive-backed Pipit in Mexico. *Western Birds* 31:117-119.](#)
- [Hamilton, R. A. and N. J. Schmitt. 2000. Identification of Taiga and Black Merlins. *Western Birds* 31:65-67.](#)
- [Hamilton, R. A. 1998. Book review: Atlas of Breeding Birds, Orange County, California. *Western Birds* 29:129-130.](#)
- [Hamilton, R. A. and D. R. Willick. 1996. The Birds of Orange County, California: Status and Distribution. Sea & Sage Press, Sea & Sage Audubon Society, Irvine.](#)
- Hamilton, R. A. 1996-98. Photo Quizzes. *Birding* 27(4):298-301, 28(1):46-50, 28(4):309-313, 29(1):59-64, 30(1):55-59.
- Erickson, R. A., and Hamilton, R. A. 1995. Geographic distribution: *Lampropeltis getula californiae* (California Kingsnake) in Baja California Sur. *Herpetological Review* 26(4):210.
- [Bontrager, D. R., R. A. Erickson, and R. A. Hamilton. 1995. Impacts of the October 1993 Laguna fire on California Gnatcatchers and Cactus Wrens. in J. E. Keeley and T. A. Scott \(editors\). *Wildfires in California Brushlands: Ecology and Resource Management*. International Association of Wildland Fire, Fairfield, Washington.](#)
- [Erickson, R. A., R. A. Hamilton, S. N. G. Howell, M. A. Patten, and P. Pyle. 1995. First record of Marbled Murrelet and third record of Ancient Murrelet for Mexico. *Western Birds* 26:39-45.](#)
- Erickson, R. A., and R. A. Hamilton. 1993. Additional summer bird records for southern Mexico. *Euphonia* 2(4): 81-91.
- Erickson, R. A., A. D. Barron, and R. A. Hamilton. 1992. A recent Black Rail record for Baja California. *Euphonia* 1(1): 19-21.

Letter P36 **Hamilton Biological**
Robert A. Hamilton
December 10, 2009

Response 1

The City concurs that the dominant vegetation within the manufactured slope area along Superior Avenue is pampas grass. While hydrophytic vegetation was also noted during surveys conducted by BonTerra Consulting, there was not enough of these plant species present to be considered a separate vegetation type and the area containing these species was well below what would be considered a reasonable mapping unit. Vegetation types were mapped based on the County of Orange Habitat Classification System Natural Resources GIS Project (Gray and Bramlet 1992). This area is dominated by non-native invasive and ornamental vegetation, and thus is accurately classified as “ornamental”.

BonTerra Consulting also conducted a jurisdictional delineation on December 2, 2009, within the manufactured slope area along Superior Avenue. BonTerra Consulting determined that although the site did contain a very low absolute cover of obligate hydrophytic vegetation, this site was dominated by non-native upland (UPL) and facultative upland (FACU) species which did not pass the Dominance Test for hydrophytic vegetation. Two soils sample pits were dug in representative locations along toe of slope immediately adjacent to the existing V-ditch not adjacent to any traditional navigable waterway or relatively permanent waters. No hydric soils were detected. The soils were damp but not saturated at the sample sites. BonTerra Consulting subsequently updated the jurisdictional delineation report with this information and consulted with Jae Chung of the U.S. Army Corps of Engineers (USACE). Dr. Chung stated that based on this information, no “wetlands” or “Waters of the U.S.” occur within the limits of Project disturbance.

On March 2, 2010, Dr. Chung performed a site review including the manufactured slope area along Superior Avenue to verify the findings contained in the jurisdictional delineation report. He verified the findings of the jurisdictional delineation report and concluded that no “wetlands” or “Waters of the U.S.” occur within the limits of Project disturbance.

The California Coastal Commission uses a single parameter for the identification of “Wetlands” using the USACE 1987 Manual and Arid West Supplement to the USACE Manual. The California Coastal Commission further defines wetlands as: *“Wetland” means lands within the coastal zone which may be covered periodically or permanently with shallow water and includes salt marshes, freshwater marshes, open and closed brackish water marshes, swamps, mudflats, and fens*”. The site does not contain any evidence of the presence of a salt marsh, freshwater marsh, open and closed brackish water marsh, swamp, mudflat or fen within the limits of Project disturbance. However, the final “wetlands” determination would be made by the Coastal Commission based on the jurisdictional delineation report.

Response 2

BonTerra Consulting has reviewed the site conditions and have determined that the vegetation map in the Draft EIR is adequate. BonTerra Consulting conducted a site visit on March 11, 2010. Salt heliotrope, marsh fleabane, and spike bentgrass was not observed. Very small amounts of Typha sp. and spike-rush are present. Due to their minor representation within the Project site, no changes to the plant compendium are necessary.

Response 3

Please refer to the response to Comment 1.

Response 4

BonTerra Consulting has reviewed the site conditions and has determined that the vegetation map in the Draft EIR is adequate. BonTerra Consulting did not observe salt heliotrope during a site visit on March 11, 2010. Please also refer to the response to Comment 1.

Response 5

The presence of very small amounts of *Scirpus* sp. and *Emory baccharis* is noted. Due to their minor representation within the Project boundaries, no changes to the plant compendium are necessary. As noted in the response to Comment 2, site conditions have been reviewed and it has been determined that the vegetation map in the Draft EIR is adequate.

Response 6

Please refer to the response to Comment 2 and to the response to Comment 12, below. In the winter, California gnatcatchers are known to forage in a variety of habitat types including single coastal sage scrub plants species as well as ornamental habitats outside of their general territories.

Response 7

Please refer to the response to Comment 2.

Response 8

Please refer to the response to Comment 2.

Response 9

Vegetation types were classified based on the County of Orange Habitat Classification System Natural Resources GIS Project (Gray and Bramlet 1992). This area was dominated by non-native invasive and ornamental vegetation and thus classified as ornamental. However, the City BonTerra Consulting agrees that this stand of mule fat should be noted; therefore, the following wording as been added to page 4.6-6 and incorporated into the Final EIR as follows:

Ornamental

Ornamental areas are landscaped plantings of non-native species and occur throughout the Project site. This vegetation type is dominated by a mix of ornamental species, including hottentot fig, Sellow's pampas grass, myoporum, and castor bean (*Ricinus communis*). In the northern portion of the park portion of the Project site, there is a stand of native mule fat.

Response 10

Vegetation types were classified based on the County of Orange Habitat Classification System Natural Resources GIS Project (Gray and Bramlet 1992). This area was dominated by non-native invasive and ornamental vegetation and thus classified as ornamental.

Until 2000, Caltrans performed annual weed abatement of the Project site by disking the property with a tractor and attached a disc tool. Subsequent to 2001, Caltrans performed weed abatement by mowing. After the City took ownership of the property, the work was performed by hand using “weed whacker”. The requirement to clear the property of all weeds, grass, vines, and other vegetation comes from Fire Code Section 1103.2.4, “Combustible Vegetation”. This regulation is separate and distinct from the Hazard Reduction and Fuel Modification regulations enforced throughout the City’s Special Fire Protection Areas in that they only apply to weed abatement and not wildland fuels.

Response 11

Please refer to the response to Comment 1.

Response 12

The focused surveys conducted as a part of the EIR followed the U.S. Fish and Wildlife Service (USFWS) Coastal California Gnatcatcher Presence/Absence Survey Guidelines dated February 28, 1997. The purpose of focused surveys is to determine a species presence or absence on a project site at the time of the surveys. These surveys for the Sunset Ridge Park Project were conducted during the breeding season. The focused gnatcatcher surveys were conducted in all habitats suitable for gnatcatcher in accordance to guidelines established by the USFWS by a qualified Biologist holding the required Federal Endangered Species Act (FESA) survey permits. All habitats were surveyed including areas adjacent to Superior Avenue and West Coast Highway. The single green dot identifies the location of the gnatcatcher when it was first observed.

As stated in the Draft EIR, the entire Project site is located in gnatcatcher critical habitat. Only limited areas on the Project site exhibit Primary Constituent Elements (PCEs) for the gnatcatcher. This includes the areas of southern coastal bluff scrub, Encelia scrub, and disturbed mule fat scrub/goldenbush scrub that are sufficient size to support breeding behaviors, provide sufficient resources to meet nutritional requirements, cover and shelter, and space for dispersal and foraging. In addition, to the southern coastal bluff scrub and Encelia scrub, the riparian habitat (i.e., disturbed mule fat scrub/goldenbush scrub and willow scrub) is also used by gnatcatchers and considered to exhibit PCEs.

The Draft EIR provides a review of all vegetation communities on the Project site. Descriptions of brush/scrub habitats are included in Section 4.6, Biological Resources, of the EIR, with a vegetation map depicting the locations of each vegetation type on the Project site. As stated in the responses above, the City concurs that certain plant species are present in a vegetation type; however, the vegetation types are classified based on the dominance of plant species present. The Draft EIR identifies that a limited amount of habitat occurs on the Project site. This statement is true: only a limited amount of suitable nesting habitat occurs on site. However, the City concurs that the site contains more foraging habitat. The first paragraph on page 4.6-27 has been revised and is incorporated into the Final EIR as follows:

...The Project is expected to impact a total of 0.68 acre (0.14 acre southern coastal bluff scrub, 0.48 acre disturbed mule fat scrub/goldenbush scrub², and 0.06 acre willow scrub³) of habitat for this species determined to be used by this species during

² The disturbed mule fat scrub/goldenbush scrub vegetation type is included with the gnatcatcher impacts due to this area being occupied by the coastal California gnatcatcher.

³ The willow scrub vegetation type is included with the gnatcatcher impacts due to this area being occupied by the coastal California gnatcatcher.

the breeding season...The impact on this species would be considered significant. Implementation of MM 4.6-3 and 4.6-4 would reduce this impact to a less than significant level.

Please refer to the responses to Comments 1 through 11 regarding the areas along the southern and eastern edges of the Project site along Superior Avenue and West Coast Highway. As a part of the Draft EIR, all suitable areas of the Project site were surveyed including areas that would be considered foraging habitat for the gnatcatcher. While the City concurs that gnatcatchers often use all scrub communities during fall/winter, during the breeding season all scrub communities were surveyed and the gnatcatcher was documented in the disturbed mule fat scrub/goldenbush scrub, southern coastal bluff scrub, and willow scrub.

Response 13

The City of Newport Beach took ownership of the city-owned portion of the Project site in 2006, which is subsequent to the disturbance of the area noted by the commenter. Resolution of this issue will be handled through the administrative processes by the responsible parties. Consistent with CEQA Guidelines Section 15125, the EIR describes the physical environmental conditions of the project site and vicinity at the time the Notice of Preparation was published. "This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant".

Response 14

Please refer to the response to Comment 10. The Project would impact approximately 0.21 acre of Encelia scrub/ornamental, 3.64 acres of disturbed Encelia scrub, 6.03 acres of non-native grassland, 7.75 acres of ruderal vegetation, 3.13 acres of ornamental vegetation, and 0.49 acre of flood control channel. The proposed Project would also impact 2.88 acres of disturbed areas. The Encelia scrub/ornamental and disturbed Encelia scrub are not considered special status because of the frequent mowing for fuel modification and weed abatement purposes, their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete V-ditch under the shrubs, presence of trash, and/or proximity to high foot/bicycle and vehicle traffic. The disturbed Encelia scrub is dominated by bush sunflower and deerweed (*Lotus scoparius*).

Response 15

Please refer to the response to Comment 13.

Response 16

The noted paragraph on page 42 of the Biological Technical Report has been revised to include a reference where Glenn Lukos Associates (GLA) documented the occurrence of burrowing owls on the Newport Banning Ranch property. The results were not suppressed, only occurrences reported in the CNDDDB were included.

"In the vicinity of the Project site, this species has been reported from Fairview Park in Costa Mesa (CDFG 2009a) and has been observed wintering on the adjacent Newport Banning Ranch property in 2008 (BonTerra Consulting 2009c)".

As addressed in the Draft EIR, the burrowing owl is not currently expected to occur on the Sunset Ridge Project site; it was not observed during focused surveys conducted in 2008/2009. Limited suitable habitat for this species occurs on the Project site, and this species may occur

occasionally as a migrant or rare winter visitor. If this species returns to the Project site, impacts on burrowing owls would be considered significant because the loss of a wintering/migrant population in the coastal area of Orange County would substantially affect the local population. Implementation of MM 4.6-2 set forth in the Draft EIR would reduce the potential impacts on this species to less than significant levels. For detailed descriptions of this measure please refer to the Biological Resources section of the Draft EIR on page 4.6-31. Therefore, impacts to the burrowing owl are included and mitigation has been provided.

As stated in the response to Comment 12 above, the surveys were conducted in accordance with the USFWS Coastal California Gnatcatcher Presence/Absence Survey Guidelines dated February 28, 1997. The purpose of focused surveys is to determine a species presence or absence on a project site at the time of the surveys. These surveys were conducted during the breeding season. The focused gnatcatcher surveys were conducted in all habitats suitable for gnatcatcher in accordance to guidelines established by the USFWS by a qualified Biologist holding the required Federal Endangered Species Act (FESA) survey permits. All habitats were surveyed including areas adjacent to Superior Avenue and West Coast Highway. The single green dot identifies the location of the gnatcatcher when it was first observed.

Focused surveys for burrowing owl followed the *Burrowing Owl Survey Protocol and Mitigation Guidelines* prepared by the California Burrowing Owl Consortium (CBOC) (CBOC 1993). These guidelines outline a survey methodology that includes a habitat assessment, a focused burrow survey, and four focused owl surveys. Surveys for wintering owls were conducted in 2008/2009. Focused surveys for this species were repeated during the 2009 breeding season following the same methodology. The methodology and results of these surveys are included in Attachment D of the Biological Technical Report of the Draft EIR.

Response 17

While the side-blotched lizard might not been identified in the compendium, the City did not discount it as not being there. As stated on page 4.6-7 of the Draft EIR:

Reptile species observed or expected to occur in most habitats on the Project site include western fence lizard (*Sceloporus occidentalis*), side-blotched lizard (*Uta stansburiana*), southern alligator lizard (*Elgaria multicarinata*), and gopher snake (*Pituophis catenifer*).

Please refer to the response to Comment 16 regarding the burrowing owl. The City did not fail to disclose the known occurrences of burrowing owls nor did it downplay the site's potential value to the species.

Response 18

The comment is referencing the adjacent Banning Ranch property. The Sunset Ridge Park Project site includes both the site of the proposed park (located on City property) and the access road to the park, the off-site stockpile locations, and the off-site haul route (located within the boundaries of the Newport Banning Ranch property). Approximately 4.61 acres are proposed to be used for fill sites associated with the export of excess cut material from the park which would be deposited at the adjacent Newport Banning Ranch property. As stated in the responses to Comments 16 and 17 above, focused breeding and wintering surveys for the burrowing owl were conducted in 2008/2009 and the burrowing owl was not observed. In addition, focused breeding and wintering surveys were conducted by GLA in 2008 on the Newport Banning Ranch property. Per GLA, the burrowing owl does not breed on the Newport Banning Ranch property; however, two owls were observed on site and one burrowing owl was

observed 212 feet off site during the winter surveys. As identified in the Sunset Ridge Park Draft EIR, limited suitable habitat for this species occurs on the Project site, and this species may occur occasionally as a migrant or rare winter visitor. If this species returns to the site, impacts on burrowing owls would be considered significant because the loss of a wintering/migrant population in the coastal area of Orange County would substantially affect the local population. Implementation of MM 4.6-2 provided in the Draft EIR would reduce the potential impacts on this species to less than significant levels. Therefore, impacts to the burrowing owl are included and mitigation has been provided.

Response 19

Please refer to the responses to Comments 17 and 18 above. Due to the limited amount of habitat loss relative to the availability of habitat for these species in the region, impacts on these species would be considered adverse but less than significant; no mitigation would be required. As set forth in the Draft EIR:

The proposed Project would result in the loss of suitable foraging habitat for a variety of raptor species including Cooper's hawk, sharp-shinned hawk, ferruginous hawk, northern harrier, white-tailed kite, merlin, prairie falcon, American peregrine falcon, short-eared owl, and long-eared owl. Of these species, only the American peregrine falcon is State-listed as Endangered. Impacts on foraging habitat for these species would be considered adverse, but would not be expected to appreciably affect the overall population of these species given the amount of potentially suitable foraging habitat in the immediate vicinity. Therefore, impacts on these species would be considered adverse, but less than significant; no mitigation would be required.

The burrowing owl is not currently expected to occur on the Project site because it was not observed during focused surveys conducted in 2008/2009. However, limited suitable habitat for this species occurs on the Project site, and this species may occur occasionally as a migrant or rare winter visitor. If this species returns to the site, impacts on burrowing owls would be considered significant because the loss of a wintering/migrant population in the coastal area of Orange County would substantially affect the local population. Implementation of MM 4.6-2 would reduce the potential impacts on this species to less than significant levels.

The loggerhead shrike has the potential to occur on the Project site. Due to the limited amount of habitat loss relative to the availability of habitat for this species in the region, impacts on this species would be considered adverse but less than significant; no mitigation would be required.

The proposed Project would impact approximately 6.03 acres of non-native grassland, 7.75 acres of ruderal vegetation, 3.13 acres of ornamental vegetation, and 0.49 acre of flood control channel. The proposed Project would also impact 2.88 acres of disturbed areas. The disturbed *Encelia* scrub is regularly mowed for fuel modification and weed abatement purposes and contains a high percentage of non-native weeds. These areas generally have low biological value because they are composed of unvegetated areas or are vegetated with non-native species and subject to significant disturbance. These areas generally provide limited habitat for native plant and wildlife species although they may occasionally be used by native species. Therefore, impacts on these areas would not be considered significant, and no mitigation would be required.

Response 20

Eleven vegetation types and other areas occur on the Project site. Vegetation types and other areas mapped on the Project site include southern coastal bluff scrub, Encelia scrub, Encelia scrub/ornamental, disturbed Encelia scrub, non-native grassland, ruderal, disturbed mule fat scrub/goldenbush scrub, willow scrub, ornamental, flood control channel, and disturbed. Suitable habitat for the coastal cactus wren is not present on the Project site. Therefore, coastal cactus wren is not expected to occur on the Project site. Gnatcatcher surveys conducted in 2009 on the Newport Banning Ranch property identified two cactus wren territories consisting of one breeding pair and one solitary male. These locations are more than 300 feet away from the proposed haul route and fill sites and access road. Therefore, there would be no impact on this species, and no mitigation would be required.

Response 21

Please refer to the responses to Comments 1 through 10.

Response 22

Please refer to the responses to Comments 1 through 3 and 11.

Response 23

Please refer to the response to Comment 11.

Response 24

The occurrence of Broom Baccharis on the Project site does not affect the impact analysis and conclusions in the Draft EIR. A voucher specimen has been collected and will be deposited at the appropriate herbarium.

Response 25

Please refer to the response to Comment 17.

Response 26

Please refer to the response to Comment 15.

Response 27

Please refer to the response to Comment 15.

Response 28

Please refer to the response to Comment 13.

Response 29

Please refer to the responses to Comments 17 and 18. As addressed in the Draft EIR, if this species returns to the site, impacts on burrowing owls would be considered significant because the loss of a wintering/migrant population in the coastal area of Orange County would substantially affect the local population. Implementation of MM 4.6-2 would reduce the potential

impacts on this species to less than significant levels. Therefore, impacts to the burrowing owl are included and mitigation has been provided.

Response 30

Please refer to the response to Comment 19.

Response 31

Please refer to the response to Comment 19.

Response 32

Please refer to the response to Comment 20.

Response 33

The opinion of the commenter is noted.

From: Ted Barry [mailto:ted.barry@jbateam.com]
Sent: Thursday, December 10, 2009 4:01 PM
To: Brown, Janet
Cc: Jeff Braun; Jeff Braun
Subject: Sunset Ridge Park

Letter P37

Janet Johnson Brown
Assistant Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA

Dear Janet,

I am the head of the fields for Newport AYSO.
My family has lived in Newport Beach since 1953.

Our group is extremely supportive of having the soccer, baseball and butterfly park called Sunset Ridge. This field will service the children in Newport in soccer as well as other sports. There is a great need for sports fields in Newport and very much needed in the west end of Newport. Presently there are no baseball and soccer or this type of field at the west end of Newport. As the crow flies, the closest field would be Newport Heights Elementary or Ensign Junior high.

During the first phase of the park study, the City of Newport Beach's engineering department did a terrific job deigning a park that met all the needs of the people and minimized the impact to the local housing. There efforts fulfilled all of the needs for the community and the city's requirements.

The park is needed by the community.

The impact the local housing and business areas would be minimal.

Newport AYSO is extremely supportive of the park.

All the best.

Ted Barry
949-697-4533

P37-1

Letter P37 Ted Barry
December 10, 2009

Response 1

The commenter's support for the Project is noted.

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

Letter P38

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

P38-1

P38-2

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.

P38-2
cont.

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.

P38-3

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

P38-4

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.

P38-4
cont.

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.

P38-5

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.

P38-6

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.

P38-7

5. The draft EIR suggests that the use of an alternative entrance such as Superior Ave would

P38-8

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.

P38-8
cont.

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.

P38-9

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

P38-10

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 BIOLOGICAL IMPACTS ON THE BANNING RANCH AREA.

P38-10
cont.

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.

P38-11

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.

P38-12

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

P38-13

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.

P38-13
cont.

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.**

P38-14

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.

P38-15

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.

P38-15
cont.

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.

P38-16

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

Letter P38 **Terry Welsh**
December 10, 2009

Response 1

Please refer to Topical Responses 1 and 2. As stated in Section 4.2, Aesthetics of the Draft EIR and depicted on Exhibit 4.2-1, the site contains a 197,720-square-foot (sf) scenic easement imposed by the California Department of Transportation (Caltrans) as a term of the sale of the property to the City. The easement is located generally from the property line adjacent to West Coast Highway to approximately halfway into the site. This easement restricts development rights to those permitted in the City's Open Space-Active (OS-A) zoning with additional limitations on the placement of permanent structures and pavement in the scenic easement area. Thus, an access road on the City's property would not be permitted under the terms of the easement imposed by Caltrans.

Response 2

The comment is noted. The commenter erroneously states that the General Plan Open Space land use designation for the Newport Banning does not include a north-south road through the Newport Banning Ranch property. Both the City of Newport Beach General Plan Circulation Element and the Orange County Master Plan of Arterial Highways assume a roadway connection from West Coast Highway to 19th Street. Please refer to Topical Responses 1 and 2.

Response 3

Please refer to the response to Comment 1. The scenic easement would preclude a road traversing the easement area. The City's acceptance of the scenic easement was a term of the sale of the property.

Response 4

Please refer to Topical Response 3.

Response 5

Please refer to Topical Responses 1 and 2.

Response 6

The opinions of the commenter are noted. Please refer to Topical Responses 1 and 2. As previously noted, both the City of Newport Beach General Plan's Circulation Element and the Orange County Master Plan of Arterial Highways assumes a roadway from West Coast Highway to 19th Street regardless of the land use designation on the Newport Banning Ranch property.

Response 7

The proposed access road to serve the park is planned to be 28 feet wide with two travel lanes – one in each direction. At West Coast Highway, the access road right-of-way would be 83 feet: a 26-foot inbound width, a 31-foot center median, and a 26-foot outbound width. The inbound width would accommodate right-in turning movements from westbound West Coast Highway and left-in turning movements from the proposed signalized intersection. The outbound lane

would accommodate a right-out turning movement onto westbound West Coast Highway and a left-out turning movement onto eastbound West Coast Highway.

Response 8

The commenter is correct that if the 401-acre Newport Banning Ranch property is acquired, the Open Space land use designation requires a community park(s) on the site. It should also be noted that a roadway from West Coast Highway would also be constructed. The location of the roadway on the Circulation Element Master Plan of Streets and Highways and the Orange County Master Plan of Arterial Highways is shown in the location where the park access road is proposed.

Response 9

The City's Public Works Department has identified that access along the Superior Avenue and West Coast Highway frontages would not meet current traffic engineering standards and would therefore be unsafe. While additional studies would most likely further validate the denial of access at this point, the findings that the Traffic Engineer has previously identified are sufficient evidence to support denial of any access at these locations. The following are a few of the City identified issues associated with an access road along Superior Avenue and West Coast Highway:

Superior Avenue

- The measured speeds on Superior Avenue are 46 miles per hour (mph). At this speed, a driver needs 480 feet to decelerate into an access point.
- Given the grades of the slope between Superior Avenue and the Project site, it appears that the only logical location to consider access is at the northeast corner of the property. At this location, the City sight distance requirement of 450 feet cannot be met because of the curvature of the roadway.
- There is an on-street striped bike lane.

West Coast Highway

- The measured speeds on West Coast Highway are 52 mph. At this speed, a driver needs 500 feet to decelerate into an access point. The length of the property frontage for Sunset Ridge Park on Coast Highway is approximately 350 feet. There is insufficient length for deceleration into the property.
- There is an existing lane drop across the entire property frontage on West Coast Highway. Within a short segment of roadway there would be a mix of through traffic in the lane drop area with vehicles attempting to decelerate into a project driveway.
- The existing grade from Coast Highway to the Project site is steep. The maximum driveway grade per City standard is 15 percent. To provide a driveway into the site, the length of the driveway would approach approximately 200 feet.
- There is an existing on-street striped bike lane.

- There are dual right-turn lanes from southbound Superior Avenue onto West Coast Highway. This presents an additional volume of vehicles required to merge with through traffic and with vehicles trying to access the park driveway.

Response 10

The commenter is correct that eliminating Newport Banning Ranch property from the Sunset Ridge Park Project would preclude all impacts to that portion of the Newport Banning Ranch property associated with the proposed park. However, implementation of the proposed park project is not feasible without access to the site via this property. The commenter's opinion is noted.

Response 11

The parking lot on the northeast corner of West Coast Highway and Superior Avenue was developed in order to provide beach access parking due to the loss of on-street parking in conjunction with the widening of West Coast Highway in the early 1990s. In order for an active sports park to function effectively, adequate parking must be provided on site that includes a convenient and safe drop-off area within the park.

Response 12

Please refer to the response to Comment 11. The installation of a pedestrian bridge across Superior Avenue would result in impacts to public views along this portion of Superior Avenue, which is designated as a Coastal View Road by the General Plan Natural Resources Element.

Response 13

Please refer to the response to Comments 9 and 10.

Response 14

Use of the adjacent Newport Banning Ranch property for the park access road would require an access easement from the Newport Banning Ranch property owner. The City is in the process of finalizing the access agreement with the Newport Banning Ranch property owner. The City Council will consider the agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines. The access agreement is intended to be independent and does not presuppose development by the Newport Banning Ranch applicant.

Response 15

The Draft EIR addresses the potential environmental effects associated with the use of a portion of the Newport Banning Ranch property to stockpile excess dirt associated with the grading of the Sunset Ridge Park Project. The Draft EIR evaluates this as the preferred option because it eliminates the distance of hauling dirt. However, the Draft EIR identifies this as an option and not a requirement of the proposed Project. With respect to implementation of the Newport Banning Ranch property consistent with the Open Space designation, the environmental impacts of that proposal would be evaluated in accordance with CEQA should an application be filed with the City of Newport Beach.

Response 16

The Sunset Ridge Park Project does not preclude the use of the Newport Banning Ranch property as open space. The commenter's opinion is noted.

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

From: Paul Malkemus [mailto:pmalkemus@gmail.com]

Sent: Friday, December 11, 2009 3:08 PM

To: Brown, Janet

Subject: Sunset Ridge Park DEIR Comments

Letter P39

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.

P39-1

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 Northwesterly boundary of that development as shown is 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?

P39-2

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?

P39-3

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?

P39-4

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

P39-5

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.

P39-5
cont.

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?

P39-6

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?

P39-7

Thank you for your consideration,

Paul W Malkemus
7 Aries Ct
Newport Beach CA 92663

Letter P39 Paul Malkemus
December 11, 2009

Response 1

Please see responses to the Environmental Quality Affairs Committee November 17, 2009 comment letter L1.

Response 2

The commenter expresses concern that short-term local pollutant concentrations of NO_x, PM₁₀, and PM_{2.5} that could be detrimental to the health of the commenter and other residents of the Newport Crest community. With respect to NO_x, please note that potential exceedance of SCAQMD NO_x emissions thresholds would only occur if extensive off-site haul of excavated soil is required. Local concentrations of NO_x at the Newport Crest condominiums would be affected only by on-site emissions, and the analysis on page 4.4-31 shows that the NO_x emissions would be less than 15 percent of the LST threshold.

With respect to the PM₁₀ and PM_{2.5} exceedances, the City notes the following:

- (1) The SCAQMD LST lookup table methodology is limited to a maximum site size of five acres; the project site is greater than five acres. The emissions thresholds increase with an increase in site size. Therefore, if the SCAQMD methodology was extended to the project area that is to be graded, on the order of 15 acres, then the project emissions would exceed the threshold by a smaller amount, or might not exceed the thresholds. The SCAQMD suggests that dispersion modeling be conducted for sites larger than five acres; however the topography and grading plan for the park site is too complex for dispersion modeling to yield meaningful results.
- (2) A substantial amount of grading will occur at distances from the Newport Crest community where PM₁₀ and PM_{2.5} effects to the residents would be minimal.
- (3) Compliance with SCAQMD Rule 403, Fugitive Dust, which is required by law and by the Project Standard Condition 4.4-1 is expected to provide greater emissions reductions than are calculated by the URBEMIS emissions model.

Notwithstanding the above factors, the City understands the concern. In order to reduce the potential for elevated short-term PM₁₀ and PM_{2.5} concentrations at the Newport Crest community, the City has added the following mitigation incorporated into the Final EIR as follows:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM₁₀ will not exceed 40 pounds per day and on-site emissions of PM_{2.5} will not exceed 11 pounds per day.

MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;
- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;

- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.

MM 4.4-3 The following actions shall be implemented as a part of the construction of the Sunset Ridge Park Project:

- a. Watering and visible dust control shall exceed the requirements of SCAQMD Rule 403 as follows: The Contractor shall suspend grading operations when wind gusts exceed 15 miles per hours.
- b. In windy conditions, the dust control measures of SCAQMD Rule 403, Table 2 (Large Operations) shall be applied.
- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.
- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the

investigation. The City contact person shall maintain a log of all complaints and resolutions.

Response 3

Restoration of the stockpile areas and haul route would be provided as needed. If the final area used, as determined by the final design would affect vegetation, the area would be revegetated and erosion control would be provided as set forth in the EIR. The Mitigation Program set forth in the Draft EIR also applies to the stockpile sites should the City approve the use of these locations for excess dirt associated with the Project.

Response 4

The effects of temporary haul trucks and stock piling are discussed on pages 4.5-12 and -13 of the Draft EIR. Soil export would occur during mass grading for a period of approximately three months. The haul route would be located as near as approximately 50 feet from the buildings on Ima Loma Court in the southwestern corner of the Newport Crest Condominium development (see Exhibit 3-12 in Section 3.0, Project Description). Dump trucks passbys can generate maximum noise levels of 84 dBA L_{max} at a distance of 50 feet (Table 4.5-7).

Construction equipment would have the potential to generate temporary noise impacts above the existing ambient noise levels. The City Noise Ordinance identifies that noise sources associated with construction are exempt from the City's Noise Ordinance standards, provided said activities take place between the hours of 7:00 AM and 6:30 PM on weekdays, and from 8:00 AM to 6:00 PM on Saturdays. Due to the low existing noise levels and the proximity of the noise-sensitive receivers and duration, construction would result in a temporary substantial increase in ambient noise to the residences adjacent to the site resulting from the use of mobile grading equipment. To reduce potential construction noise impacts, a temporary barrier with a length of approximately 1,500 feet and the height of approximately 20 feet would be required. Due to necessary size of the barrier and the fact that it would block the views from the adjacent residential areas, the construction of a temporary noise barrier would not be feasible. Construction of the Project would result in an unavoidable short-term significant impact that would cease upon completion of construction activities.

Response 5

Section 4.6.7 (Biological Resources, Environmental Impacts) of the Draft EIR discusses a number of impacts on wildlife associated with the construction of the road and/or stockpiling efforts. These include impacts to special status wildlife species (refer to pages 4.6-24 – 4.6-27) as well as wildlife movement (refer to page 4.6-29). Additionally, the Draft EIR discusses mitigation measures (MMs) which would reduce the potential impacts on wildlife to less than significant levels (refer MMs 4.6-1 through 4.6-4 on pages 4.6-31 - 4.6-34).

General Habitat Loss and Wildlife Loss

Construction of the proposed Project would result in the loss of approximately 5.06 acres of native habitat that provides nesting, foraging, roosting, and denning opportunities for a variety of wildlife species. In addition, implementation of the proposed Project would result in the loss of approximately 20.28 acre of non-native habitats (non-native grassland, ruderal, ornamental, flood control channel, and disturbed) that provide lower-quality wildlife habitat. However, these non-native habitats may provide limited nesting, foraging, roosting, and denning opportunities for some species.

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.

Vegetation on the Project site could support nesting birds. Impacts to migratory nesting birds are prohibited under the MBTA. In addition, common raptor species such as red-tailed hawk have potential to nest on the Project site. Should an active raptor nest (common or special status species) be found on the Project site, the loss of the nest would be considered a violation of California Fish and Game Code Sections 3503, 3503.5, and 3513. The loss of any active nesting bird/raptor nest occurring on the Project site would be considered significant. Impacts on nesting birds/raptors would be reduced to less than significant levels with implementation of Mitigation Measures (MM) 4.6-1 and 4.6-2.

Special Status Wildlife

The proposed Project would result in the loss of suitable foraging habitat for a variety of raptor species including Cooper's hawk, sharp-shinned hawk, ferruginous hawk, northern harrier, white-tailed kite, merlin, prairie falcon, American peregrine falcon, short-eared owl, and long-eared owl. Of these species, only the American peregrine falcon is State-listed as Endangered. Impacts on foraging habitat for these species would be considered adverse, but would not be expected to appreciably affect the overall population of these species given the amount of potentially suitable foraging habitat in the immediate vicinity. Therefore, impacts on these species would be considered adverse, but less than significant; no mitigation would be required.

The burrowing owl is not currently expected to occur on the Project site because it was not observed during focused surveys conducted in 2008/2009. However, limited suitable habitat for this species occurs on the Project site, and this species may occur occasionally as a migrant or rare winter visitor. If this species returns to the site, impacts on burrowing owls would be considered significant because the loss of a wintering/migrant population in the coastal area of Orange County would substantially affect the local population. Implementation of MM 4.6-2 would reduce the potential impacts on this species to less than significant levels.

A total of one territory of the federally Threatened coastal California gnatcatcher was observed during the 2009 focused surveys (Exhibit 4.6-2). The Project is expected to impact a total of 0.68 acre (0.14 acre southern coastal bluff scrub, 0.48 acre disturbed mule fat scrub/goldenbush scrub, and 0.06 acre willow scrub) of habitat for this species. Although this species is covered by the NCCP/HCP, the Project site is located within an Existing Use Area, and the NCCP/HCP does not authorize Incidental Take as a result of the conversion of coastal California gnatcatcher-occupied habitat in Existing Use Areas. The impact on this species would be

considered significant. Implementation of MM 4.6-3 and 4.6-4 would reduce this impact to a less than significant level.

Wildlife Movement

The proposed Project is located at the southeastern end of a large area of open space. Wildlife movement opportunities in this area are already constrained by the extensive urbanization in the Project vicinity. Therefore, implementation of the proposed Project would not impact regional wildlife movement or result in fragmentation of habitat. Therefore, impacts on wildlife movement would be considered less than significant, and no mitigation would be required.

Response 6

The option of disposing export material on the adjacent Newport Banning Ranch property was determined after the NOP was circulated. The Draft EIR identifies two options for the disposal of excess material from the Sunset Ridge Park site: the adjacent Newport Banning Ranch property or an alternative off-site location. Page 4.4-30 of the Draft EIR states:

The City proposes that the exported soil would be placed on the adjacent Newport Banning Ranch property, with a round trip haul distance of less than one mile. This air quality analysis also evaluates the scenario that some or all of the soil may be exported off site to a destination not determined at this time. For purposes of calculating maximum daily emissions, a reasonable worst-case haul distance of 40 miles per round trip was used, based on known available spoils sites (Scenario B).

Public notification for the entire Project, including the haul routes and stock piles has been provided in accordance with the requirements of the CEQA and CEQA Guidelines Section 15087.

Response 7

Youth baseball resident statistics are provided below and show that the numbers are not declining.

2009:	1,929 youth baseball participants
2008:	1,932 youth baseball participants
2007	1,893 youth baseball participants
2006	1,865 youth baseball participants

In response to putting younger aged fields at the proposed Sunset Ridge Park, the City explored converting existing fields on the west side of town to Pony league sized fields and the parks would not support a pony-sized field. The demand is for a pony-sized field, which could be accommodated with the proposed Project.

The City's General Plan Recreation Element identifies issues and needs for additional sports fields in the City. The Recreation Element states the following:

Perhaps the fastest growing recreational demand in Newport Beach is the need for additional sports fields, especially lighted facilities available for after-work sports leagues. This need stems from the evolving nature of sports activities, diversity of sports that residents are involved in, growing participation of girls in a number of field

sports, the lengthening of seasons for many sports and consequent season overlap, the need for sports facilities for the physically challenged, and the continuing high level of participation in company sports leagues such as coed softball. Meeting this need will be a challenge because of the large amount of area required for sports fields, the lack of suitable vacant land in the City, and the high cost of such land. In addition, school districts are adding new teams to accommodate the diversity of sports students are interested in, making it more difficult for the City's Recreation Department to use school sports fields to provide public recreation opportunities.

As stated in Section 4.1, Land Use and Related Planning Programs, of the Draft EIR, the primary purpose of the Recreation Element is to ensure that the balance between the provision of sufficient parks and recreational facilities are appropriate for the residential and business population of Newport Beach. Specific recreational issues and policies contained in the Recreation Element include: parks and recreational facilities, recreational programs, shared facilities, coastal recreation and support facilities, marine recreation, and public access.

Table 4.1-1 in Section 4.1 identifies parkland in the City of Newport Beach as well as West Newport. The City has identified an existing citywide park deficiency (exclusive of beach recreation acreage) of 67.7 acres, 53.4 acres of which is in Service Area 1, West Newport. This is based on the standard of 5 acres of parkland per 1,000 persons. Service Area 1 (which includes the Project site) is generally bound on the north by the Newport Terrace Condominium development and the Newport Banning Ranch property; on the south by the Pacific Ocean; on the northeast by the City of Costa Mesa on the east by Newport Boulevard; and on the west by the Santa Ana River. The service area extends to the southeast to include a portion of the Balboa Peninsula (east of the Newport Pier). With the inclusion of beach acreage, there is not a citywide deficit. Even with the inclusion of beach recreation acreage, a 19.4-acre deficiency occurs in West Newport.

The General Plan identifies three planned parks in West Newport, Newport Center, and Newport Coast which would help alleviate the deficiency. The park in Newport Coast has been completed. As identified in the General Plan, the fastest growing recreational demand in Newport Beach is the need for additional sports fields. The Recreation Element states "There is a future park site identified in this service area, Sunset Ridge Park which is designated as an active park to include ball fields, picnic areas, a playground, parking, and restrooms".

December 11, 2009

Letter P40

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.

P40-1

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

P40-1
cont.

P40-2

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...”

P40-2
cont.

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.

P40-3

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).

P40-3
cont.

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)

P40-4

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.

P40-4
cont.

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.

P40-5

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.

P40-6

P40-7

P40-8

P40-9

- 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. } P40-9
- 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. } cont.
- 7. (Ex. 3-8) This graphic appears to identify only the 13.7-acre former Caltrans site as the project site. } P40-10
- 8. (p. 3-7) Which of the project objectives provides for widening of West Coast Highway? } P40-11
- 9. (p. 3-7) Which of the project objectives provides for placement of engineered fill on the Banning Ranch property? } P40-12
- 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? } P40-13
- 11. (p. 3-8) What is the "memorial garden"? What memorials will be placed in the garden? What will the garden memorialize? } P40-14
- 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? } P40-15
- 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? } P40-16
- 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? } P40-17
- 15. (p. 3-10) The EIR must include an elevation of the proposed retaining wall. } P40-18
- 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. } P40-19
- 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. } P40-20
- 18. (p. 3-12) On what basis were the fill locations on Banning Ranch selected? } P40-21
- 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? } P40-22
- 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:

} P40-23

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.

P40-23
cont.

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

P40-24

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.

P40-25

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. P40-25
cont.
 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. P40-26
P40-27
 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. P40-28
 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. P40-29
 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. P40-30
 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. P40-31
 9. (p. 4.1-66) The following policies require that environmentally sensitive habitat areas (ESHAs) be protected: P40-32
 - 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.

P40-32
cont.

P40-33

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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.

P40-35

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?

P40-36

P40-37

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.

P40-38

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.

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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.

P40-47

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.

P40-48

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.

P40-49

P40-50

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.

P40-51

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.

P40-52

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, subs. (a)-(c), 30001.5, subd. (a); *Pygmy Forest, supra*, 12 Cal. App. 4th at p. 613, 15 Cal. Rptr. 2d 779.)

P40-52
cont.

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.

P40-52
cont.

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.

P40-53

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.

P40-53

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?

P40-54

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.

P40-55

5. (p. 4.6-24) Thresholds of significance must include any impacts on ESHA.

P40-56

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 extension 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.

P40-57

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.

P40-58

9. (p. 4.6-28) Why is the site mowed? Could this not be considered incidental take?

P40-59

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*.

P40-60

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?

P40-61

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.

P40-62

Geology and Soils

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

P40-63

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.

P40-63
cont.

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.

P40-64

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. } P40-65
 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. } P40-66
 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. } P40-66

Hazards and Hazardous Materials

1. A map of the known hazardous sites closest to the project site would be helpful in this section. } P40-67
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. } P40-68
3. The EIR must explain what remediation would entail in terms of noise, materials hauling, and potentially toxic air emissions. } P40-69

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. } P40-70

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? } P40-71
2. (p. 4.10-9) Has the capacity of the box culvert been exceeded in the past decade? By much? } P40-71
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). } P40-72
4. (Figure 4.10-3) Existing drainage must be shown for all areas within the project boundary. } P40-73
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. } P40-74
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. } P40-75
7. (p. 4.10-18) What steps will be taken to monitor the quality of any perched water to be removed? } P40-76
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 } P40-77

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

} P40-77
cont.

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.

} P40-78

10. (p. 4.10-22) What year storm will the detention basins and treatment facilities be designed to handle?

} P40-79

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.

} P40-80

Public Services and Utilities

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

} P40-81

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 us of areas and include all related documentation in an addendum.

} P40-82

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.

} P40-83

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 resulti 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?

} P40-84

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?

} P40-85

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?

} P40-86

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?

} P40-87

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.

} P40-88

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).

} P40-89

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

Yours truly,



Sandra L. Genis

Letter P40 Sandra Genis
December 11, 2009

Response 1

The proposed Project, as set forth in the EIR, analyzes the potential environmental effects associated with the implementation and operation of the park, inclusive of a park access road. The access road is proposed on the Newport Banning Ranch property because ingress/egress to the City's property cannot be provided. With respect to the temporary haul road and stockpile locations on the Newport Banning Ranch property, the Draft EIR identifies and evaluates two options for the disposal of excess material from the Sunset Ridge Park site: the adjacent Newport Banning Ranch property or an alternative off-site location. Therefore, the stockpile areas are evaluated in the Draft EIR; however, they are not required as a part of the Project.

Response 2

Please refer to Topical Responses 1 and 2.

Response 3

Use of the adjacent Newport Banning Ranch property for the park access road would require an access easement from the Newport Banning Ranch property owner. The City is in the process of finalizing the access agreement with the Newport Banning Ranch property owner. The City Council will consider the agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines. The access agreement is intended to be independent and does not presuppose development by the Newport Banning Ranch applicant.

Response 4

The commenter's opinion is noted. Please refer to Topical Responses 1 and 2.

Response 5

Exhibits 4.8-1 and 4.8-4 have been modified and are incorporated into the Final EIR. With respect to the acreage associated with passive versus active park uses does not raise an environmental issue. Potential impacts were based on disturbance areas.

Response 6

As stated in Section 3.0, Project Description, of the Draft EIR, the Sunset Ridge Park Project site encompasses approximately 18.9 acres. Approximately 13.7 acres are located within the incorporated boundary of the City of Newport Beach, and approximately 5.2 acres are in unincorporated Orange County within the City's adopted Sphere of Influence, as approved by the Local Agency Formation Commission of Orange County. With respect to the temporary haul road and stockpile locations on the Newport Banning Ranch property, the Draft EIR identifies and evaluates two options for the disposal of excess material from the Sunset Ridge Park site: the adjacent Newport Banning Ranch property or an alternative off-site location. While the stockpile areas are evaluated in the Draft EIR, they are not required as a part of the Project. Please refer to the response to Comment 1.

Response 7

The use of a portion of the Newport Banning Ranch property is proposed to be included as part of the Project because access cannot be provided from the City's property. The City's Public Works Department has identified that access along the Superior Avenue and West Coast Highway frontages would not meet current traffic engineering standards and would therefore be unsafe. While additional studies would most likely further validate the denial of access at this point, the findings that the Traffic Engineer has previously identified are sufficient evidence to support denial of any access at these locations. The following are a few of the City identified issues associated with an access road along Superior Avenue and West Coast Highway:

Superior Avenue

- The measured speeds on Superior Avenue are 46 mph. At this speed, a driver needs 480 feet to decelerate into an access point.
- Given the grades of the slope between Superior Avenue and the Project site, it appears that the only logical location to consider access is at the northeast corner of the property. At this location, the City sight distance requirement of 450 feet cannot be met because of the curvature of the roadway.
- There is an on-street striped bike lane.

West Coast Highway

- The measured speeds on Coast Highway are 52 mph. At this speed, a driver needs 500 feet to decelerate into an access point. The length of the property frontage for Sunset Ridge Park on Coast Highway is approximately 350 feet. There is insufficient length for deceleration into the property.
- There is an existing lane drop across the entire property frontage on Coast Highway. Within a short segment of roadway there would be a mix of through traffic in the lane drop area with vehicles attempting to decelerate into a project driveway.
- The existing grade from Coast Highway to the Project site is steep. The maximum driveway grade per City standard is 15 percent. To provide a driveway into the site, the length of the driveway would approach approximately 200 feet.
- There is an existing on-street striped bike lane.
- There are dual right turn lanes from southbound Superior Avenue onto Coast Highway. This presents an additional volume of vehicles required to merge with through traffic and with vehicles trying to access the park driveway.

The City has been working with the property owner of the Newport Banning Ranch property for the park access road. The access agreement is intended to be independent and does not presuppose development by the Newport Banning Ranch applicant. The option to use a portion of the Newport Banning Ranch property was raised as an option to reduce and minimize the effects of off-site transport of excess dirt.

Response 8

The scenic easement requirements are on file at the City of Newport Beach Planning Department, 3300 Newport Boulevard, Newport Beach, California, and area available to review during regular business hours.

Response 9

Both stockpile sites are located on the Newport Banning Ranch property. The southern proposed stockpile location is west of Newport Crest Condominiums in the City of Newport Beach. The northern proposed stockpile site is adjacent to the City of Newport Beach Utilities Yard and Carden Hall School in the City of Newport Beach. Properties in Costa Mesa are not adjacent to the proposed optional fill sites. Properties in Costa Mesa on 16th Street near the Newport Banning Ranch property are predominately office and light industrial.

Response 10

The Newport Banning Ranch property is designated Open Space/Residential Village; the Newport Crest Condominiums are designated RM (Multiple-Unit Residential); the Utilities Yard is designated PF (Public Facilities); and Carden Hall School is designated PI (Private Institutions).

Response 11

The widening of a portion of the northern side of West Coast Highway from Superior Avenue to a point east of the access road (approximately 620 linear feet [LF]) is proposed consistent with the standards of the *City of Newport Beach General Plan's* Circulation Element and the Orange County Master Plan of Arterial Highways.

Response 12

Please refer to the responses to Comment 1, 6, and 7.

Response 13

For purposes of calculating maximum daily emissions, a reasonable worst-case haul distance of 40 miles per round trip was used, based on known available spoils sites. When an export site is not known, the City uses the Bowerman Landfill in the City of Irvine as a default.

Response 14

The question does not raise an environmental issue. The memorial garden is to honor the memory of an early proponent of the park Project who has since passed on, and had asked that a butterfly garden be included in the project.

Response 15

Please refer to Exhibit 3-10 of the Draft EIR. Of the 620 feet of highway frontage to be used for the proposed widening of West Coast Highway, approximately 160 feet of frontage ranging from 0 to 3 feet in width of the City-owned 13.7 acres would be used.

Response 16

The new traffic signal and four of the five existing streetlights would not be located in the scenic easement. One existing streetlight, which would be moved slightly back to accommodate the proposed road widening, would be located in the scenic easement. The scenic allows uses permitted in the Open Space-Active zoning district (active recreational uses), which would include streetlights necessary as a public safety feature.

Response 17

As assumed in the Draft EIR analysis and noted by City recreation staff, scheduling of games would be such that only one of the sports fields would be scheduled for game use at any one time. A parking supply of 97 spaces would be adequate to accommodate the parking needed for one active field and the remaining park uses. The City has the ability to modify the scheduling of games should it be deemed necessary.

Response 18

As stated in Section 3.0, Project Description, page 3-10 of the EIR,

A retaining wall ranging in height from approximately four to ten feet would be constructed north of the active park uses and extend from approximately the parking lot in the west to the end of the soccer field (upper field) in the east. A landscaped berm would also be constructed north of the retaining wall but in the same general location as the retaining wall, and would extend to the northern property line (to the condominium residences north of the park). An approximate six foot-high security fence would be located at the northern terminus of the landscape berm between the active park uses and the residential uses. Landscaping is proposed along the northern and southern side of the fence. No gated access from the existing residences into the park is proposed.

Section 4.1, Land Use (page 4.1-14) is hereby clarified and incorporated into the Final EIR as follows:

Currently, those residents with condominium units facing the Project site view an undeveloped property. With the implementation of the proposed Project, residents with existing views of the site would view park uses rather than an undeveloped parcel. While the proposed park would be contiguous to the existing residential development, a landscaped buffer would be provided on the park between the residences and the active park uses. The buffer would vary in height from approximately 10 feet to 18 feet above the active park area. The height of the landscaped buffer is planned to be 60 to 64 feet above mean sea level [msl] with an average height of 60 to 61 feet above msl and would vary in width from approximately 60 feet to 80 feet. All active park uses would be sited south of the buffer. Park uses would range in distance from approximately 105 feet (pedestrian walkway) to 133 feet (north soccer field) to 156 feet (baseball field) from the existing residences. At its closest point, the access road into the park would be approximately 82 feet from the nearest condominium unit; the parking lot would be approximately 134 feet from the nearest unit. No pedestrian access would be provided into or out of the park from the residential development.

Response 19

Materials have not been determined for the security fence. The Draft EIR notes that no reflective materials are proposed to be used.

Response 20

The City is currently working with the applicable regulatory agencies (i.e., U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and California Department of Fish and Game) to identify the mitigation obligations of the City with respect to biological resources. Representatives of the Newport Banning Ranch property have also been involved as the park site includes property owned by Newport Banning Ranch and any landscaping and/or habitat restoration and creation proposed by the City along the entry road requires consultation and coordination with Newport Banning Ranch. All parties are working cooperatively to identify potential locations on the Sunset Ridge Park site where restoration and enhancement could occur. The Newport Banning Ranch EIR will identify and include an assessment of potential biological resources on the property. Those areas of the Newport Banning Ranch property that would be used to implement the Sunset Ridge Park Project were evaluated as a part of the Sunset Ridge Park EIR as well as all existing available information on the Newport Banning Ranch site.

Response 21

The identification of the stockpile locations was selected following consultation with the property owners of Newport Banning Ranch. The area by the City Utilities Yard (stockpile no. 1) was selected because it was previously used as a construction staging area for another City project in the mid-1990s and a storm drain system in that area was added at that time.

Response 22

The area would be revegetated, as needed, to minimize erosion and dust control.

Response 23

The Coastal Land Use Plan for the City of Newport Beach does not identify Environmentally Sensitive Habitat Areas (ESHAs); such a determination is made by the California Coastal Commission. The Project site is not identified on the CLUP as an Environmental Study Area (ESA). Based on this information, the Project would be consistent with these Coastal Act sections.

Consistency with Section 30251 of the Coastal Act concerning scenic and visual qualities of coastal areas is addressed in Section 4.2, Aesthetics, of the EIR: Areas to the north, east and south of the proposed park site are developed, and areas to the west have been under oil field production for over 60 years. Once developed, the Sunset Ridge Park would provide additional public view opportunities of the Pacific Ocean and associated coastline that would not occur where it not for the proposed Project. The Project is considered consistent with Section 30251.

Response 24

In addition to an undeveloped parcel in the foreground which would be developed as a community park with large open landscaped play fields, residents of the condominium complex would retain views of the Pacific Ocean.

Response 25

The Project site has been subject to disturbance and alteration. For example, the realignment of Superior Avenue required approximately 215,000 cubic yards of cut. There are no natural landforms remaining on the site and limited native vegetation. The general character of site would remain due to the type and the extent of recreational development within the community park including large open play fields with minimal recreation-related structural development. Also, the existing concrete trapezoidal channel within the Project site would be placed underground and provide for additional landscape improvements proposed to enhance the visual qualities of the Project site. Therefore, the proposed Project is consistent with Land Use Policy 5.6.4.

Response 26

Biological studies completed for the Project identified small patches of degraded, low value habitat. In addition, although no wetland resources were detected within the site, resources considered to be Waters of the State do occur within the Project site. As addressed in the Draft EIR, impacts to these resources would require authorization from the California Department of Fish and Game pursuant to Section 1600 of the California Fish and Game Code. The City would submit regulatory permit applications for the Project.

Response 27

HB Policy 8.20: Impervious Surfaces states “Require new development and public improvements to minimize the creation of and increases in impervious surfaces, especially directly connected impervious areas, to the maximum extent practicable. Require redevelopment to increase area of pervious surfaces, where feasible”. This policy does not mandate that the pavement be pervious. Please refer to Section 4.10, Hydrology and Water Quality, which addresses the features of the Project including stormwater routing and treatment features including:

- A bioswale adjacent to the park access road to detain and treat storm water flows from the access road and adjacent slope.
- An on-site vegetated dry creek within the parking lot to collect and treat flows from the parking lot.

Response 28

The existing habitat values within and immediately adjacent to the Project site were determined to be very low during the biological evaluations conducted for the EIR. The area containing coastal bluff scrub is being preserved as part of the Project design, consistent with the Natural Resources Element NR Policy 10.4: New Development Siting and Design requirements. Impacts to all other low value coastal sage scrub and disturbed mule fat scrub/goldenbush scrub would occur and would be mitigated pursuant to the requirements of Section 7 of the Federal Endangered Species Act. Compliance with mitigation would insure adequate protection of sensitive resources with no significant disruption in of habitat values. Therefore, the Project is consistent with the provisions of the Natural Resources Element Goal NR 10.

Response 29

The proposed Project is a community park with large open playing fields and minimal structural improvements. As noted in the response to Comment 28, the Project site does not contain high

value habitat resources. However, areas containing coastal bluff scrub are being protected as part of the Project design. Areas around the protected coastal bluff scrub would also provide sufficient buffers with no structural development. The Project would also include the use of native vegetation as part of the landscape design in designated areas that not being used for active recreation purposes. Therefore, the Project would be consistent with the intent of NR Policy 10.6.

Response 30

As previously noted in the response to Comment 28, the habitat on Project site is considered to be of low value. However, areas containing coastal bluff scrub are being protected as part of the Project design. In addition, the Project design includes habitat enhancement using appropriate plantings of native plant species to increase habitat functions and values.

Response 31

NR Policy 20.4: Public View Corridor Landscaping states “Design and site new development, including landscaping, on the edges of public view corridors, including those down public streets, to frame, accent, and minimize impacts to public views.” The commenter is directed to Section 4.4, Aesthetics, which includes photographs of the Project site from Superior Avenue, West Coast Highway, and from the site, and visual simulations from these same locations. While the site would be graded in order to provide active sports fields, the City would also be landscaping the site. Please also refer to the response to Comment 25.

Response 32

Please refer to the response to Comment 23.

Response 33

Please refer to the response to Comment 29.

Response 34

Policy 4.4.1-1, states “Protect and, where feasible, enhance the scenic and visual qualities of the coastal zone, including public views to and along the ocean, bay, and harbor and to coastal bluffs and other scenic coastal areas.” The Project is consistent with this Coastal Land Use Plan policy. The Project would provide public access within the coastal zone with views of the ocean. It includes a designated Public View Point that would contain an overlook with seating and shade structure. Walking paths would be provided throughout the park.

Response 35

As previously noted, Exhibits 4.8-1 and 4.8-4 have been modified and are incorporated into the Final EIR. Cross sections are included in Section 4 of this Responses to Comments document. Cross sections are included in Section 4 of this document.

Response 36

The slope extending upward from Superior Avenue (depicted in View 1) would be approximately two to five feet lower than the existing slope. The slope in the northeastern portion of the Project site varies in height and would be up to 15 feet lower than the existing slope in some areas.

Response 37

Exhibits 4.2-3a, -3b, -3c, and -3d are photographs of the Project site. With respect to the proposed Newport Banning Ranch project, it is not a part of the Sunset Ridge Park Project.

Response 38

Please refer to Topical Responses 1 and 2, and the responses to Letter S1, Caltrans. The proposed location and alignment of the access road for the park coincides with and is consistent with the City of Newport Beach General Plan, which assumes a roadway connection through the adjacent Banning Ranch property from West Coast Highway to 19th Street. The roadway cross section and lane geometrics have been designed to accommodate only traffic generated by the park. If development of the Banning Ranch property is approved according to the City of Newport Beach General Plan, additional improvements to the road would be needed to accommodate the development traffic.

Response 39

The comment does not raise an environmental issue. The Project would comply with all federal, State, and local requirements for handicapped access.

Response 40

The Project is not subject to the City of Newport Beach Traffic Phasing Ordinance (TPO). The City's TPO first requires determination of whether project trips will increase traffic volumes on any leg of a Primary Intersection by one percent or more during either the morning or evening peak hour one year after project completion, or that portion of the project expected to be constructed within five years (sixty months) of project approval. The TPO then requires a Level of Service analysis of the project impact at any Primary Intersection that exceeds the 1% threshold. The Sunset Ridge Park Project does not meet these criteria.

Response 41

Please refer to the responses to Comment 1 and 15. The 18.9 acres include all areas of the park, including the park access road and the parking. Of the 620 feet of highway frontage to be used for proposed widening of West Coast Highway, approximately 160 feet of frontage ranging from 0 to 3 feet in width of the City-owned 13.7 acres would be used. Trip generation is based on trip rates provided in the Institute of Transportation Engineers (ITE) Trip Generation (8th Edition) publication, which are based on the total site acreage, including the portion of the site used for access and circulation in their calculations. The trip estimates include trip assumptions for the entire 18.9 acres, plus trips for both soccer fields, even though it is intended that only one would be used at a time, for a more conservative analysis.

Response 42

The requested information about cumulative and committed projects is in Appendix B of the Sunset Ridge Traffic Impact Analysis. The Traffic Impact Analysis is in the Draft EIR.

Response 43

Potential construction-related traffic impacts on West Coast Highway are addressed in the Draft EIR. Should Project construction require lane closure(s) on West Coast Highway, temporary

traffic control plans would be prepared and implemented in accordance with Caltrans' standards.

Response 44

The ADT volumes on Table 4.3-9 do not represent trip generation for uses only on the Banning Ranch property. If a road is constructed through the Banning Ranch property in accordance with the General Plan, some area traffic will be re-routed to take advantage of the alternate connection to West Coast Highway. The ADT volumes shown on this table for the Open Space option and the Residential Village option are derived from General Plan forecast data developed for the General Plan Update using the Newport Beach Traffic Model (NBTM), and include both site-generated traffic as well as re-directed area traffic. Under both options, the roadway system was modeled to represent the buildout of the City's Circulation Element, which assumes a road constructed between West Coast Highway and 19th Street, with connections to 17th and 15th Streets.

Response 45

This option of allowing left turns only during non-peak hours is not considered because anticipated non-compliance and the additional resources needed for enforcement.

Response 46

Please refer to the response to Comment 1. Parking calculations are based on rates provided in the Institute of Transportation Engineers (ITE) Parking Generation publication, which are based on the total site acreage, including the portion of the site used for access and circulation. A parking supply of 97 spaces would be adequate and appropriate to accommodate the parking needed for one active field and the remaining park uses.

Response 47

The SCAQMD LST lookup table methodology is limited to a maximum site size of five acres; the Project site is greater than five acres. The SCAQMD suggests that dispersion modeling be conducted for sites larger than five acres; however the topography and grading plan for the park site is too complex for dispersion modeling to yield meaningful results. In the LST methodology, the emissions thresholds increase with an increase in site size. Therefore, if the SCAQMD methodology was extended to the Project area that is to be graded, on the order of 15 acres, then the Project emissions would exceed the threshold by a smaller amount, or might not exceed the thresholds at all. Therefore, limiting the Project grading to five acres or less may not limit the PM emissions. However, a mitigation measure has been added that would limit the daily emissions of PM10 to 40 pounds. The measure is hereby incorporated into the Final EIR as follows:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.

Response 48

The closest sensitive receptors to the Project site are the Newport Crest Condominium development (located to the north and northeast); Carden Hall (located east of one of the proposed stockpile sites); Hoag Hospital, located to the southeast across Superior Avenue; and residences across West Coast Highway to the southwest. All of these receptors are located in

the City of Newport Beach. The nearest sensitive receptors in Costa Mesa are located approximately 1,600 feet from that portion of the Project site where mass grading would occur and approximately 1,000 feet from the dirt haul route and staging area in the Newport Banning Ranch property. As shown in Table 4.4-9 of the Draft EIR, the maximum daily emissions for criteria pollutants of local concern would be below the LST thresholds when grading occurs at distances greater than 164 feet. Therefore, local air quality impacts would be less than significant at any receptor in Costa Mesa. In accordance with SCAQMD Rule 403, stockpiles would be stabilized to minimize the fugitive dust emissions.

Due to distance and intervening structures, grading activities at the Project site would not be audible at the nearest noise sensitive uses in Costa Mesa. During the mass grading phase of construction, as much as 34,000 cubic yards (cy) of soil could be exported to the Newport Banning Ranch property. The haul route would be located as near as approximately 1,000 feet from the Island View Trailer Park, which is the nearest noise sensitive receptor in the City of Costa Mesa. Dump trucks passbys can generate maximum noise levels of 84 dBA L_{max} at a distance of 50 feet. At 1,000 feet, a dump truck passby would generate up to 51.5 dBA L_{max} . Construction would result in a temporary increase in ambient noise to the nearest noise sensitive uses in the City of Costa Mesa that would cease upon completion of the noisier activities in the early months of Project construction. While construction-related noise may be perceptible, the resulting noise would be below the City of Costa Mesa 55 dBA L_{eq} noise standard for daytime hours from 7:00 AM to 10:00 PM. This would not be considered a significant impact. Potential impacts to residents south of West Coast Highway are addressed in Section 4.5, Noise, of the Draft EIR.

Response 49

The Draft EIR identifies construction-related noise levels adjacent to the Newport Crest Condominiums facing the Project site as well as from the center of the site. Not all construction activity would occur at the edges of the site; the center is representative of construction noise levels.

Response 50

The potential effects of the removal of the existing sound wall and grading are analyzed in Section 4.5, Noise, of the Draft EIR; please refer to pages 4.5-15 through 4.5-17. The traffic noise impacts were modeled for future conditions with the FHWA's Traffic Noise Model (TNM) version 2.5). The noise impacts were modeled for first floor patios and second floor balconies at 20 Newport Crest condominiums at the buildings adjacent to the Project site. Due the grading and the implementation of landscaping, the proposed grading would result in traffic noise level changes to patios and balconies facing the Project site from -5 to 2 dBA. Most patios and balconies at the buildings on Swift Court, Land Fall Court, and Ima Loa Court would experience a reduction in traffic noise levels due to changes in topography and landscaping.

The change in site topography with Project implementation is expected to result in permanent traffic noise increases of up to 2 dBA at some of the patios and balconies facing the Project site. These increases would not exceed the significance criteria for traffic noise increases included in the City's General Plan Noise Element. Noise increases of up to 3 dBA are "barely perceptible" to most people. Therefore, the change in site topography with Project implementation would not result in significant increases in traffic noise to nearby noise sensitive receptors.

Response 51

Please refer to the response to Comment 23.

Response 52

Please refer to the response to Comment 23.

Response 53

Spring botanical surveys were conducted on the Project site on April 27 and June 30, 2009. Prior to the surveys, a known reference population of the focal species was visited to ensure timing of the survey was appropriate and adequate rainfall had occurred for the focal species to germinate. CDFG ecologists state that checking reference populations and documenting the reference populations with data on phenology and photographs of the reference populations in flower is imperative to the support of findings for botanical surveys conducted in years with low rainfall.

Additionally, special status plant surveys followed the California Native Plant Society (CNPS) and CDFG Botanical Survey Guidelines, as stated in Section 4.6.4 (Methodology) of the Draft EIR. These guidelines state the following:

- Section 4.2 “Botanical Survey should be conducted in the field at the proper times of year when special status and locally significant plants are both evident and identifiable. When special status plants are known to occur in the type(s) of habitat present in the project area, nearby accessible occurrences of the plants (reference sites) should be observed to determine that the plants are identifiable at the time of survey;
- The reporting portion of the guidelines state “2) Description of reference site(s) visited and phenological development of the target special status plants, with an assessment of any conditions differing from the project site that may affect their identification”; and
- The discussion portion of the guidelines states to include “1) Any factors that may have affected the results of the surveys (e.g., drought, human disturbance, recent fire).”

Response 54

Under contract to the City, BonTerra Consulting Senior Biologist Brian Daniels determined that the willow scrub and disturbed mule fat scrub/goldenbush scrub vegetation on the Project site is not extensive enough and lacked sufficient dense understory vegetation to support breeding least Bell’s vireo. Therefore, focused surveys for this species were not conducted. However, periodic checks made in June 2009 did not detect this species. Additionally, focused surveys for the coastal California gnatcatcher conducted on the Project site in April and May 2009 did not detect any least Bell’s vireos on the Project site. While these surveys were not focused in vireo habitat, they were conducted within areas immediately adjacent to the willow scrub and mule fat scrub/goldenbush scrub vegetation; therefore, if vireos were present, they would have been observed or detected.

Response 55

The California Coastal Commission uses a single parameter for the identification of “Wetlands” using the U.S. Army Corps of Engineers (USACE) 1987 Manual and Arid West Supplement to the USACE Manual. The Coastal Commission further defines wetlands as: *“Wetland” means lands within the coastal zone which may be covered periodically or permanently with shallow*

water and includes salt marshes, freshwater marshes, open and closed brackish water marshes, swamps, mudflats, and fens”.

The USACE and the U.S. Environmental Protection Agency generally do not assert jurisdiction over the following features: (1) swales or erosional features (e.g., gullies, small washes characterized by low volume, infrequent, or short duration flow) and (2) ditches (including roadside ditches) excavated wholly within and draining only uplands and that do not carry a relatively permanent flow of water. Area containing a small patch of willow trees is located in an area determined to be an erosional feature. This determination that this site is an erosional feature was based on 1) the absence of evidence of an ordinary high water mark, 2) the knowledge that this area historically did not contain potential Waters of the U.S., and 3) that the area experienced significant modification as result of previous use of the site for borrow material for the construction of Coast Highway. This site also does not contain any evidence of the presence of a salt marsh, freshwater marsh, open and closed brackish water marsh, swamp, mudflat or fen.

In addition, an area containing a seasonal seep was identified along Superior Avenue. Although the site did contain a very low absolute cover of obligate hydrophytic vegetation, this site was dominated by non-native upland (UPL) and facultative upland (FACU) species which did not pass the Dominance Test for hydrophytic vegetation. Also, the area did not meet the nexus requirements of adjacency to traditional navigable waters.

Based on the jurisdictional delineation report and an on-site verification of the findings contained the jurisdictional delineation report by USACE staff, the Project area does not contain resources considered jurisdictional by the USACE. Although the USACE has determined that the site does contain resources under its jurisdiction, the California Coastal Commission would also need to consider the data contained in the jurisdictional delineation as the basis for its final determination concerning jurisdictional wetlands.

Response 56

Please refer to the response to Comment 23.

Response 57

Focused surveys for special status plant species were conducted in spring/summer 2009. California boxthorn, a CNPS List 4.2 species, was the only special status plant species found on the Project site. This species was observed in the southern coastal bluff scrub located in the central, preserved portion of the Project site. Impacts on CNPS List 4 (a watch list) species are considered less than significant and no mitigation is required. In addition, the majority of the southern coastal bluff scrub (the vegetation type this species was found in) will remain as open space and not be impacted by the proposed Project. Therefore, the Draft EIR concludes that impacts on this species would be less than significant.

Response 58

Please refer to the response to Comment 20. The City is currently working with the applicable regulatory agencies (i.e., U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and California Department of Fish and Game) to identify the mitigation obligations of the City with respect to biological resources. Representatives of the Newport Banning Ranch property have also been involved as the park site includes property owned by Newport Banning Ranch and any landscaping and/or habitat restoration and creation proposed by the City along the entry road requires consultation and coordination with Newport Banning Ranch. All parties are

working cooperatively to identify potential locations on the Sunset Ridge Park site where restoration and enhancement could occur.

Response 59

Until 2000, Caltrans performed annual weed abatement of the Project site by disking the property with a tractor and attached a disc tool. Subsequent to 2001, Caltrans performed weed abatement by mowing. After the City took ownership of the property, the work was performed by hand using "weed whacker". The requirement to clear the property of all weeds, grass, vines, and other vegetation comes from Fire Code Section 1103.2.4, "Combustible Vegetation". This regulation is separate and distinct from the Hazard Reduction and Fuel Modification regulations enforced throughout the City's Special Fire Protection Areas in that they only apply to weed abatement and not wildland fuels.

Response 60

The opinion of the commenter is noted.

Response 61

The Newport Banning Ranch property is assumed in the cumulative biological resources analysis; both properties are within the boundaries of the NCCP.

Response 62

Page 4.7-7 has been revised and incorporated into the Final EIR as follows:

Mr. Patrick Maxon, RPA visited the Project site on February 27, 2009, to evaluate existing conditions. BonTerra Consulting completed an archaeological test excavation in June 2009. CA-ORA-1600, CA-ORA-1601H, and CA-ORA-1602H were subjected to test excavations; CA-ORA-1610H was further studied through historic research and on the ground survey. A brief description of each site is provided, as well as a determination of eligibility for the NRHP. As previously addressed, most resources deemed eligible for the NRHP would be considered eligible for the CRHR. Final determinations are made by the SHPO. With respect to the proposed stockpile sites and temporary haul route on the Newport Banning Ranch property, the property has been subject to prior investigation and testing. As a part of the currently proposed City of Newport Beach Banning Ranch development project, BonTerra Consulting completed an archaeological test excavation of 11 archaeological sites present on the Banning Ranch property in June 2009. Three of the 11 sites were CA-ORA-1601, CA-ORA-1602, and CA-ORA-1610. CA-ORA-1601 and CA-ORA-1602 were subjected to test excavations during the study and CA-ORA-1610 was further studied through historic research and on the ground survey. No sites were identified within the boundaries of the stockpile area or haul route.

Response 63

The Draft EIR evaluates the potential effects of Project implementation including any potential impacts associated with the use of the haul road and the stockpile sites. The Mitigation Program set forth in the Draft EIR also applies to the haul road and stockpile sites.

Response 64

Exhibits 4.8-1 and 4.8-4 have been modified and are incorporated into the Final EIR.

Reference to the relevant policies contained within the California Coastal Act have been added to page 4.8-2, paragraph 2 as follows:

California Coastal Act

Section 30253 of the California Coastal Act contains policies to minimize the adverse impacts of new development. Relevant elements of this section to geology and geological issues for proposed Project planning are addressed in subsections (a) and (b) as follows:

(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.

The following text has been added to page 4.8-8 and is incorporated into the Final EIR as follows:

The City of Newport Beach General Plan (CNB 2006a) also identifies an area in the vicinity of the proposed access road as potentially susceptible to seismically induced landslides. However, it appears that proposed grading will remediate this area during Project construction. Further geotechnical study and exploration would be performed when the Project grading plan is available for this area.

Response 65

The fill area near 16th Street and the City's Utilities Yard is in an area previously used as a construction staging area for a past City project. The Utilities Yard expansion and associated slope into the fill area was developed in the mid-1990s. Adding fill in this stockpile location would abut against the existing slope and would add further support. The fill in this stockpile location would not "enhance" any existing landslide areas.

Response 66

The proposed Project has been subject to extensive landform modifications over the years. Topographical modifications associated with the Project are not considered significant. The Project would not contribute to any potential cumulative impacts associated with this topic.

Response 67

As identified in Section 4.9, Hazards, of the Draft EIR, the *EDR Radius Map™ Report with Geo Check* (EDR Report), prepared by Environmental Data Resources, Inc. (EDR) in March 2009 is on file with the City of Newport Beach and is available for review during regular business hours.

Response 68

The following measures are provided and included in the Final EIR to address potential unknown oil field facilities:

MM 4.9-3 Prior to grading, the contractor shall develop an approved Health and Safety Contingency Plan (HSCP) in the event that unanticipated/unknown environmental contaminants are encountered during construction. The plan shall be developed to protect workers, safeguard the environment, and meet the requirements of the California Code of Regulations (CCR), Title 8, General Industry Safety Orders – Control of Hazardous Substances.

The HSCP should be prepared as a supplement to the Contractor's Site-Specific Health and Safety Plan, which should be prepared to meet the requirements of CCR Title 8, Construction Safety Orders.

Specifically, the HSCP must:

1. Describe the methods, procedures, and processes necessary to identify, evaluate, control, or mitigate all safety and health hazards associated with any soil, groundwater, and/or air contamination that may be encountered during field construction activities.
2. Apply to all site construction workers, on-site subcontractors, site visitors, and other authorized personnel who are involved in construction operations.
3. Be approved by the Public Works Director.

The HSCP shall take effect only if materials affected by environmental contaminants are exposed during construction. This includes undocumented waste materials, contaminated soils, affected groundwater, and related substances that may be classified as hazardous or regulated materials, and/or materials that could endanger worker or public health. If affected materials are encountered, the HSCP shall be implemented to reduce the potential exposure to the environment and workers at the site. All site workers shall be required to perform work in a prescribed manner to reduce the potential that they will endanger themselves, others, or the general public.

MM 4.9-4 During construction, if environmentally affected soil, groundwater, or other materials are encountered on site, the Project Engineer shall be quickly mobilized to evaluate, assess the extent of, and mitigate the affected materials. The following is only applicable if materials affected by environmental contaminants are exposed during construction. The contractor or City's consultant shall be responsible for implementing all applicable sampling and monitoring of the project. Applicable sampling and monitoring activities can include air monitoring (both for personal protection and SCAQMD Rule 1166 compliance), collecting soil and groundwater samples for analysis, and documenting mitigation activities. Specific applicable sampling and monitoring requirements

shall vary, depending upon the nature, concentration, and extent of affected materials encountered.

Response 69

Please refer to the responses to Comment 68.

Response 70

The grading and fill placement for the stockpile areas on the Newport Banning Ranch property would be designed to minimize the impact to the existing drainage patterns on site by returning any diverted flows to its original tributary area. The fill sites would be graded to drain by sheet flow consistent with the existing site drainage patterns and any flows impeded by the fill site would be diverted around the fill site to their existing point of concentration within the drainage area by way of graded swales and/or underground storm drain pipe.

Response 71

Please refer to Appendix I for the analysis of the box culvert. The City has not observed any time when the capacity of the box culvert has been exceeded. The modifications to the landform and associated drainage changes would have a negligible effect to the box culvert operation.

Response 72

The clarifying text has been added to Section 4.10, Hydrology and Water Quality, page 4.10-12, and is incorporated into the Final EIR as follows:

Seepage was encountered in all borings at the site and observed approximately 5 to 15 feet below the ground surface elevation of the lower (southwestern) portion of the Project site, where a layer of sand and clay converge. Possible sources of seepage include the residential development north of the site (Newport Crest Condominiums) or shallow precipitation on site.

The Project site is also discussed in the impact section for Threshold 4.10-2 on page 4.10-20 of the Draft EIR. To minimize impacts from groundwater seepage, PDF 4.10-5 provides for a gravel subdrain system to be installed across the southern edge of the park at the top of the slope. This subdrain system will collect groundwater seepage from the condominium site to the north, as well as any shallow percolated runoff from the park. The impact discussion for Thresholds 4.10-1, 6, 7, 8, and 9 on page 4.10-18 discusses the requirement for dewatering of excavated material in areas where seepage is encountered during actual Project construction. Dewatering waste would be subject to regulatory water quality standards set forth in RWQCB Order No. 98-67, NPDES No. CAG998001 GENERAL WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES TO SURFACE WATERS WHICH POSE AN INSIGNIFICANT (DE MINIMUS) THREAT TO WATER QUALITY. Construction best management practices (BMPs) would also be implemented to ensure dewatering activities do not negatively affect waste discharge, water quality, or the beneficial uses of receiving waters.

Response 73

Information regarding drainage areas is on file at the City of Newport Beach and is available for review during regular business hours.

Response 74

The following text has been added to page 4.10-11 and incorporated into the Final EIR as follows:

Proposed amendments to the 2006 303(d) list of impaired water bodies are included in the Final 2008 California 303(d)/305(b) Integrated Report completed by the Santa Ana RWQCB. This report was forwarded to the SWQCB in April 2009 for approval. This report proposes the addition of the Semeniuk Slough (referenced in the subject report as the Newport Slough) to the 303(d) list for enterococcus, fecal coliform, and total coliform (Santa Ana RWQCB 2008). The Integrated Report sets TMDL development for 2021. Santa Ana River Reaches 3 and 6, both upstream of the Project site, have also been proposed for listing due to impairment by copper and cadmium, respectively. TMDLS for these reaches will be developed by 2021 and 2022.

The Contech Storm Filter Vault is one of the BMPs proposed for consideration at the Project site. This facility will provide direct water quality benefits in the reduction and control of fine solids, soluble heavy metals, oil and total nutrients.

Response 75

Please refer to the response to Comment 74.

Response 76

Please refer to the response to Comment 70. The stockpile sites would be graded and placed as engineered fill per the recommendations provided by the geotechnical engineer for the Project; perched water is not anticipated. If determined appropriate by the geotechnical engineer, canyon sub-drains may be located beneath the fill in order to provide a positive outlet for any groundwater encountered beneath the fill.

Response 77

The proposed Treatment Control Best Management Practices (BMPs) that would be used to improve the water quality of the site would vary in removal efficiencies depending on the storm event, the pollutant concentrations, the type of BMP, the location of the BMP, and the condition of the storm water received by said BMP. The proposed BMPs are noted in The Preliminary Water Quality Management Plan in Appendix I of the Draft EIR. The Project is required to treat the 85th percentile hourly rainfall for the equivalent of approximately 20.4 acres or the limits of grading, as required by the County of Orange Drainage Area Management Plan (DAMP). The proposed BMPs represent a practical and effective technique for controlling urban runoff quality and the targeted constituents include: sediment, nutrients, trash, metals, bacteria, oil and grease, and organics. Data regarding the performance of Treatment Control BMPs can be found in Appendix I.

Response 78

As addressed in the Draft EIR, all Project impervious areas were considered in determining the storm water runoff to be treated for water quality purposes. The proposed Project resulted in an increase of impervious surface area over existing conditions of 14.4 percent associated with proposed hardscape features; this calculation was used, along with other pervious surface area changes, to calculate the water quality treatment runoff for the proposed Project. Project runoff

discharges from the site that would require treatment were calculated at 1.06 cubic feet per second (cfs, Urban Resources 2009a). Flows associated with surface runoff trend in southerly and westerly directions on site and are collected by the existing Caltrans 8-foot by 5-foot RCB in West Coast Highway. An analysis of existing and proposed Project conditions provided in the Draft EIE indicates an increase in peak flow runoff at the point where flows exit the site of 10.84 cfs and 13.27 cfs, for the 10-year and 25-year storm events respectively, due to the addition of impervious surfaces and modified land use. Flow volumes off the Project site are expected to increase slightly due to the increase in impervious surfaces; however these volume increases are expected to be negligible and have a less than significant impact on existing storm drain facilities. Flow velocities under existing conditions have been calculated to be 6.60 feet per second at the RCB; post-project velocities at this location are anticipated to be 6.80 feet per second, a negligible increase.

Response 79

Please refer to the response to Comment 78.

Response 80

Please refer to the response to Comment 78.

Response 81

Please refer to Section 4.11 of the Draft EIR; no impacts have been identified.

Response 82

Please refer to Topical Responses 1 and 2. Use of the adjacent Newport Banning Ranch property for the park access road would require an access easement from the Newport Banning Ranch property owner. The City is in the process of finalizing the access agreement with the Newport Banning Ranch property owner. The City Council will consider the agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines. The County of Orange would be required to approve the alignment of the access road. The access agreement is intended to be independent and does not presuppose development by the Newport Banning Ranch applicant.

Response 83

Please refer to the response to Comment 16.

Response 84

Please refer to Topical Responses 1 and 2 and the response to Comment 7.

Response 85

The easement restricts development rights to those permitted in the City's Open Space-Active (OS-A) zoning with additional limitations on the placement of permanent structures and pavement in the scenic easement area. Therefore, a road into the site from West Coast Highway would not be permitted.

Response 86

Please refer to the response to Comment 84. Vehicular access to the park site is necessary and cannot be provided directly from Superior Avenue to the City's property. As stated in Section 4.2, Aesthetics of the Draft EIR and depicted on Exhibit 4.2-1, the site contains a 197,720-square-foot (sf) scenic easement imposed by the California Department of Transportation (Caltrans) as a term of the sale of the property to the City. The easement is located generally from the property line adjacent to West Coast Highway to approximately halfway into the site. This easement restricts development rights to those permitted in the City's Open Space-Active (OS-A) zoning with additional limitations on the placement of permanent structures and pavement in the scenic easement area. Therefore, a road cannot be constructed through the scenic easement.

Response 87

The City has already acquired the Sunset Ridge Park site. Therefore, the feasibility of acquiring another parcel is a matter of policy.

Response 88

Similar to the analysis provided in Section 6.0, Alternatives to the Proposed Project, the development of passive park with no lawns or gardens would not achieve all of the Project objectives, specifically, to create more active parkland in West Newport Beach. The City has identified a citywide park deficiency. As identified in the General Plan, the fastest growing recreational demand in Newport Beach is the need for additional sports fields. The Recreation Element states "There is a future park site identified in this service area, Sunset Ridge Park which is designated as an active park to include ball fields, picnic areas, a playground, parking, and restrooms." The *City of Newport Beach General Plan* contains goals and policies that include developing Sunset Ridge Park and an active community park within Newport Banning Ranch with active and passive park uses. Therefore, creating a passive park would not be consistent with the General Plan goals and policies established for the West Newport Beach area.

Response 89

The opinion of the commenter is noted.

From: Don Bruner [mailto:don_bruner@hotmail.com]
Sent: Friday, December 11, 2009 3:44 PM
To: Brown, Janet
Subject: FW: Sunset Ridge Park DEIR Review of Biological Resources Issues

Dear Ms. Brown:
The email previously submitted to you did not have my address noted. I am sorry for any inconvenience I may have caused you.
Don Bruner
11 Serena Ct.
Newport Beach, CA 92663

} P41-1

-----Original Message-----
From: Don Bruner <don_bruner@hotmail.com>
To: jbrown@newportbeachca.gov
Cc: urryk@pfm.com; leslejdaigle@aol.com; dkiff@city.newport-beach.ca.us; parahdigm@aol.com; edselich@roadrunner.com; gardnerncy@aol.com; mfhenn@verizon.net; don2webb@earthlink.net
Sent: Fri, Dec 11, 2009 3:10 pm
Subject: Sunset Ridge Park DEIR Review of Biological Resources Issues

Dear Ms. Brown:

Please enter the below mentioned comments regarding the Hamilton Biological Report dated November 10, 2009 and the DEIR for Sunset Ridge Park Project into the record.

The attached Biological Letter Report refers to information that indicates the DEIR does not present the minimal standard report including where members of the public are having to point out the existence of extensive wetlands, the apparent illegality of mowing native plant communities that are designated as critical habitat for a listed species, the occurrence of the same listed species in areas the DEIR deems unoccupied, the suppressed or ignored results of previous survey efforts of the project site, and many other basic facts that the EIR preparer has either overlooked or misinterpreted, always in the client's favor the City of Newport Beach.

On behalf of the Banning Ranch Conservancy, Hamilton Biological, Inc., reviewed the Draft EIR for the proposed Sunset Ridge project and on November 10, 2009, submitted the attached Biological Letter Report to you with his review comments on Appendix E to the Sunset Ridge DEIR (BonTerra's biological technical report). As part of the review, Mr. Hamilton visited the project site on the afternoons of November 4 and 6, 2009. All photos included in the letter were taken on those two days. During the course of these two visits Mr. Hamilton walked the entire City parcel and looked out onto the Newport Banning Ranch parcel from public lands to the east. Mr. Hamilton took samples of some wetland plants to botanist David Bramlet for identification.

SUMMARY & CONCLUSION (COPIED FROM THE LETTER REPORT)

As documented herein, the biological resources section of the Sunset Ridge DEIR does not reflect the best available science and is severely deficient in many ways:

- Numerous plant communities are incorrectly mapped and classified, including the failure to identify one or more obvious wetland areas covering approximately 0.7 acre. All of the DEIR's errors in plant community mapping are made in the direction of under-representing native communities and overstating the extent of ruderal or other communities that the EIR preparer considers to be of low biological sensitivity.
- The compendium of plant species identified by the EIR preparer on the project site does not include numerous species that are conspicuous on the site, most of which are obligate or facultative wetland indicator species. These include Emory Baccharis (*Baccharis emoryi*), Marsh Fleabane (*Pluchea odorata*), Salt Heliotrope (*Heliotropium curassavicum*), Spike Bentgrass (*Agrostis exarata*), spike-rush (*Eleocharis* sp.), Rabbitfoot Grass

(*Polypogon monspeliensis*), Narrowleaf Cattail (*Typha angustifolia*), and American Tule (*Scirpus americanus*).

- The compendium of wildlife species identified by the EIR preparer on the project site does not include the Side-blotched Lizard (*Uta stansburiana*), which is ubiquitous on the site. The failure to record this species during the many surveys that were conducted is nearly as surprising as the failure to detect the site's extensive wetlands.
- The DEIR's evaluations and findings about the California Gnatcatcher and its habitat usage on the project site are inconsistent with the substantial body of scientific literature concerning this federally listed species and its habitat requirements. The DEIR states that various scrub communities on the project "would not be considered utilized by the gnatcatcher" even though these areas contain the Primary Constituent Elements of California Gnatcatcher critical habitat. During just two brief afternoon visits I observed one or more pairs of California Gnatcatchers foraging within three areas of coastal scrub on the project site that the EIR preparer characterized as being unsuitable for the species.
- The DEIR states that 3.64 acres of disturbed encelia scrub that lies within designated critical habitat for the California Gnatcatcher is "regularly mowed for fuel modification and weed abatement purposes," but fails to inform the public (a) that California Encelia is not a "weed;" (b) that the Orange County Fire Authority expressly allows California Encelia to remain "in all fuel modification wet and dry zones in all locations;" (c) that mowing of California Encelia extends as much as 570 feet away from any structure that might require fire protection; and (d) that the City has not consulted with the U.S. Fish and Wildlife Service to determine whether mowing of encelia scrub at this location would represent a violation of the federal Endangered Species Act. Only by ignoring these relevant facts can the DEIR justify its finding that 3.64 acres of disturbed encelia scrub may be graded without resulting in any significant biological impacts.
- After failing to disclose the positive results of 2008 surveys for the Burrowing Owl at Newport Banning Ranch, the EIR preparer characterized the project site's shortgrass grasslands as being only marginally suitable for Burrowing Owls, citing their own negative survey results in 2009. Applying the DEIR's logic, a project proponent could simply keep hiring consultants to conduct surveys until negative results were achieved, either by the consultant's negligence or by the species occurring on the site only during certain years or seasons. By ignoring all previous survey results, the desired finding of no significant impact could be made.
- The EIR preparer fails to recognize that dumping 34,000 cubic yards of fill from the park site into 4.6 acres of shortgrass grassland habitat, together with the associated construction of a new haul road to the dumping sites, would degrade habitat suitability for Burrowing Owls and many other grassland-dependent species that currently use these grasslands in abundance. In the project vicinity during the late 1980s, severe habitat degradation of precisely this type occurred at Fairview Park.
- The DEIR's characterization of the site's grasslands as having "low biological value," and the DEIR's conclusion that "they may occasionally be used by native species" are not based in fact. It is plain to see that the grasslands in question are teeming with native wildlife of many different species.
- The Cactus Wren was documented using habitats on the project site in 1994, and some large cactus remains in this area, so it is erroneous for the DEIR to conclude that "Suitable habitat for this subspecies (i.e., cactus) is not present on the Project site."

The standard under which CEQA operates is that impact analyses must be made using the best available scientific information, including consideration of the results of other biological surveys conducted at the project site and in nearby areas. The Sunset Ridge DEIR falls far short of this minimal standard, to the point where members of the public are having to point out the existence of extensive wetlands, the apparent illegality of mowing native plant communities that are designated as critical habitat for a listed species, the occurrence of the same listed species in areas the DEIR deems unoccupied, the suppressed or ignored results of previous survey efforts on the project site, and many other basic facts that the EIR preparer has either overlooked or misinterpreted, always in their client's favor.

In cases such as this one, where project proponent also serves as the CEQA Lead Agency for the project, it is important that the public be assured that the Lead Agency and its consultants are not violating the public trust to serve their own, narrowly defined interests. The errors and unfounded analyses in this DEIR are of sufficient scope and magnitude that they call into question the basic competence of the EIR preparer and the impartiality and scientific validity of the CEQA document's findings and conclusions. For example, the public can have no confidence that project biologists conducted competent surveys for the Burrowing Owl, a cryptic species, when those same biologists were unable to identify Side-blotched Lizards or extensive wetlands that include large areas of mud, standing water, and cattails, as well as numerous other obligate wetland plants. In my opinion, the biological surveys must be repeated by a third-party consultant (other than me) that would be acceptable to the Banning Ranch Conservancy. The revised biological resources section of the DEIR should then be recirculated for another round of public review and comment.

I appreciate the opportunity to review the Sunset Ridge Draft EIR on behalf of the Banning Ranch Conservancy. Please provide any responses to these comments to me at the address specified on my letterhead. You may send e-mail to robb@hamiltonbiological.com.

Sincerely,

Robert A. Hamilton
President, Hamilton Biological, Inc.

=

Letter P41 **Don Bruner**
December 11, 2009

Response 1

It is noted that the commenter concurs with Robert A. Hamilton's draft written comments dated November 10, 2009. The opinion of the commenter is noted.

From: Don Bruner [mailto:don_bruner@hotmail.com]
Sent: Friday, December 11, 2009 1:58 PM
To: Brown, Janet
Cc: Curry, Keith; Daigle, Leslie; Kiff, Dave; Rosansky, Steven; Selich, Edward; Gardner, Nancy; Henn, Michael; don2webb@earthlink.net
Subject: FW: Sunset Ridge Park DEIR Comment III

Letter P42

Dear Ms. Brown:

I am in total agreement with Bruce Bartram attached December 11, 2009 email and his November 9, 2009 email regarding the DEIR for Sunset Ridge Park.

Please enter this comment regarding the DEIR for Sunset Ridge Park Project into the record.

P42-1

Don Bruner
11 Serena Ct.
Newport Beach, CA

On **Fri, 12/11/09, Bruce Bartram <b.bartram@verizon.net>** wrote:

From: Bruce Bartram <b.bartram@verizon.net>
Subject: Sunset Ridge Park DEIR Comment III
To: "Brown, Janet" <JBrown@newportbeachca.gov>
Cc: "Terry Welsh" <terrymwelsh@hotmail.com>, slgenis@stanfordalumni.org, jtmansfield@ca.rr.com, mezzohiker@msn.com, dkoken@hmausa.com, marktabbert@sbcglobal.net, steveray4surfcity@hotmail.com, jenniferfrutig@aol.com, knelson@web-conferencing-central.com, greenp1@cox.net, jonfox7@yahoo.com, evenkeel4@sbcglobal.net, jimcassidy52@earthlink.net, jamesrquigg@yahoo.com, 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, "Ginny Lombardi" <ginnylombardi@yahoo.com>, "Gary Garber" <garbergary@yahoo.com>, "Robb Hamilton" <robb@hamiltonbiological.com>
Date: Friday, December 11, 2009, 10:36 AM

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 (DEIR)
for Sunset Ridge Park Project Comment III

Dear Ms. Brown:

A review of Sunset Ridge Park Project DEIR Section 6.0 Alternatives to the Proposed Project reveals that, except for Alternatives A-No Project and B-Alternative Site, the Alternatives listed presuppose the need for on-site parking. With the on-site parking comes the need for the accompanying access road whether from West Coast Highway through Banning Ranch property or, as is perfunctorily discussed in the Superior Avenue Access Road Alternative, from Superior Avenue through City owned property. In rejecting this alternative is stated that "[T]his 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 this site."

What is not discussed in any of the Alternatives is that the City of Newport Beach has no requirement that City parks must provide off-street parking. As stated in Sunset Ridge Park Project DEIR Section 4.3 Traffic and Circulation Pg. 4.3-16 "[T]he City's Zoning Code (Chapter 20.66.030 Off-Street Parking and

Loading Spaces Required) does not specify a parking rate for city parks, but rather indicates that the parking requirement for Park and Recreation Facilities would be 'As specified by Use Permit.'" This no on-site parking requirement obviously gives the City needed flexibility in providing park facilities. A survey of City parks reveals many examples of no on-site parking facilities being provided. These include such active City parks such as Irvine Terrace Park and Bob Henry Park as well as passive parks such as Castaways Park Yet, no discussion of this fact occurs anywhere in Section 6.0 Project Alternatives.

What makes this omission so egregious is the exclusion from any analysis in the DEIR of the existing City-owned 60 plus space parking lot located at Superior Avenue and PCH directly across from the proposed park site. The parking lot is clearly depicted in Sunset Ridge Park Project DEIR Section 3.0 Project Description Conceptual Site Plan Exhibit 3-9 and DEIR Section 4.2 Aesthetics Site Constraints Exhibit 4.2-1. Yet the existence of this facility is nowhere discussed DEIR Section 3.0 Project Description. Interestingly, the vacant property adjacent to the parking lot in Exhibit 3-9 is listed as for "Future Park Development." This indicates its City ownership and availability for provision of additional parking spaces. In DEIR Section 4.3 Traffic and Circulation Pg. 4.3-16 it is stated that the parking requirement for the proposed Sunset Ridge Park would be "96 spaces." It is submitted that expansion of the existing City-owned Superior Avenue and PCH parking lot could provide the necessary 96 parking spaces. Whether this could be an environmentally, let alone economically, superior alternative to the proposed Sunset Ridge Park on-site parking and the necessary access road should have been discussed but is not. California Environmental Quality Act (CEQA) Guidelines Section 15126.6(a) and (b) provide guidance on the scope of alternatives to a proposed project that must be evaluated. The CEQA Guidelines state:

(a) An EIR shall 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. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives, which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

(b) Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

In light of the CEQA Guideline Section 15126.6 above one can only conclude the failure to include a non on-site parking alternative renders Sunset Ridge Park Project DEIR Section 6.0 Alternatives to the Proposed Project deficient. To list just one environmental impact that could be lessened through the use of the Superior Avenue and PCH parking lot and the elimination of the Banning Ranch access road DEIR Section 4.6 Biological Resources Pg. 4.6-22 states as follows: "The California gnatcatcher has been observed on the Newport Banning Ranch property (including the area proposed for the access road for the Park) over several years (BonTerra Consulting 2009c). The Project site is within designated critical habitat for this species." Just as critically, the lack of a non on-site parking alternative defeats "informed decision making and public participation" the fundamental purpose of the California Environmental Quality Act. Perhaps the best "impact" that results from the elimination of the Banning Ranch access road is that the Sunset Ridge Park Project's interrelationship, interconnection and interdependence with the Banning Ranch Project discussed in my November 9 and December 2, 2009 Sunset Ridge Park Project DEIR comments would be diminished.

Please let me know your response to the foregoing as soon as possible.

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

Letter P42 **Don Bruner**
December 11, 2009

Response 1

It is noted that the commenter concurs with Bruce Bertram's written comments dated December 11, 2009. The opinion of the commenter is noted.

From: don skrede [mailto:donskrede@sbcglobal.net]
Sent: Friday, December 11, 2009 3:29 PM
To: Brown, Janet
Subject: RE: Draft Environmental Impact Report Sunset Ridge Park

Letter P43

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 -- Sunset Ridge Park

Dear Ms. Brown

I need to comment on two specific issues that are involved with this Environmental Impact Report for Sunset Ridge Park:

First, is the concern about the access road to the park through Banning Ranch. It appears that the Banning Ranch development group will allow an easement through their property, only if it conforms to their plans to develop this area. Why else would this roadway go a quarter of a mile into Banning Ranch and cut back at a severe angle to enter the park, if they didn't feel it was already part of their plans? There is already a service road that enters the park area from PCH to the purposed parking area. This would involve a smaller degree of easement into Banning Ranch, and leave Sunset Ridge Park project independent, no matter what happens with Banning Ranch.

P43-1

Secondly, is the issue of the contaminated soil that may be involved with both areas, Banning Ranch and the Sunset Ridge land. I moved to Newport Crest in 2000, and my unit borders on the Banning Ranch land. When I first moved there, the chain-link fence that seperates the two properties, had a sign attached that warned of the contaminated soil, and the cancer it could cause. Since nothing has been done to clean this soil, the health risks could be great, if this development does go forward. Since I moved to Newport Crest, the sign has blown off the fence, but I kept the sign. I hope this won't be a bad reminder of not taking care of the contamination issue before we proceed.

P43-2

Don Skrede
25 Ima Loa Court
Newport Beach Ca

Letter P43 Don Skrede
December 11, 2009

Response 1

Please refer to Topical Responses 1 and 2.

Response 2

Through consultation with Caltrans, the City has determined that the Project site was massively excavated to provide soil for the construction of Interstate 405 (I-405) in the 1970s as evidenced by the engineered cut slopes that remain on the Project site. The following measures are provided and included in the Final EIR to address potential unknown oil field facilities:

MM 4.9-3 Prior to grading, the contractor shall develop an approved Health and Safety Contingency Plan (HSCP) in the event that unanticipated/unknown environmental contaminants are encountered during construction. The plan shall be developed to protect workers, safeguard the environment, and meet the requirements of the California Code of Regulations (CCR), Title 8, General Industry Safety Orders – Control of Hazardous Substances.

The HSCP should be prepared as a supplement to the Contractor's Site-Specific Health and Safety Plan, which should be prepared to meet the requirements of CCR Title 8, Construction Safety Orders.

Specifically, the HSCP must:

1. Describe the methods, procedures, and processes necessary to identify, evaluate, control, or mitigate all safety and health hazards associated with any soil, groundwater, and/or air contamination that may be encountered during field construction activities.
2. Apply to all site construction workers, on-site subcontractors, site visitors, and other authorized personnel who are involved in construction operations.
3. Be approved by the Public Works Director.

The HSCP shall take effect only if materials affected by environmental contaminants are exposed during construction. This includes undocumented waste materials, contaminated soils, affected groundwater, and related substances that may be classified as hazardous or regulated materials, and/or materials that could endanger worker or public health. If affected materials are encountered, the HSCP shall be implemented to reduce the potential exposure to the environment and workers at the site. All site workers shall be required to perform work in a prescribed manner to reduce the potential that they will endanger themselves, others, or the general public.

MM 4.9-4 During construction, if environmentally affected soil, groundwater, or other materials are encountered on site, the Project Engineer shall be quickly mobilized to evaluate, assess the extent of, and mitigate the

affected materials. The following is only applicable if materials affected by environmental contaminants are exposed during construction. The contractor or City's consultant shall be responsible for implementing all applicable sampling and monitoring of the project. Applicable sampling and monitoring activities can include air monitoring (both for personal protection and SCAQMD Rule 1166 compliance), collecting soil and groundwater samples for analysis, and documenting mitigation activities. Specific applicable sampling and monitoring requirements shall vary, depending upon the nature, concentration, and extent of affected materials encountered.

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

Letter P44

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.

P44-1

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.

P44-2

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.

P44-3

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.

P44-4

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.

P44-5

Best wishes and good luck,

Matt Erwin
1 Kialoa Ct.

Letter P44 **Matthew Erwin**
December 11, 2009

Response 1

The opinion of the commenter is noted.

Response 2

The opinion of the commenter is noted.

Response 3

The opinion of the commenter is noted.

Until 2000, Caltrans performed annual weed abatement of the Project site by disking the property with a tractor and attached a disc tool. Subsequent to 2001, Caltrans performed weed abatement by mowing. After the City took ownership of the property, the work was performed by hand using "weed whacker". The requirement to clear the property of all weeds, grass, vines, and other vegetation comes from Fire Code Section 1103.2.4, "Combustible Vegetation". This regulation is separate and distinct from the Hazard Reduction and Fuel Modification regulations enforced throughout the City's Special Fire Protection Areas in that they only apply to weed abatement and not wildland fuels.

Response 4

The opinion of the commenter is noted.

From: White, Kathy --- WW Acct Mgr-Corp Accts--- FTA [mailto:kathy.white@fedex.com]

Sent: Friday, December 11, 2009 8:22 AM

To: Brown, Janet

Letter P45

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

} P45-1

--- 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

Letter P45 **Kathy White**
December 11, 2009

Response 1

It is noted that the commenter concurs with Gary Garber's written comments dated November 29, 2009. The opinion of the commenter is noted.

Letter P46

From: Linda Vas [mailto:auzwombat@hotmail.com]
Sent: Friday, December 11, 2009 5:23 PM
To: jbrown@newportbeach.ca.gov
Cc: mhenn527@hotmail.com; mfhenn@verizon.net; parahdigm@aol.com; lesliejdaigle@aol.com; curryk@pfm.com; edselich@roadrunner.com; gardnerncy@aol.com; Debby Linn; dlepo@newportbeach.ca.gov; kdrellishak@gmail.com
Subject: Draft Environmental Impact Report on the proposed Sunset Ridge Park Project
Importance: High

Janet Johnson-Brown
Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, Ca 92659-8915

Dear Mrs. Johnson-Brown,

As noted in the *Draft Environmental Impact Report* on the proposed *Sunset Ridge Park Project*, the site's "aesthetics, traffic and circulation, air quality, noise, biological resources, cultural and paleontological resources; geology and soils, hazards and hazardous materials, and hydrology" would, on all areas identified, adversely and irreversibly be negatively affected by the short-sighted, ill-conceived proposed development.

P46-1

There are a number of concerns that I, my neighbors and other concerned citizens share about the impact the development would have on degrading the local air quality in the surrounding area. The large-scale landscaping activities required for this Brownfield redevelopment will inevitably be complicated by the site's considerable environmental contaminants embedded in the soils on site. Earth moving activities required for this development would release hazardous materials in the air, and pose an imminent health risk to the people living in close proximity. On these grounds alone, both I and a large number of concerned citizens engaged in activities to protect this unique ecological resource and wildlife habitat, are prepared to file a restraining order and pursue other legal remedies to protect our health, until such time as it can be indisputably demonstrated that a method for undertaking the proposed landscaping activities would pose no such risk to the people living near the site.

P46-2

Transforming the site from a natural carbon sink that absorbs heat trapping greenhouse gases including both methane and carbon dioxide, into an emitter of greenhouse gases, as well as stirring up and releasing the site's toxins now trapped in the soil, would cause immediate and long term environmental damage. Destroying wildlife habitat for the purpose of building and maintaining a baseball diamond and two soccer fields, public restrooms, parking lots, roads, and service buildings only serves a very narrow and already broadly served constituency. There are no shortages of such recreation facilities in the City of Newport Beach. Present baseball and soccer fields stand idle most of the year. Removing what precious little remains of the City's wild green spaces will permanently erode the quality of the life of the majority of citizens who

P46-3

appreciate the natural resources, natural spaces and aesthetics that Newport Beach is known for. There are a number of species of raptors, ground squirrels, migratory birds, and other native animals that now make this site their home.

Unfortunately a concerted effort is being made by the owners and developers to constantly and unnecessarily mow the site so as to degrade the habitat and disrupt the species residing there, so that claims of the site's merits as a important ecological habitat are undermined.

The road construction, additional traffic, pollution, noise and overall disruption of in this Newport Beach community is absolutely unwelcome and unnecessary. A far more appropriate and less objectionable land use would be to establish the site at a wildlife sanctuary, with a limited number of interpretive trails and possibly a low impact, interpretive nature center, constructed as a model LEED Green Building, and as regional showcase of progressive Green Architecture, and energy conservation rather than as a backwards-looking example of antiquated values and acquiescence to special interest pressures, whose beneficiaries are big oil, and a handful of developers, and certainly not the majority of citizens of Newport Beach.

I have been a resident of Newport Beach for more than 40 years and an active member of the community. I am interested in meeting with you and other city officials and discussing this matter further. I want to understand why more a more balanced development plan is presently not under consideration. I can be reached at the following numbers: (mobile) 949 903-5215, (home) 949 646-6357. Please know that I and my friends and neighbors are adamantly opposed to the development as proposed, and that we are prepared to pursue any and all legal remedies and other civic action that may be necessary to prevent this proposed development from damaging the health, safety and well-being of our community and the ecological health of this wonderful city we love.

Sincerely,

Linda Vas

Cc Mayor Pro Tem, Michael Henn, Steven Rosanky, Don Web, Leslie Daigel, Edward Selich, Keith Curry, Nancy Gardener, David Lepo, Planning Director, Kenneth Drellishak, Debby Linn - Project Planner

Linda Vas
17 Odyssey Court
Newport Beach, CA 92663
M: 949 903 5215 H: 949 646 6357

P46-3
cont.

Linda Vas
17 Odyssey Court
Newport Beach, CA 92663

Ms Janet Johnson-Brown
Associate Planner
City of Newport Beach, Planning Department
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, Ca 92659-8915

Dear Mrs. Johnson-Brown,

As noted in the *Draft Environmental Impact Report* on the proposed *Sunset Ridge Park Project*, the site's "aesthetics, traffic and circulation, air quality, noise, biological resources, cultural and paleontological resources; geology and soils, hazards and hazardous materials, and hydrology" would, on all areas identified, adversely and irreversibly be negatively affected by the short-sighted, ill-conceived proposed development.

There are a number of concerns that I, my neighbors and other concerned citizens share about the impact the development would have on degrading the local air quality in the surrounding area. The large-scale landscaping activities required for this Brownfield redevelopment will inevitably be complicated by the site's considerable environmental contaminants embedded in the soils on site. Earth moving activities required for this development would release hazardous materials in the air, and pose an imminent health risk to the people living in close proximity. On these grounds alone, both I and a large number of concerned citizens engaged in activities to protect this unique ecological resource and wildlife habitat, are prepared to file a restraining order and pursue other legal remedies to protect our health, until such time as it can be indisputably demonstrated that a method for undertaking the proposed landscaping activities would pose no such risk to the people living near the site.

Transforming the site from a natural carbon sink that absorbs heat trapping greenhouse gases including both methane and carbon dioxide, into an emitter of greenhouse gases, as well as stirring up and releasing the site's toxins now trapped in the soil, would cause immediate and long term environmental damage. Destroying wildlife habitat for the purpose of building and maintaining a baseball diamond and two soccer fields, public restrooms, parking lots, roads, and service buildings only serves a very narrow and already broadly served constituency. There are no shortages of such recreation facilities in the City of Newport Beach. Present baseball and soccer fields stand idle most of the year. Removing what precious little remains of the City's wild green spaces will permanently erode the quality of the life of the majority of citizens who appreciate the natural resources, natural spaces and aesthetics that Newport Beach is known for. There are a number of species of raptors, ground squirrels, migratory birds, and other native animals that now make this site their home.

Unfortunately a concerted effort is being made by the owners and developers to constantly and unnecessarily mow the site so as to degrade the habitat and disrupt the species residing there, so that claims of the site's merits as a important ecological habitat are undermined.

The road construction, additional traffic, pollution, noise and overall disruption of in this Newport Beach community is absolutely unwelcome and unnecessary. A far more appropriate and less objectionable land use would be to establish the site at a wildlife sanctuary, with a limited number of interpretive trails and possibly a low impact, interpretive nature center, constructed as a model LEED Green Building, and as regional showcase of progressive Green Architecture, and energy conservation rather than as a backwards-looking example of antiquated values and acquiescence to special interest pressures, whose beneficiaries are big oil, and a handful of developers, and certainly not the majority of citizens of Newport Beach.

I have been a resident of Newport Beach for more than 40 years and an active member of the community. I am interested in meeting with you and other city officials and discussing this matter further. I want to understand why more a more balanced development plan is presently not under consideration. I can be reached at the following numbers: (mobile) 949 903-5215, (home) 949 646-6357. Please know that I and my friends and neighbors are adamantly opposed to the development as proposed, and that we are prepared to pursue any and all legal remedies and other civic action that may be necessary to prevent this proposed development from damaging the health, safety and well-being of our community and the ecological health of this wonderful city we love.

Sincerely,

A handwritten signature in black ink that reads "Linda Vas". The signature is written in a cursive, flowing style.

Linda Vas

Cc Mayor Pro Tem, Michael Henn, Steven Rosanky, Don Web, Leslie Daigel, Edward Selich, Keith Curry, Nancy Gardener, David Lepo, Planning Director, Kenneth Drellishak
Debby Linn - Project Planner

mhenn527@hotmail.com; mfhenn@verizon.net parahdigm@aol.com; lesliejdaigle@aol.com, curryk@pfm.com; edselich@roadrunner.com; gardnerncy@aol.com; dlinn@city.newport-beach.ca.us; dlepo@newportbeachca.gov; kdrellishak@gmail.com;

Letter P46 **Linda Vas**
December 11, 2009

Response 1

Section 1.0, Executive Summary, of the Draft EIR, provides an introduction, Project location, Project summary, Project objectives, Project alternatives, areas of controversy and issues to be resolved and a summary of environmental impacts. Table 1-1 in Section 1.0 presents a brief summary of the potential significant environmental effects of the proposed Project, the Mitigation Program recommended to ensure that Project impacts are mitigated to the extent feasible, and the expected status of the potential environmental effects following implementation of the Mitigation Program.

As identified in Section 1.0, Table 1-1, of the Draft EIR, implementation of the proposed Project would result in significant impacts for the following topical issues: land use and planning, transportation and circulation, air quality, noise, biological resources, cultural and paleontological resources, and geology and soils. Implementation of the Mitigation Program would reduce many of the potentially significant impacts to a less than significant level. However, the Project would still result in the following significant unavoidable impacts:

Air Quality

Local Construction Impacts: During the three-month mass grading phase, on days when and if, soil is exported to distant off-site soils locations, nitrogen oxide (NO_x) emissions could exceed the South Coast Air Quality Management District's (SCAQMD) CEQA significance thresholds. This temporary impact would be significant and unavoidable.

Local Construction Impacts: During the periods of mass grading when work would be concentrated within 164 feet of the Newport Crest condominiums, particulate emissions from the Project site have the potential for a short-term exceedance of the 24-hour PM₁₀ and PM_{2.5} ambient air quality standards at the nearest residences. This temporary, local impact would be significant and unavoidable.

Noise

Construction Impacts: Construction equipment would have the potential to generate temporary noise impacts well above the existing ambient noise levels. Due to the low existing noise levels and the proximity of the noise-sensitive receivers, construction would result in a temporary significant increase in ambient noise to the residences adjacent to the site. Construction of the Project would result in an unavoidable short-term significant impact that would cease upon completion of the Project.

Response 2

Through consultation with Caltrans, the City has determined the Project site was massively excavated to provide soil for the construction of Interstate 405 (I-405) in the 1970s as evidenced by the engineered cut slopes that remain on the Project site. The following measures are provided and included in the Final EIR to address potential unknown oil field facilities:

MM 4.9-3 Prior to grading, the contractor shall develop an approved Health and Safety Contingency Plan (HSCP) in the event that

unanticipated/unknown environmental contaminants are encountered during construction. The plan shall be developed to protect workers, safeguard the environment, and meet the requirements of the California Code of Regulations (CCR), Title 8, General Industry Safety Orders – Control of Hazardous Substances.

The HSCP should be prepared as a supplement to the Contractor's Site-Specific Health and Safety Plan, which should be prepared to meet the requirements of CCR Title 8, Construction Safety Orders.

Specifically, the HSCP must:

1. Describe the methods, procedures, and processes necessary to identify, evaluate, control, or mitigate all safety and health hazards associated with any soil, groundwater, and/or air contamination that may be encountered during field construction activities.
2. Apply to all site construction workers, on-site subcontractors, site visitors, and other authorized personnel who are involved in construction operations.
3. Be approved by the Public Works Director.

The HSCP shall take effect only if materials affected by environmental contaminants are exposed during construction. This includes undocumented waste materials, contaminated soils, affected groundwater, and related substances that may be classified as hazardous or regulated materials, and/or materials that could endanger worker or public health. If affected materials are encountered, the HSCP shall be implemented to reduce the potential exposure to the environment and workers at the site. All site workers shall be required to perform work in a prescribed manner to reduce the potential that they will endanger themselves, others, or the general public.

MM 4.9-4 During construction, if environmentally affected soil, groundwater, or other materials are encountered on site, the Project Engineer shall be quickly mobilized to evaluate, assess the extent of, and mitigate the affected materials. The following is only applicable if materials affected by environmental contaminants are exposed during construction. The contractor or City's consultant shall be responsible for implementing all applicable sampling and monitoring of the project. Applicable sampling and monitoring activities can include air monitoring (both for personal protection and SCAQMD Rule 1166 compliance), collecting soil and groundwater samples for analysis, and documenting mitigation activities. Specific applicable sampling and monitoring requirements shall vary, depending upon the nature, concentration, and extent of affected materials encountered.

Response 3

As stated in Section 4.4, Air Quality and Climate Change, of the Draft EIR, the primary contributors to California greenhouse gas (GHG) emissions are transportation; electric power

production from both in-state and out-of-state sources; industry; agriculture and forestry; and other sources, which include commercial and residential activities.

The California Attorney General publishes and periodically updates *The California Environmental Quality Act – Addressing Global Warming Impacts at the Local Agency Level* (BonTerra Consulting 2009). This publication includes a list of project-level measures suggested by the Attorney General to reduce GHG emissions and global warming impacts. For the most part, these measures are applicable to residential, commercial, and industrial projects where there are many opportunities for energy savings, water conservation, and transportation efficiencies. Although the proposed Project is a park with limited opportunities for GHG emission reductions, some of the Attorney General-recommended measures are applicable to the Project and are incorporated as Project Design Features (PDF 4.4-1 through 4.4-6 page 24) and Standard Condition (SC 4.4-1 pages 24 and 25).

Because the park landscape design includes a combination of drought-tolerant and ornamental vegetation as well as ornamental, manicured landscaping and turf it would therefore, increase GHG sequestration at the Project site.

The commenter's statement regarding no shortage of recreational facilities in the City is noted. However, the City's Recreation Element of the General Plan identifies a parkland deficiency in the City of Newport Beach. Table 4.1-1 in Section 4.1 identifies parkland in the City of Newport Beach as well as West Newport. The City has identified an existing citywide park deficiency (exclusive of beach recreation acreage) of 67.7 acres, 53.4 acres of which is in Service Area 1, West Newport. This is based on the standard of 5 acres of parkland per 1,000 persons. Service Area 1 (which includes the Project site) is generally bound on the north by the Newport Terrace Condominium development and the Newport Banning Ranch property; on the south by the Pacific Ocean; on the northeast by the City of Costa Mesa on the east by Newport Boulevard; and on the west by the Santa Ana River. The service area extends to the southeast to include a portion of the Balboa Peninsula (east of the Newport Pier). With the inclusion of beach acreage, there is not a citywide deficit. Even with the inclusion of beach recreation acreage, a 19.4-acre deficiency occurs in West Newport.

The General Plan identifies three planned parks in West Newport, Newport Center, and Newport Coast which would help alleviate the deficiency. The park in Newport Coast has been completed. As identified in the General Plan, the fastest growing recreational demand in Newport Beach is the need for additional sports fields. The Recreation Element states "There is a future park site identified in this service area, Sunset Ridge Park which is designated as an active park to include ball fields, picnic areas, a playground, parking, and restrooms".

As stated in Section 4.6, Biological Resources, implementation of the proposed Project would result in the loss of approximately 5.06 acres of native habitat that provides nesting, foraging, roosting, and denning opportunities for a variety of wildlife species. The Project site provides moderate quality habitat for wildlife species. Please refer to pages 4.6-7 through 4.6-9 of the Draft EIR.

The opinion of the commenter is noted.

RECEIVED BY
PLANNING DEPARTMENT

DEC 11 2009

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CITY OF NEWPORT BEACH

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

December 8, 2009

Letter P47

REF: Draft Environmental Impact Report (DEIR)
For Sunset Ridge Park Project

Ms. Brown:

PDF 4.5-1 The project includes landscaped berms between active parks uses and the Newport Crest attenuation.

- 1) Does this mean that excavated, polluted dirt is deposited along the existing wall?
- 2) How much space will there be between berms and the existing wall , that belongs to Newport Crest?
- 3) Does the berm encroach on the Newport Crest property? (Space between property line and actual wall. (set back)
- 4) The berms are not mitigating any adverse conditions, such as noise, dust, polluted air from parking lot and toilet facilities.
Berms are only effective on level land. In this case, it will only enhance the air flow upward and into the residences above. The existing wall will not!

P47-1

Page 4.4-32: Correctly states that Newport Crest is at a higher elevation than the project and the first paragraph of Section 4.4-3 and page 4.4-11 states that "In general, the dominant land/sea breezes-winds are on shore during the day and reverse to off shore at night."

That is not totally true, as that only happens when the water mass (the ocean) gets warmer than the land, or we have Santa Ana wind conditions.

Berms, or walls are used to reduce noise and dust along highways or streets bordering on residential property of the same level. Newport Crest is elevated and exposed in its full height.

P47-2

The noise, dust, heat from a parking lot and pollution from toilets are blown by the sea breeze to the berm. The berm deflects the sea breeze loaded with all the pollutants , upward and into the Newport Crest residences, which the wall does not do.

The berms are a health hazard and must be omitted.

It is not stated how the parking lots will be surfaced. If it is just a gravel lot, there will be a lot of dust. If it is asphalt, it will create a lot of heat. Both are nuisances which will continue to be present, long after the construction.

P47-2
cont.

There were several letters sent to you concerning the pollutants during construction. I fully concur!

This is not acceptable, particularly for people with existing pulmonary and other health conditions.

P47-3

PDF 4.4-6: Approximately 130 to 140 trees shall be planted where there are no existing trees. It is a given! There are no existing trees. Have you ever seen a spots park with trees.

P47-4

That needs to be clarified. Will that obstruct the views. Where will these trees be planted, on the berm, around the sports field? This too is an element that must be omitted.

There should not be an active sports park and I recommend the alternative. 1.5-2 C: Passive Parks and consider the health problems the project in question disregards and cannot mitigate.

P47-5

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

Waldemar Moosmann.

Letter P47 **Waldemar R. Moosmann**
December 11, 2009

Response 1

The City is in discussions with the Newport Crest HOA for the appropriate approvals and construction access for any work on the adjacent properties. An existing Newport Crest HOA retaining wall meanders along the property line and in some areas is located on City property. The intent of the landscape berm is to eliminate the retaining wall, which is showing signs of failure. However, if an agreement cannot be reached with the Newport Crest HOA, the City could redesign the area without the landscape berm. This alternative is similar to Option C identified in Section 6.0, Alternatives to the Proposed Project, of the Draft EIR. The noise analysis completed for the Project did not show a significant benefit from the berm and therefore the berm is not considered a mitigation measure for the project. The excess material that would have been placed in the berm could be either placed across the entire active sports area (thus raising the grade accordingly) or hauled off site.

Response 2

It is not anticipated that the proposed berm would increase either the quantity of air pollutants or the noise level to the Newport Crest community as compared to a wall or no barrier. Conversely, the vegetation on the berm may absorb and filter air pollutants. With respect to noise, it is generally acknowledged that a berm provides 3 decibels more noise level reduction compared to a wall when used to reduce traffic noise.

The comment expresses concern that short-term local pollutant concentrations of NO_x, PM₁₀, and PM_{2.5} that could be detrimental to the health of the commenter and other residents of the Newport Crest community. With respect to NO_x, please note that potential exceedance of SCAQMD NO_x emissions thresholds would only occur if extensive off-site haul of excavated soil is required. Local concentrations of NO_x at the Newport Crest condominiums would be affected only by on-site emissions, and the analysis on page 4.4-31 shows that the NO_x emissions would be less than 15 percent of the LST threshold. With respect to the PM₁₀ and PM_{2.5} exceedances, the City notes the following:

- (1) The SCAQMD LST lookup table methodology is limited to a maximum site size of five acres; the project site is greater than five acres. The emissions thresholds increase with an increase in site size. Therefore, if the SCAQMD methodology was extended to the project area that is to be graded, on the order of 15 acres, then the project emissions would exceed the threshold by a smaller amount, or might not exceed the thresholds. The SCAQMD suggests that dispersion modeling be conducted for sites larger than five acres; however the topography and grading plan for the park site is too complex for dispersion modeling to yield meaningful results.
- (2) A substantial amount of grading will occur at distances from the Newport Crest community where PM₁₀ and PM_{2.5} effects to the residents would be minimal.
- (3) Compliance with SCAQMD Rule 403, Fugitive Dust, which is required by law and by the Project Standard Condition 4.4-1 is expected to provide greater emissions reductions than are calculated by the URBEMIS emissions model.

Notwithstanding the above factors, the City understands the concern. In order to reduce the potential for elevated short-term PM₁₀ and PM_{2.5} concentrations at the Newport Crest

community, the City has added the following mitigation incorporated into the Final EIR as follows:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.

MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;
- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;
- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.

MM 4.4-3 The following actions shall be implemented as a part of the construction of the Sunset Ridge Park Project:

- a. Watering and visible dust control shall exceed the requirements of SCAQMD Rule 403 as follows: The Contractor shall suspend grading operations when wind gusts exceed 15 miles per hours.
- b. In windy conditions, the dust control measures of SCAQMD Rule 403, Table 2 (Large Operations) shall be applied.
- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.

- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the investigation. The City contact person shall maintain a log of all complaints and resolutions.

The existing wall on the northern boundary of the site does not block the line of sight to the roads and does not provide noise reduction to the Newport Crest homes. The effects of the removal of the existing wall on the northeast corner of the site along Superior Avenue were analyzed in pages 4.5-15 to 4.5-17 of the Draft EIR. The removal of the existing wall along Superior Avenue and change in site topography with Project implementation would not result in significant increases in traffic noise to nearby noise sensitive receptors.

The parking lot would be a paved surface with either asphalt, concrete or decorative paving elements or a combination of all; it would not be a gravel lot.

Response 3

It is noted that the commenter concurs with previous written comments concerning pollutants during construction. The opinion of the commenter is noted.

Response 4

Section 3.0, Project Description, of the Draft EIR (pages 3-10 through 3-11) describes the conceptual landscape plan for the proposed Project and Exhibit 3-11 depicts the proposed concept for landscaping the park site. As shown on the exhibit, plant materials along the north-south leg of the access road entrance at West Coast Highway would include non-native plants, hydroseeded drought-tolerant plants, grasses, and non-invasive perennials. Along the park frontage on to Superior Avenue, West Coast Highway, and within the park access road median at West Coast Highway, the streetscape landscaping may include 20- to 25-foot-tall trees on the middle to bottom of the slopes, including pine and sycamore trees. In addition to trees, drought-tolerant and ornamental shrubs and ground covers would be a part of the streetscape landscaping.

A varied landscape plan is proposed to create a natural look at the park perimeter and passive areas to complement the existing natural state of the site and surrounding area. None of the proposed trees would block views from the community to the north of the site.

Response 5

The commenter expresses support for Alternative C, Passive Park Use. The opinion of the commenter is noted.

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RECEIVED BY
PLANNING DEPARTMENT

DEC 11 2009

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CITY OF NEWPORT BEACH

Dear Ms. Brown:

According to Threshold 4.4-4 in the Sunset Ridge DEIR, "There will be significant and unavoidable exposure to 'sensitive receptors' during the mass grading. During the construction period, construction activities would expose nearby residents (sensitive receptors) [and their pets] to pollutant concentrations. Exposure to carbon monoxide (CO), NO₂, and toxic air contaminants (TACS) would be less than significant. However, exposure to PM₁₀ 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*)"

Attached is a compilation of research by one of our most respected residents in Newport Crest, James Orstad. He was a member of the distinguished Flying Tigers, an aeronautical engineer and a resident of Newport Crest for more than 30 years until his death 18 months ago. Mr. Orstad's information was gleaned from newspaper clippings as well as government reports. He concentrated on Banning Ranch but Sunset Ridge and the Hoag property bordering PCH are also included because of the many "Wildcat" oil wells that were drilled on these properties. Mr. Orstad's findings tell of possible dire consequences of exposure to petroleum by-products and of serious problems that can occur with un-vented methane gas.

There are Newport Crest residents and visitors who have existing health problems or compromised immune systems. There is great concern during construction for their exposure to the chemicals listed above and to the chemicals that were recently applied by the City to eradicate the natural ground cover and the animals that made Sunset Ridge their home.

Should concerned residents seek alternative shelter during the construction process and should the City provide assistance in relocation?

Should the City install filtering devices in homes to protect residents and, besides constant monitoring of the pollutants during construction, should the City clean the homes, decks and common areas in Newport Crest of any contaminated debris?

And should Newport Crest residents have concern for their future exposure to these pollutants long after construction has concluded?

Sincerely,


Sharon Boles

BANNING RANCH HAZARDS

Researched by James Orstad

As a proponent of Banning becoming a Park or a Game Reserve, my efforts are directed in finding reasons why Banning would be less suitable for development. In reviewing history, Environmental Impact Reports, News clippings and lawsuits; but more rewarding were Geological reports. A recent report by the Department of Geological Survey puts Banning in a very risky position.

There are several hazards present. Some may never be safely mitigated. Others may be too costly to mitigate. Coastal Committee guidelines found helpful.

The reasons for putting together this report are:
To alert all City, County, and State planners. Also to perhaps discourage any financial backers or Developers to risk the many liabilities they may well endure for many years.

James F. Orsted

6/3/2004

REEVALUATE BANNING HAZARDS

Planners and Contractors find no problems in developing Banning Ranch Oil Property into Residential and business. However history, geological reports both new and old point out several HAZARDS, both natural and man-made. Many are not likely to be safely mitigated. Pollution is the 1st hurdle. Records from the Division of Oil and Gas prove there was crude oil outcrops, gas and wild cat drilling in 1904. Crude oil is known to pollute an area and cause cancer and birth defects. Early drillers used toxic chemicals to clean their equipment. All wells had sludge pits where this toxic material was buried. It is also known early drillers left improperly sealed abandoned well sites. These continue to contaminate the soil. They must be located and re-abandoned. PCB was an effective cleaning agent very popular and its pollution found on many oil fields. Any direct contact or even inhaling its dust was devastating. Such areas were fenced off in Huntington Beach. Orange County reports over 900 deaths per year are attributed to inhaling toxic dust particles (see Register News Paper May 16 2002). If no precautions are taken, it could present a danger if Banning construction would kick up dust and blown by sea breezes to surrounding communities. In 1999 the parent Oil company was cited for possible ENVIRONMENTAL VIOLATIONS. A thorough soil study should be mandatory before any planning proceeds.

2) METHANE GAS SEEPS ARE another hazard exposed by geological reports and adjacent homeowners. Methane is highly explosive. Several new projects and schools require vents and warning systems.

3) Unstable Bluffs, risk any development

The bluffs on Banning Oil property are a hazard because of NATURAL AND MAN MADE conditions.

CONT

II

A) In the 60's, CalTRANS excavated a road through Banning, to link with a proposed Coast freeway. The idea was dropped. However Bluff hazards increased when their NATURAL support was removed.

B) World War II Gun emplacements were later removed, then FILLED. Other Fill reported in studies of the bluffs.

C) BANNING WAS found to contain many old faults, some with displacements of 2 to 3 feet. Recent studies with an announcement by Luale M. Jones of the U.S Geological Survey, changes their status to a HAZARD.

Late studies found EARTHQUAKE Epicenters effected land disturbance within a 100 mile radius. Newspapers have announced ANCIENT Volcanoes and faults were triggered into action.

These Banning faults lie within the radius of 5 Epicent. Also they are magnified by a recent Thrust Fault found under our Coast Highway near Hoag Hospital.

(See the EIR report No 792 regarding Hoag)

D) Tension Cracks reported on some bluffs

E) Bluff composition not stable and prone to slides

Costa Mesa was sued in 1991 by several La Mesa Verde homeowner and won their case for allowing construction that caused slide damage on the Greenville Banning property.

Evidence seems to indicate there exist many circumstances on Banning property for potential law suits, if development persist. These HAZARDS should be made public, as hiding these facts are unlawful.

- NOTE -

All statements in this report is substantiated by EIR, Geological Reports, News Articles and various department correspondence.

JAMES L. ORSTAD

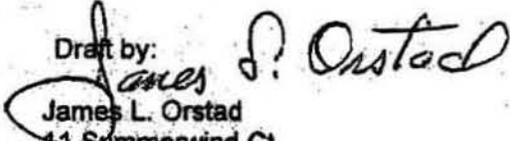
SUMMARY

- A. The Planning Department needs to know what liabilities it faces, if it approves construction.
- B. Investors, loan, insurance and real estate companies, as well as prospective buyers, have a legal right to be told of these hazards. Concealing these dangers is felonious.
- C. Unstable hazards make it impossible to safely mitigate.
- D. Construction will kick up dust pollutants and sea breezes will spread it to neighboring families. High bluffs make it difficult to control dust by watering. Excessive water will also spread contaminants. Even the "El Nino" rains are dangerous.

CONCLUSION

A far safer plan would be a Park and Wild Game Nature Preserve to attract tourists. There are hundreds of various birds, animals and reptiles, many of which are on the endangered species list. The Sierra Club is on record as desiring to develop Banning Ranch as well as enhancing its wetlands. This plan should satisfy the State, please the Coastal Commission, and delight our Mayor and the citizens of both Newport Beach and Costa Mesa.

Draft by:


James L. Orstad
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HUNTINGTON BEACH State to Notify Residents Near Contaminated Site

Residents who live within a mile of a Bolsa Chica site contaminated by a cancer-causing agent will receive notices from the state Department of Toxic Substances Control this month.

Officials have known for three years about the polychlorinated biphenyl, or PCB, contamination on 1½ acres of unincorporated county land owned by Signal Landmark near the end of Graham Street.

The carcinogen is not carried in the air and is not expected to leach into the ground water, said Lucy Dunn, executive vice president of Hearthside Homes, which is trying to develop nearby land. Contact with the soil could be harmful, but the site has been fenced for more than a year. The source of the contamination is unknown, though it could be from past oil operations, illegal dumping or electrical transformers, officials said.

SUMMARY OF OPERATIONS
California Oil Fields

THIRTY-SECOND ANNUAL REPORT
OF THE
STATE OIL AND GAS SUPERVISOR
ISSUED BY
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL AND GAS

Vol. 32

SAN FRANCISCO, CAL., JULY-DEC., 1946

No. 2

WEST NEWPORT OIL FIELD

By CHAR. H. COSWIG*

INTRODUCTION

EXCERPTS

The West Newport oil field is in Orange County, just northwest of the old Newport oil field and near the southeast end of the Beverly Hills-Newport uplift line of folding. The field consists of four areas; namely, Banning, Atha, Callens, and Lydden. The Banning area, with a relatively large number of wells, is more readily interpreted than the three remaining areas, each of which is far more complex structurally, and in which are comparatively few wells. Future development in the Callens, Atha, and Lydden areas may furnish additional data which may slightly alter the present structural picture.

HISTORY

The presence of oil showing in seepages and outcrops caused numerous wildcat wells to be drilled in this area, some dating back to 1904. The discovery well (now known as Mitsui Corporation well No. "Banning" 1, Sec. 20, T. 8 S., R. 10 W., S. B. B. & M) which led to the development of a commercial field, was drilled on the Banning property in April, 1943, by D. W. Elliott.

STRUCTURE

The structure of the West Newport field is a northwesterly plunging nose that is highly complicated by both major and minor faulting. This faulting divides the area into several blocks, each of which will be discussed separately.

The present production in the Banning area is limited on the southwest by what is locally called the Inglewood fault. This fault, with the downthrown side to the southwest, has a strike of N. 45° W.; and its trace at the top of the "B" zone.

* Assistant Oil and Gas Engineer, Division of Oil and Gas.

FRIDAY JULY 30, 1999

Vulnerable to Vapors

Abandoned Oil Fields Leave Dangers of Methane Blasts

By JANET WILSON
TIMES STAFF WRITER

As if earthquakes weren't enough, there's another invisible danger lurking beneath the Los Angeles Basin, from Newport Beach north to Newhall.

It is methane—a colorless, odorless, highly explosive gas naturally produced by the 70-odd oil fields on top of which much of the metropolitan area is built. The fields are primarily clustered along the area's major fault lines, where oil seeps out of ruptured rock.

So, if you're in a house near a well, there's a good chance you also have a source of methane gas. If you're in a house near a well, there's a good chance you also have a source of methane gas. If you're in a house near a well, there's a good chance you also have a source of methane gas.

Along the portion of Orange County's coast that roughly coincides with the Newport-Inglewood fault, everyone from hospital construction teams to developers of gated communities are taking measures to reduce the threat of methane—or to harness it as an energy source.

Ironically, when it comes to methane, it's better to have pumping oil wells in residential areas than abandoned wells without proper venting. Once a well is abandoned, or even sitting idle, "what Mother Nature did to create the oil field, Mother Nature is going to continue to do—fill that oil field back up," Baker said.

And with the seeping oil come swelling methane fumes. If they find a weak link in an old well, where air mixes with the fumes, they can and do explode outward, ignited by as little as a light switch being flicked on.

"If you have oxygen and gas and a spark, you get an explosion," Baker said.

It is impossible to know how fast an area of an oil field will repressurize, but there are telling examples.

At the Newport-Inglewood fault, a well was drilled up directly with a pipe.

The culprit was an abandoned oil well directly below.

The force of oil rising from the improperly sealed well cracked the concrete foundation and flooded the kitchen.

The house was partially torn down to get to the leaking well and properly cap it.

Another house, a well as deep as 100 feet, was drilled in a new area. The well was drilled in a new area.

One was killed, but the house was gutted in the blast, which was attributed to trapped methane from an old well.

The risk of methane explosions "is probably very small, but it's always a possibility," Chalk said. "It's that 1% chance that worries you. . . . The gas will seep up through cement and eventually come to the surface. It's just good oil-field practice to go ahead and vent something. Otherwise, an explosion can happen."

While oil fields could refill and repressurize, Chalk said, Orange County beaches offer proof that a great deal of oil and related methane has been pumped out over several decades, reducing the risks.

Just down Pacific Coast Highway in Newport Beach, though, city and Hong Memorial Hospital Presbyterian officials found the supply of underground methane to be endless—so they decided to harness it to power hospital boilers.

Hong Memorial Hospital is right across the highway from the neighborhood where the real estate agent turned on the light switch and blew up the house, and the hospital pumps out methane from under those houses now as a community service, according to Berkeley.

No state law requires that permits be obtained to build on top of oil fields.

"We will always tell people, with the earthquake, ground settling, all kinds of dynamics going on underground, the best way to mitigate is don't build over oil wells," Baker said. "If they must build on them, then they need to vent, be safe."

Any leaking well on the site, even if it is not near the planned building, must be reported immediately, and all wells under houses or businesses must be vented.

State engineers test for leaks and inspect capping and venting procedures before issuing a certificate.

Times staff writer Edward Boyer contributed to this story.

RICHARD BAKER IS DISTRICT DEPUTY FOR THE DEPARTMENT OF CONSERVATION, DIVISION OF OIL AND GAS, STATE OF CALIFORNIA.

Los Angeles Times

CALIFORNIA

ORANGE COUNTY EDITION

Tuesday, November 14, 2000

Methane Is Out Before School Is In

CONDENSED

At campus sites across the state, districts are struggling with stringent rules on pollutants. The explosive gas is high on the list for cleanup.

By JANET WILSON and KRISTINA SAUERWEIN
Times Staff Writers

Two years after the Belmont Learning Center controversy led California to require testing for contaminants at proposed school construction sites, hundreds of districts have found harmful substances in the soil, leading to costly struggles to balance health risks, liability and cleanup costs.

From arsenic to zinc, inspectors have found a long list of chemicals in the soil and air at 317 of those sites.

"You got to do what you got to do," Krill said. But because children are often more vulnerable than adults to the effects of pollutants, diligence is needed for school sites, said Ron Baker, spokesman for the state Department of Toxic Controls and Substances, which oversees the state's testing program.

"We're more concerned about kids because, obviously, they're closer to the ground. They're small. Also, kids like playing in dirt and sticking their hands in their mouths," Baker said. "Breathing, touching and eating — we're always going to be looking at those three exposure pathways."

Studies indicate that long-term effects of DDT exposure include nervous system damage and increased cancer risk.

Lead is another enormous challenge — 43% of the sites where contaminants were found have lead in the soil.

Children can develop brain damage, anemia and muscle weakness by eating paint chips or breathing particles that contain high levels of lead. Childhood exposure to lead contributes to attention deficit/hyperactivity disorder and can increase the likelihood of having a reading disability, dropping out of high school and participating in antisocial behavior, according to research.

Lead was widely used in paint until 1978. While many cities and states require lead testing in older residences, no such requirements existed for California school sites until the new laws were passed, Baker said.

Some land uses and chemicals are not examined, such as sewage sludge or perchlorate, and testing is required only at some construction sites.

Under the new laws, local school districts are required to pay for testing potential sites for contamination. First, historic uses of the land are analyzed, using aerial photos and relevant documents. If that analysis indicates the site might be polluted, soil and air samples are taken.

If large amounts of toxic substances are found and a district still wants to build, state officials devise a mandatory cleanup plan.

Work on Belmont began in 1997 but was stopped three years later amid worries about methane from former oil wells beneath the 35-acre property. After extensive work to reduce the hazard, the school district voted in May to finish the school, which, at \$286 million, is the most expensive school construction project in state history. Environmentalists and regulators say that history lends support to the argument that testing sites before construction saves money in the long run.

Banning Ranch and proposed School property are both likely polluted

Removing methane gas

The state has identified 14 proposed schools or schools slated for expansion that have high levels of methane. Gas-venting systems must be installed in any area that has more than 5,000 parts per million of methane. An explosion is possible at sites with more than 53,000 parts per million of methane.

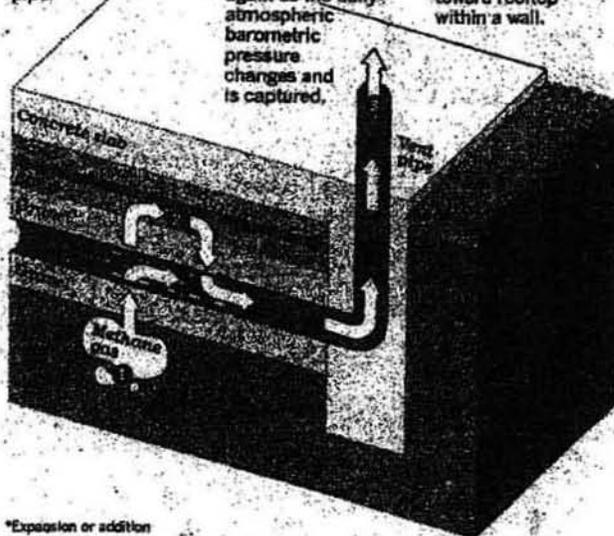
Venting system

Methane gas can be safely removed or vented using a variety of methods. Below is an illustration of how one venting method works.

① Methane gas in the soil beneath structure naturally rises and is captured by 4-inch slotted pipe.

② Uncaptured gas continues rising but is prevented from going into a structure by the barrier. It falls again as the daily atmospheric barometric pressure changes and is captured.

③ Gas is expelled through vent pipe into atmosphere. Pipe can be outside of building or run toward rooftop within a wall.



*Expansion or addition

Source: California Department of Toxic Substances Control

SLIDES AND SUBSIDY

1. Kenneth Henderson, an official of the State Department of Conservation, Division of Gas and Oil, stated: The State needs additional inspections and test requirements on all old oil fields in our coastal zone. (L.A. Times, 12/29/93, page A3.)
2. The famous Geologist Arthur Sylester reported in the Science Journal: "Coastal oil fields pose a big worry to earth movement when old fault lines and fissures allow subterranean fluids to weaken and cause hillside disasters."
3. Geophysicists now use G.P.S. "Ground Positioning System" to pinpoint land subsidence within a few thousands of an inch. Also to determine how and where it is occurring. This method uses satellites. California's state law in 1956 required oil companies to inject as much fluid as it took out of the ground. This technique prevents subsidence. However, between 1935 and 1956 they created many cavities. Cavities cause movement, even sink holes. On January 15, 1993, Costa Mesa experienced a large sink hole very near the oil property, at Superior and 16th Street. No thorough investigations were made, but there were several theories.

ANOTHER CITY GETS SUED

A city is not required to stabilize a bluff or hillside, but they are responsible to see the builder stabilizes it early in the project. If Banning Ranch is allowed to be developed with all their bluff problems, the safety and welfare of future buyers are at risk. A buyer must be given a full disclosure of the risks he takes. If not, it just presents another liability to be settled in court.

There appears to be no time limits or Deep Pockets defendants.

A BANNING BLUFF

Crack opened overnight May or June, 1993
Size: 18" wide and 30' long



ONE OF TWO CRACKS THAT OPENED UP ON THE BLUFF TOP.
THIS ONE IS 18 INCHES WIDE AND 30 FEET LONG.

GENERAL INFORMATION

1. The above crack prox. 40 feet from edge.
2. The above crack prox. 25 feet to our border.
3. A second crack in 1995, smaller and to the right.
4. Our units were getting cracks and strange noises.
5. Other photos available, show other unit problems. Also photos of an older well site before removal at the base of our bluff top.

LOS ANGELES TIMES

R/TUESDAY, JANUARY 19, 1993 B5

Laguna Beach engineering geologist Fred Pratley has been studying hillsides in the county for 30 years and has watched how heavy rains can cause mudslides and landslides that undermine buildings. After this weekend's storms, Pratley surveyed the damage to a group of houses on a Laguna Beach hillside where one home burned and another family was evacuated. Pratley answers often-asked questions about the stability of local hills and canyons.

Q: What makes a hillside unstable?

A: The presence of clay and high ground-water levels. That's oversimplified, but those two guys are dangerous. If you have clay units interspersed with bedrock, you have an unstable potential. But the water is really the culprit. Basically, it is water that causes these slides. That's the bottom line.

Q: What are the warning signs homeowners should look for?

A: Look at openings in the walls, such as doors and windows. They should be symmetrical. If they start to stick, it might be swelling from the rain, but it could be the shape of the wall. Check to see if the frames are symmetrical and if there are cracks that weren't there two weeks ago. If so, that might imply that you have movement in the foundation or movement in the material on which the foundation rests. Other clues are tension cracks in wet soils. This means the soil has moved, and it may reflect [that] the bedrock underneath is also creeping.

LAND SOIL MOVEMENT

GREENVILLE BANNING disaster 1991 borders this project. Excavating unstable soil, believed the culprit.

LOS ANGELES TIMES

TUESDAY, DECEMBER 24, 1991

B3

COSTA MESA/NEWPORT/IRVINE

COSTA MESA

Project Blamed for Damage to Homes

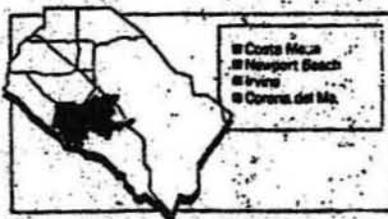
Lori Costa was awakened one night recently by "huge popping sounds like a hot water heater." When she got up to seek the source of the mysterious noise, she saw the Italian ceramic tiles that adorn her home cracking before her eyes.

Costa later conferred with neighbors and found that they were experiencing similar troubles—cracked pools, fences, floors, kitchen walls and cement foundations.

Last week, Costa and 10 other homeowners filed a lawsuit in Orange County Superior Court against several government agencies demanding compensation for the damage in their North Mesa Verde homes, which they contend have been severely damaged by construction of the nearby Greenville-Banning Flood Control Channel along the Santa Ana River.

"My patio is cracked in half," Costa said. "The concrete foundation of my house is crumbling and my walls are coming apart. They don't even touch any more."

The claim names the County of Orange Environmental Agency, the Orange County Flood Control District, Orange County Sanitation District and the state Department of Water. The \$10-million Greenville-Banning project began in April 1987 and is expected to be complete in mid-1993. It is the first phase of the decade-long, \$1.4 billion public works improvement plan.



link between the damage and the project has been established.

"It's hard to say why [the tiles] cracked," said Medeiros. "Some of the homes are quite a ways away from the project."

Fullerton attorneys Warren B. Wimmer and Randall J. Friend said the 11 homeowners first noticed damage during the summer when large amounts of soil were moved to widen the walls of the channel, which is within several blocks of their clients' homes.

"Some of these homes are not even marketable at this point," said Friend. The 11 homes, on New Hampshire, Europa and Sandpiper drives and Iowa Street, have market values ranging from \$260,000 to \$600,000, he said.

Costa, who bought her house a year ago, said if she had known about the construction project, she would not have bought the \$350,000 home.

"My home insurance does not cover damages from land soil movement," she said. "I could never sell it in this condition. Now I stand to lose everything because [the agencies] decided to dig behind my house and be negligent. I put every dime of my life savings into this house."

—DONNETTE DUNBAR
and LISA MASCARO

Pair Attorney R.J. Friend Reported Homeowners won Pair Case

AT LEAST 63 INHABITED COASTAL HILLSIDES
GAVE WAY THIS LAST YEAR. STATE DIVISION
OF MINES AND GEOLOGY.

(LA TIMES 12/27/98 SECTION B)

B

WEDNESDAY
OCT 21, 1993

ORANGE COUNTY

Landslide Claims Against 2 Cities Flood City Halls

Amages: Homeowners in Dana Point and San Clemente have handed millions of dollars from their towns in the legal actions. Keep the door open for later lawsuits. Cities deny liability.

ENIGMA
STAFF WRITER

INA POINT—The cities of Dana Point and San Clemente have been flooded with lawsuits in the past week by homeowners demanding millions of dollars in damages and alleging that the cities were responsible for the massive February mudslide that claimed five oceanfront homes and threatened others.

San Clemente City Atty. Jeffrey M. Oederman said Tuesday that his city also received a number of claims from homeowners, although he did not know how many. Officials in both communities called the devastating slide unfortunate, but said the cities are not to blame. The Feb. 22 slide destroyed five bluff-top homes along La Verdana, endangered 45 others and has left a 30-foot pile of rubble covering a vital one-mile stretch of Pacific Coast Highway, which remains closed to all traffic.

The bluff overlooking the highway is in San Clemente, while beachfront property below, as well as the highway and adjacent Santa Fe railroad tracks are within the city limits of Dana Point.

The claims, many of them filed through the office of San Diego attorney Patrick R. Catalano, suggest that the cities "failed to adequately investigate the condition of the hillside" and installed water systems that leaked into the soil and contributed to the slide.

probably be less than the \$28 million price tag suggested last month. "It's a very complicated deal," Holloway said. "All the numbers turned out to be less than the original estimates. But there is still a gap between the preferred solution and what the federal funders would provide. We still need a figure out how to fill that gap."

San Clemente City Atty. Jeffrey M. Oederman said Tuesday that his city also received a number of claims from homeowners, although he did not know how many. Officials in both communities called the devastating slide unfortunate, but said the cities are not to blame. The Feb. 22 slide destroyed five bluff-top homes along La Verdana, endangered 45 others and has left a 30-foot pile of rubble covering a vital one-mile stretch of Pacific Coast Highway, which remains closed to all traffic.

The bluff overlooking the highway is in San Clemente, while beachfront property below, as well as the highway and adjacent Santa Fe railroad tracks are within the city limits of Dana Point.

The claims were filed this past week to preserve their legal rights to file damage suits in the future, homeowners said. By law, homeowners have six months from a slide date to file a claim or not have any legal recourse later, Anderson said.

"Under federal guidelines, the mission is to clear the road and make it safe," Holloway said. "But that doesn't mean building back private property for the sake of building back private property."

Holloway said the cities were discussed at the meeting "more or less as an aside." Most of the residents were just protecting themselves by filing claims, Holloway said.

"With a deadline of six months, you either file or you are a fool," said Rogers, who has lived on the bluff for 17 years. "We feel the cities have been wonderful and ought to be commended. All the agencies are working very hard not to have any lawsuits occur."

The landslide, which began along the Castaneda from Bluff's edge, split 75 feet down the hillside and across Coast Highway and the railroad tracks, temporarily halting all commuter and freight service to San Diego.

The tracks have since been cleared, but the cities are still awaiting a final engineering plan and funding from the Federal Highway Administration to clear the highway, which is a vital evacuation route for the San Onofre Nuclear Generating Station.

The homeowners met with city, federal, state and Caltrans representatives Monday at Dana Point City Hall to discuss the progress on the project, said James F. Holloway, San Clemente's director of community development. Federal funds will be used to clear the highway, but the homeowners will have to come up with some of their own money to restore their properties, Holloway said.

"I understand where they are coming from if they have done this to protect their rights down the line," Holloway said. The cities and the other agencies have two plans to restore the bluffs using a combination of retaining walls and underground cables. He declined to estimate a cost, but said it would

Los Angeles Times

GEOTECHNICAL REPORTS

Geological Evaluation of
Faulting Potential
West Newport Oil Field,
Orange County, California

THE EARTH TECHNOLOGY CORPORATION

Paul Cupitill
Paul Cupitill
Senior Engineering Geologist
C.E.G. 1981

Date: July 31, 1986
Project No.: 86-820-01

Marc Egli
Project Geologist

FAULTS' (SECTIONS 2.1 2.3 4.2)

2.1 Objectives

The principal objectives of our geologic investigation were to characterize the nature of apparent faulting on West Newport Mesa, to delineate individual fault traces, to interpret the origin and significance of fault traces, and to estimate the age of latest fault movement.

The site is presently a producing oil field. Operation of the oil field began in 1943, and since that time many modifications to the natural surface have resulted from oil field operations. Foremost among these modifications are road and drilling pad excavations, surface and subsurface pipelines and asphalt slope protection of the mesa bluff face. A deep road cut was excavated in the 1960's in a north-south trend along the eastern side of the study area as a possible extension of Balboa Boulevard. This cut is particularly useful for interpreting geologic relations on site. In this report, it is referred to as the Balboa Boulevard cut.

2.3 Previous Investigations

Previous investigations at the West Newport mesa had identified evidence of faulting at and near the W.N.O.C. property. Cupitill and Heath (1981) reported offset soils at the mesa as well as one location where man-made fill appeared to be involved in faulting. R. Miller, of the California Division of Mines and Geology, also mapped displacements in the mesa sediments along the Santa Ana River and at the road cut along Superior Avenue (personal communication, 1985). For this report, we have interpreted subsurface faults to be related to the mesa faulting.

4.2 During our field investigation we identified numerous near-surface faults in the mesa escarpment along Balboa Boulevard and in trenches associated with the North Branch Splay fault. Faults were easily identifiable because the sediments are well-bedded. The majority of these faults are normal faults with less than 6 inches of apparent dip separation in late Pleistocene sediments. Some faults were mapped, however, that have displacements as great as 2 to 3 feet.

CLIFF AREA DEEMED HAZARDESS. IN OLD FAULT ZONE-SLIPPAGE

Geologists Say Simi Fault May Be Active

Geology: Researchers believe quakes occurred there between 1,200 and 8,000 years ago, which means another one is possible.

Lettis and fellow geologists Chris Hitchcock and Jerome A. Treisman unveiled their preliminary findings to other scientists, consultants and local and state government officials Wednesday.

So far, Lettis said, it looks as though the Simi fault could generate an earthquake with a maximum magnitude somewhere between 6.5 and 7.5. He also believes the fault is "slipping" at a rate between one-half millimeter to a millimeter a year.

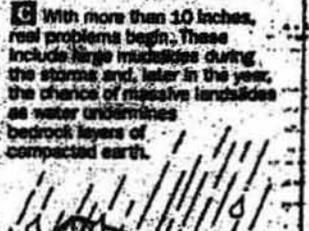


Instead, if the fault meets state activity criteria, geologists would draw up an earthquake fault zone map marking 500-foot buffers on either side of the zone. After about a year of review by the public and other geologists, the map would influence development and property sales around the fault.

Geologists study fault in the Arroyo Simi in northwest Simi Valley. State will decide whether to zone it as active.

Saturating the Soil

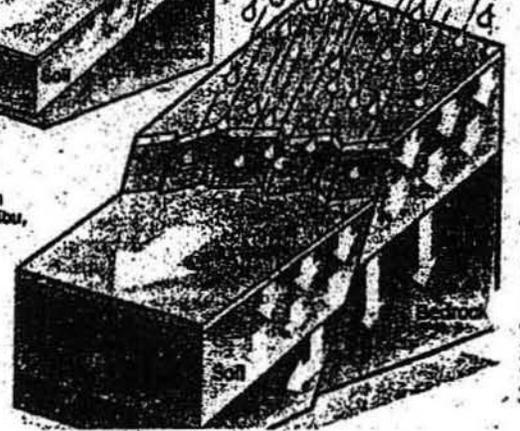
Heavy rains can cause street flooding and minor mudslides, but a longer-term problem occurs when the soil gets oversaturated. Here is a look at what can happen during the rainy season from December through March:



The Worst Case

A major long-term risk of saturated soil is that it will be weakened and later give way.

- In some areas of the Southland—especially in coastal places such as Pacific Palisades, Malibu, the Palos Verdes Peninsula and Laguna Beach—the underlying bedrock is not the usual granite but compacted earth.
- Heavy rainfall during the winter can seep into this weaker type of bedrock.
- The seepage can loosen the soil.
- In the fall, minor rains can make the weakened area vulnerable to a big slide.



CALIFORNIA

STATEWIDE
INTERPRETIVE GUIDELINES

COASTAL COMMISSION AS OF DECEMBER 16, 1981

Call this to city people

 GEOLOGIC STABILITY OF BLUFFTOP DEVELOPMENT

(Adopted 5/3/77)

Section 30253 of the 1976 Coastal Act provides that "New development shall: (1) Minimize risks to life and property in areas of high geologic, flood and fire hazard; (2) 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". Section 30251 provides that: "Permitted development shall be sited and designed...to minimize the alteration of natural landforms..." Alteration of cliffs and bluff tops, faces, or bases by excavation or other means should be minimized. Cliff retaining wall should be allowed only to stabilize slopes.

-3-

The applicant for a permit for blufftop development should be required to demonstrate that the area of demonstration is stable for development and that the development will not create a geologic hazard or diminish the stability of the area. The applicant should file a report evaluating the geologic conditions of the site and the effect of the development prepared by a registered geologist or professional civil engineer with expertise in soils or foundation engineering, or by a certified engineering geologist. *

- (1) cliff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site;
- (2) historic, current and foreseeable cliff erosion, including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available and possible changes in shore configuration and sand transport;
- (3) geologic conditions, including soil, sediment and rock types and characteristics in addition to structural features, such as bedding, joints, and faults;
- (4) evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity; *
- (5) impact of construction activity on the stability of the site and adjacent area; *
- (6) ground and surface water conditions and variations, including hydrologic changes caused by the development (i.e. introduction of sewage effluent and irrigation water to the ground water system; alterations in surface drainage);
- (7) potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction (i.e. landscaping and drainage design);
- (8) potential effects of seismic forces resulting from a maximum credible earthquake; *

Letter P48 Sharon Ann Boles
December 11, 2009

Response 1

Sensitive receptors include children, the elderly, persons with preexisting respiratory or cardiovascular illness, and athletes and others who engage in frequent exercise. Structures that house these persons or places where they gather (i.e., residences, schools, playgrounds, child-care centers, convalescent centers, retirement homes, and athletic fields) are defined as sensitive receptors by South Coast Air Quality Management District (SCAQMD). This definition does not specifically identify people with compromised immune systems or pets. If a resident perceives emissions considered in violation of the Project mitigation requirements, a complaint should be made to the City as described in the mitigation measures. With respect to preventive measures related to specific health concerns, the City is not the appropriate agency to comment. Consultation with personal health care providers is a judgment to be made by individuals.

As noted in the responses to the SCAQMD comment letter and the EQAC comment letter, additional mitigation measures for construction emissions have been incorporated into the EIR as noted below:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.

MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;
- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;
- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.

MM 4.4-3 The following actions shall be implemented as a part of the construction of the Sunset Ridge Park Project:

- a. Watering and visible dust control shall exceed the requirements of SCAQMD Rule 403 as follows: The Contractor shall suspend grading operations when wind gusts exceed 15 miles per hours.
- b. In windy conditions, the dust control measures of SCAQMD Rule 403, Table 2 (Large Operations) shall be applied.
- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.
- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the investigation. The City contact person shall maintain a log of all complaints and resolutions.

From: Dorothy Kraus [mailto: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

Letter P49

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

P49-1



CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

DATE/TIME: Monday, November 16, 2009
7:00 p.m.
LOCATION: Police Department Auditorium
870 Santa Barbara Drive

Roll Call

1. Minutes of October 19, 2009 (*attachment*)
2. Report from subcommittee on Draft EIR for Sunset Ridge Park (4850 West Coast Highway, corner of Superior Avenue) (*Subcommittee report attached*)
3. Recommendation to City Council regarding appointment to Environmental Expertise position
4. Task Force on Green Development Representatives' Report
5. Coastal/Bay Water Quality Committee Representatives' Report
6. Economic Development Committee Representative's Report
7. Report from Staff on Current Projects
8. Public Comments
9. Future Agenda Items
10. Adjournment

NEXT MEETING DATE: *December 21, 2009*

*Attachments can be found on the City's website <http://www.newportbeachca.gov>. Once there, click on **Agendas and Minutes** then scroll to and click on **Environmental Quality Affairs**. If attachment is not on the web page, it is also available in the City of Newport Beach Planning Department, 3300 Newport Boulevard, Building C, 2nd Floor.



CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

DRAFT MINUTES 10-19-09

Draft minutes of the Environmental Quality Affairs Committee held at the City of Newport Beach City Council Chambers, 3300 Newport Boulevard, on **Monday, October 19, 2009.**

Members Present:

X	Nancy Gardner, Council Member	X	Barbara Thibault
X	Michael Henn, Council Member	X	Laura Curran
X	Kenneth Drellishak, Chair	X	Vincent Lepore
X	Kimberly Jameson	X	Kevin Nolen
X	Kevin Kelly	E	Arlene Greer
		E	Sandra Haskell
X	Michael Smith	X	Kristine Adams
	Jeff Herdman	X	Timothy Stoaks
X	Nick Roussos	X	Jay Myers
X	Joan Penfil	E	Charles McKenna
X	Bruce Asper	E	Ray Halowski
	Merritt Van Sant	X	Michael Alti

Staff Representatives:

Guests:

X	Sharon Wood, Assistant City Manager	Philip Bettencourt Jim Fitzpatrick Gail Reisman
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Chairperson Drellishak called the meeting to order at 7:04 p.m.

1. Minutes of September 21, 2009

Michael Alti moved and Kristine Adams seconded to approve the minutes of September 21, 2009.

Motion passed unanimously

2. Report from subcommittee on Draft EIR for City Hall and Park Development Project (1000, 1100, 1300 and 145 Avocado Avenue)

The Committee reviewed and discussed amendments to the draft comments. Joan Penfil moved and Kevin Kelly seconded that the comments be approved as amended.

Motion passed unanimously

3. Discussion and recommendation to City Council on potential regulation of leaf blowers

Chairperson Drellishak thanked Kimberly Jameson, Laura Curran and Kristine Adams for the additional information in the report. Joan Penfil moved and Michael Alti seconded that the report be sent to the City Council.

Motion passed unanimously

4. Review and confirmation of subcommittee assignments on Draft EIR for Sunset Ridge Park

Chairperson Drellishak discussed review assignments and advised members that comments are due to him on November 11, 2009.

5. Task Force on Green Development Representative's Report

Council Member Gardner reported that a white paper with recommendations will be on the City Council study session agenda in November.

6. Coastal/Bay Water Quality Committee Representative's Report

No report

7. Economic Development Committee Representative's Report

Chairperson Drellishak reported that the September meeting included a presentation on the Newport Beach Film Festival and on the traffic signal synchronization project.

8. Report from Staff on Current Projects

Sharon Wood reported that the Draft EIR on the Banning Ranch project will be available for public review in January 2010.

9. Public Comments - None.

10. Future Agenda Items

11. Adjournment

Chairperson Drellishak adjourned the meeting at 9:15 p.m.

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.

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?

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 effects 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 be 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? Is there a parking study to support this number of spaces? At the Bonita Canyon baseball fields, illegal parking is rampant on game days, due to the shortage of parking spaces. Is it possible to provide additional parking in some manner, along the lines of street parking on weekends only, or something like that?

Newport Banning Ranch Project - Does the DEIR address the traffic that would result if the Newport Banning Ranch project is built, as currently planned by the developer? This is not clear from my reading of the report.

4.4 AIR QUALITY

Page 4.4- 31: The first paragraph states that NO_x emissions during the mass grading phase of construction will exceed the SCAQMD threshold for maximum daily emissions, resulting in a significant impact, if the projected 34,000 cubic yard export of soil is disposed of other than at the neighboring Newport Banning Ranch property. If such soil is exported, the only mitigation that was addressed is the reduction of haul truck vehicle miles traveled which would extend the estimated 13 week export period to 30 weeks, which the DEIR states is unreasonable mitigation because of the substantial extension of the mass grading period and the prolonged problems of noise and other negative impacts. Since the NO_x emissions threshold would not be exceeded if exported soil is exported

only to the Newport Banning Ranch property, why is this not made a mitigation/construction requirement?

Page 4.4-31: In the third line of the second paragraph, should the phrase "spoils site" be "soils site"?

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, the maximum daily estimated PM(10) 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 Coast, and one should be addressed:

Page 4.4-35: The last paragraph of this page states that "GHGs would be emitted by off road and on road construction equipment and worker vehicles, and that the same would vary depending on how much soil is exported to Newport Banning Ranch property and how much soil would be exported to an undetermined destination site. The DEIR has no discussion of why all soil exportation would not be limited to the Banning Ranch property. In fact, the DEIR states (p.1-2) that " The City proposes that all of the exported soil (34,000 cubic yards) would go to identified locations on the adjacent Banning Ranch property". Please clarify this inconsistency.

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: 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?

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?

Signs At Sunset Ridge Park Post Development: At the completion of the Sunset Ridge Park development, if it has been determined that significant Cultural and Paleontological Resources were present at the site, is it possible to install a sign to indicate the presence of these resources? Is it possible to install a sign to indicate the area is a natural habitat for various plant and animal species?

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 hauled, 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 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 reclaim water fixtures and irrigation.

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.

Letter P49 **Dorothy Kraus**
December 11, 2009

Response 1

It is noted that the commenter concurs with Environmental Quality Affairs Committee November 17, 2009 comment letter L1. The opinion of the commenter is noted.

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

Letter P50

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

P50-1

(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. *Grinda 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 Sonoma* (2007) 155 Cal. App. 4th 1214, 1223.

P50-2

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.

P50-2
cont.

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.

P50-3

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.

P50-4

Sincerely,

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

Letter P50 Dorothy Kraus
December 11, 2009

Response 1

Please refer to Topical Responses 1 and 2. The proposed location and alignment of the access road for the park coincides with and is consistent with the City of Newport Beach General Plan. The General Plan assumes a four-lane roadway connection through the adjacent Newport Banning Ranch property from West Coast Highway to 19th Street, with additional connections to 17th and 15th Streets. It is acknowledged that, if development were to occur on the Newport Banning Ranch property, it would take access from the same roadway connection to West Coast Highway, which would also be consistent with the City of Newport Beach General Plan.

It is also acknowledged that the park alone would not generate enough traffic to warrant a signal. Please refer to Topical Response 3.

Response 2

It is noted that the commenter concurs Mr. Bartram's written comments dated November 9, 2009. The opinion of the commenter is noted.

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

Letter P51

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.

P51-1

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.

P51-2

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

Letter P51 Debra Brinkman
December 11, 2009

Response 1

The commenter expresses support for a passive park or “green park”. The opinion of the commenter is noted.

Response 2

Please refer to Topical Response 3. If a signal at the park entrance road is the option preferred by the City Council, Caltrans approval would be needed, the signal design would be according to Caltrans standards, and the signal operation would need to be designed to be coordinated with adjacent signals upstream and downstream on West Coast Highway.

Five-legged intersections are not desirable for a number technical traffic engineering reasons, including the complexities of signal timing and phasing, difficulty in coordinating the timing with adjacent intersections, increased delay for all approaches, constrained turning radii for the turns to and from the angled approaches, inconvenience for pedestrians, and safety issues due to driver confusion with lane assignment and additional turning options. The volume of traffic through the Superior/West Coast Highway intersection would make adding a fifth leg to this intersection particularly challenging and undesirable.

Letter P52

From: E [mailto:qzcmp@yahoo.com]
Sent: Friday, December 11, 2009 11:04 AM
To: Brown, Janet
Subject: Comment regarding the Sunset Ridge Park EIR

Dear Janet Brown,

We'd appreciate it very much if you could include the following comment regarding the Sunset Ridge Park EIR in the records:

* We strongly oppose the proposed road through the park leading up to the Banning Ranch area.

} P52-1

Sincerely,

V. & B. Jones

Torrance, CA

Letter P52 **V. & B. Jones**
December 11, 2009

Response 1

The commenter expresses opposition for the proposed access road. Please refer to Topical Comments 1 and 2. The opinion of the commenter is noted.

Letter P53

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

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 %

P53-1

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.

P53-2

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 are 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

P53-3

P53-4

Letter P53 **Chris Bunyan**
December 11, 2009

Response 1

For the proposed Project, mass grading equipment has the potential to generate the highest noise levels. It is anticipated that the mass grading would occur over a period of approximately three months early in the Project construction effort. The maximum short-duration noise level to an occupied residence would occur when a large piece of equipment is operational nearest to a residence on the northern boundary of the Project site nearest to the Newport Crest Condominium development. As the center of construction activity moves, the impacts of construction noise at a single residence diminish with distance. Due to the comparatively low existing ambient noise levels and the proximity of the noise-sensitive receivers, construction would result in a temporary substantial increase in ambient noise to the residences adjacent to the site resulting from the use of grading mobile equipment. Construction of the Project would result in an unavoidable short-term significant impact that would cease upon completion of the noisier activities in the early months of Project construction.

The construction of the Project would not require pile driving or blasting. The most substantial vibration sources associated with Project construction would be the equipment used during grading and preparation of the Project site. The vibration data provided in Table 4.5-12 and vibration propagation calculations indicate that construction equipment vibration levels would be below the 0.24 in/sec ppv level of distinct perceptibility (Table 4.5-5) when heavy construction equipment is operating at distances over 15 feet from the Project site boundary. Therefore, vibration may be noticeable for short periods, but it would not likely be annoying and would not be a significant impact.

Response 2

Mass grading equipment has the potential to generate the highest noise levels. It is anticipated that the mass grading would occur over a period of approximately three months. The Draft EIR recognizes that 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, resulting in an unavoidable short-term significant impact that would cease upon completion of the noisier activities in the early months of Project construction.

Response 3

All activities within the Project site would be required to comply with the City of Newport Beach Noise Ordinance, which limits daytime noise levels to the nearby residential areas to 55 dBA L_{eq} . The noise impact from the various park activities was calculated at the patios and balconies that would be closest to the proposed noise activities areas.

Tables 4.5-9 and 4.5-10 show that when the park activities are combined with the existing ambient noise, the noise increase from park activities at the nearest noise-sensitive receptors would range from 2.0 to 8.6 dBA L_{eq} . While park activities would generate perceptible noise increases, they would result in noise levels well below the City of Newport Beach 55 dB L_{eq} daytime noise standard.

Response 4

Section 15126.6(e)(2) of the CEQA Guidelines specifies that the "No Project analysis shall discuss the existing conditions at the time the Notice of Preparation (NOP) is published, as well

as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services". Section 15126.6(e)(3) of the CEQA Guidelines indicates that when the project is not a land use or regulatory plan, the No Project Alternative "is the circumstance under which the project does not proceed... the discussion would compare the environmental effects of the property remaining in its existing state against environmental effects which would occur if the project is approved".

Section 6.0, Alternatives to the Proposed Project, in the Draft EIR addresses several alternatives to the proposed Project, including the No Project/No Development Alternative (Alternative A).

Alternative A in the Draft EIR assumes existing conditions on the Project site are retained. The City's 13.7-acre property would remain vacant. The Newport Banning Ranch property would continue to be part of the oil field. No oil operations currently occur in this area.

Based on the analysis in the Draft EIR, Alternative A: No Project/No Development Alternative would be considered the environmentally superior alternative. With this alternative the site would remain vacant. This alternative would eliminate the significant impacts identified with implementation of the proposed Project, including the unavoidable significant impacts related to short-term construction related air quality and noise impacts.

The Draft EIR is intended to provide information to the Lead Agency and other public agencies, the general public, and decision makers regarding the potential environmental impacts from the construction and operation of the proposed Project. Based on the finding in the Draft EIR including a range of alternatives to the proposed Project, the City, as the Lead Agency, will review and consider this EIR in its decision to approve, revise, or deny the proposed Project.

Letter P54

From: Kevin Nelson [mailto: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

Thanks Jim.

Attached is the final on my comments.

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

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

P54-1

P54-2

P54-3

P54-4

light pollution.

P54-4
cont.

4. The DEIR does not address the aesthetic effects of the first major road into this environment.

P54-5

5. The DEIR does not address the continuing disruption an active park and a large road will have on rodent 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.

P54-6

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.

P54-7

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."

P54-8

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.

P54-8
cont.

P54-9

P54-10

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.

P54-10
cont.

07-Section 4.2_Aesthetics

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

P54-11

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

P54-12

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)

P54-13

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.

P54-14

Letter P54 Kevin Nelson
December 11, 2009

Response 1

The commenter lists characteristics of the Newport Banning Ranch property. The opinion of the commenter is noted.

Response 2

Section 4.6.7 Environmental Impacts of the Draft EIR addresses the potential impacts of construction activities on wildlife present on the Project site, refer to page 4.6-25. This section states:

Construction of the proposed Project would result in the loss of approximately 5.06 acres of native habitat that provides nesting, foraging, roosting, and denning opportunities for a variety of wildlife species. In addition, implementation of the proposed Project would result in the loss of approximately 20.28 acres of non-native habitats (non-native grassland, ruderal, ornamental, flood control channel, and disturbed) that provide lower-quality wildlife habitat. However, these non-native habitats may provide limited nesting, foraging, roosting, and denning opportunities for some species.

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.

Vegetation on the Project site could support nesting birds. Impacts to migratory nesting birds are prohibited under the MBTA. In addition, common raptor species such as red-tailed hawk have potential to nest on the Project site. Should an active raptor nest (common or special status species) be found on the Project site, the loss of the nest would be considered a violation of California Fish and Game Code Sections 3503, 3503.5, and 3513. The loss of any active nesting bird/raptor nest occurring on the Project site would be considered significant. Impacts on nesting birds/raptors would be reduced to less than significant levels with implementation of Mitigation Measures (MM) 4.6-1 and 4.6-2.

Additionally, the Draft EIR has mitigation measures incorporated in order to further lessen the impacts of the proposed Project on resident wildlife. Refer to mitigation measures (MMs) 4.6-1 through 4.6-6 on pages 4.6-31 through 4.6-35.

Response 3

The proposed Project is expected to generate approximately 42 weekday PM peak hour trips and 99 Saturday peak hour trips. Project-related traffic would add, on average, approximately 1 car every 36 seconds on the park access road, which is 70 feet from the nearest patio. Due to low traffic volumes and speeds, the noise impacts from traffic on the access road would be less than significant.

Response 4

Section 4.2, Aesthetics, of the Draft EIR (page 4.2-5) describes the existing setting on the Project site and surrounding area related to light and glare. The Draft EIR acknowledges that the Project site does not currently contain any lighting. However, the site and surrounding area (including the Newport Banning Ranch property) are located in an urban and developed area with existing lighting from street lights, residential and commercial uses, parking lot lighting, and transient lighting from vehicular lights that also contributes to nighttime illumination in the Project area.

As stated in the Draft EIR, Section 3.0, Project Description, no nighttime lighting is proposed with the exception of limited lighting for public safety. Low-profile bollard security lighting would be provided along the meandering interior pedestrian paths and perimeter paths for pedestrian safety. Low-profile bollard security lighting would also be provided in the parking lot and along that portion of the access road into the parking lot for vehicular safety. In addition, security lighting would be located around the perimeter of the restroom structure.

Because the Project site and surrounding area are located in an urban environment with existing light and with incorporation of Project Design Features (PDF 4.2-1) and Standard Conditions (SC 4.2-1 and 4.2-2), impacts to the surrounding land uses would be less than significant.

Response 5

Section 4.2, Aesthetics, of the Draft EIR provides a detailed analysis of aesthetics and visual resources as it is applicable to the proposed Project, as well as six visual simulations. The visual simulations show existing site conditions and the site with development of the park as proposed by the City. No public views would be significantly impacted by the Project.

While Natural Resources Element Goal NR 20 is the “Preservation of significant visual resources”, the policies of the Natural Resources Element are applicable to public views and public resources not private views or private resources. As identified in Table 4.1-2, the following General Plan policies address only the protection of public views.

NR Policy 20.1: Enhancement of Significant Resources: Protect and, where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and harbor from **public vantage points** (emphasis added), as shown in Figure NR3. (*Imp 2.1*)

NR Policy 20.3: Public Views: Protect and enhance **public view corridors** (emphasis added) from the following roadway segments (shown in Figure NR3), and other locations may be identified in the future: (Note: only geographical areas applicable to the Project are identified below.)

- Superior Avenue from Hospital Road to Coast Highway (*Imp 2.1, 20.3*)

NR Policy 20.4: Public View Corridor Landscaping: Design and site new development, including landscaping, on the edges of **public view corridors** (emphasis added), including those down public streets, to frame, accent, and minimize impacts to **public views** (emphasis added). (*Imp 2.1*)

NR Policy 20.5: Public View Corridor Amenities: Provide public trails, recreation areas, and viewing areas adjacent to **public view corridors** (emphasis added), where feasible. (*Imp 2.1, 16.11, 23.2*)

Response 6

Please refer to the response to Comment 2.

Response 7

The commenter is correct in stating that the analysis in the Draft EIR did not consider Sunset Ridge as a “natural setting low-impact gateway to a future Banning Ranch Park Preserve”. The Draft EIR analyzed the Sunset Ridge Park Project as described in Section 3.0, Project Description of the Draft EIR. However, the City identified the 401-acre Newport Banning Ranch property located west and northwest of the Sunset Ridge Park as a site that could accommodate the development of a park. This alternative site, Alternative B, was analyzed in Section 6.0, Alternatives to the Proposed Project.

As part of the proposed park plan, bike racks would be provided on the Project site to alternate modes of transportation to and from the site. Additionally, the Project incorporates pedestrian walkways throughout the Project site that tie into existing sidewalks along Superior Avenue and West Coast Highway. Public transit in the City is provided by the Orange County Transportation Authority (OCTA). There is an existing bus stop located at West Coast Highway at Superior Avenue.

While the proposed Project is a park with limited opportunities for greenhouse gas emission reductions, some of the Attorney General-recommended measures are applicable to the Project and have been incorporated into the park plans as Project Design Features (see Section 4.4, Air Quality and Climate Change PDF 4.4-1 through 4.4-6).

Response 8

The environmental effects of the proposed Sunset Ridge Park Project have been analyzed in Sections 4.1 through 4.11 of the Draft EIR. As determined through Project analysis, implementation of the proposed Project would result in potentially significant impacts for the following topical issues: air quality, biological resources, cultural and paleontological resources, geology and soils, hazards and hazardous materials, noise, and transportation. However, with implementation of the Project Design Features, standard conditions and requirements and mitigation measures provided in Sections 4.1 through 4.11, these impacts would be reduced to levels considered less than significant with the exception of short-term construction-related air quality and noise impacts. The conclusions in the technical areas in the Draft EIR (i.e. air and noise) were based on technical analysis and documentation prepared for the proposed Project which can be found in Technical Appendices A through I.

As identified in Section 4.1, Land Use and Related Planning Programs, the development of the proposed Sunset Ridge Park Project would be compatible with adjacent land uses and would not impose significant new burdens on public services or utilities nor would it induce substantial new unforeseeable development in the area. The Project is consistent the City's General Plan,

Coastal Land Use Plan, and Zoning designations for the site. There is no existing or planned housing associated with the proposed Project. The City has identified a citywide park deficiency As identified in the General Plan, the fastest growing recreational demand in Newport Beach is the need for additional sports fields. The Recreation Element states “There is a future park site identified in this service area, Sunset Ridge Park which is designated as an active park to include ball fields, picnic areas, a playground, parking, and restrooms.” As such, the proposed park would serve an identified need rather than induce population growth and/or new development in the City and is not considered growth inducing.

Please refer to Topical Response 1 for a discussion regarding the proposed park access road.

Response 9

Both the Sunset Ridge Park site and the Newport Banning Ranch property have been subject to several prior archaeological investigations. For example, five prior archaeological investigations of the Newport Banning Ranch property have resulted in the examination of the entire Project site and identification of all exposed cultural resources. Therefore, the archaeological investigation conducted as a part of this EIR focused on testing previously recorded sites.

Page 4.7-7 has been revised and incorporated into the Final EIR as follows:

Mr. Patrick Maxon, RPA visited the Project site on February 27, 2009, to evaluate existing conditions. BonTerra Consulting completed an archaeological test excavation in June 2009. CA-ORA-1600, CA-ORA-1601H, and CA-ORA-1602H were subjected to test excavations; CA-ORA-1610H was further studied through historic research and on the ground survey. A brief description of each site is provided, as well as a determination of eligibility for the NRHP. As previously addressed, most resources deemed eligible for the NRHP would be considered eligible for the CRHR. Final determinations are made by the SHPO. With respect to the proposed stockpile sites and temporary haul route on the Newport Banning Ranch property, the property has been subject to prior investigation and testing. As a part of the currently proposed City of Newport Beach Banning Ranch development project, BonTerra Consulting completed an archaeological test excavation of 11 archaeological sites present on the Banning Ranch property in June 2009. Three of the 11 sites were CA-ORA-1601, CA-ORA-1602, and CA-ORA-1610. CA-ORA-1601 and CA-ORA-1602 were subjected to test excavations during the study and CA-ORA-1610 was further studied through historic research and on the ground survey. No sites were identified within the boundaries of the stockpile area or haul route.

Because of the sensitivity of archaeological resources, in accordance with CEQA Guidelines Section 15120(d), no information about the location of archaeological sites is included in the EIR or provided to the public.

Response 10

The construction emissions of greenhouse gases (GHG) were calculated and then amortized in accordance with SCAQMD recommended methodology. The resulting estimated quantity of annual GHG emissions would be less than the City’s significance criterion. It is noted that the City’s significance criterion is more conservative than the criteria of most jurisdictions.

There are no new USEPA regulations on GHG; the December 7, 2009 USEPA actions are “Findings” that will likely precede regulations. Contrary to the comment, the Draft EIR calculation

does add the GHG emissions from construction to those from operations. Cost-benefit is not an issue for CEQA air quality analysis.

Response 11

The City of Newport Beach, as the lead agency, has evaluated the environmental setting in accordance with CEQA Guidelines Section 15125(a):

- (a) An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives.

The cumulative analysis in Section 4.2, Aesthetics, of the Draft EIR, identifies the cumulative study area for aesthetic impacts as the viewshed that includes the Project site and surrounding areas. Because the site slopes upward from Superior Avenue and West Coast Highway and because the site is located in a developed urban area, the viewshed is limited to uses immediately surrounding the Project site. The Newport Banning Ranch property is described in the Draft EIR and included in the aesthetic cumulative analysis.

Section 4.2, states that cumulatively Sunset Ridge Park Project and the Newport Banning Ranch project would change the character of the area from vacant undeveloped properties to urban land uses within this viewshed. Implementation of the proposed Project as a public park would not result in any significant aesthetic impacts or adversely impact protected viewsheds.

Response 12

Please refer to the response to Comment 5.

Response 13

A jurisdictional delineation was conducted as a part of the EIR in 2009 to determine the presence or absence of jurisdictional "Waters of the U.S.", including wetlands (if present), and/or "Waters of the State". The results of the delineation are included in Appendix E of the EIR.

The U.S. Army Corps of Engineers (USACE) and the U.S. Environmental Protection Agency (USEPA) generally do not assert jurisdiction over the following features: (1) swales or erosional features (e.g., gullies, small washes characterized by low volume, infrequent, or short duration flow) and (2) ditches (including roadside ditches) excavated wholly within and draining only uplands and that do not carry a relatively permanent flow of water. Area containing a small patch of willow trees is located in an area determined to be an erosional feature. The determination that this site is an erosional feature was based on: 1) the absence of evidence of an ordinary high water mark, 2) the knowledge that this area historically did not contain potential Waters of the U.S., and 3) that the area experienced significant modification as result of previous use of the site for borrow material for the construction of Coast Highway. No jurisdictional waters including wetlands under the jurisdiction of the USACE occur within the limits of the disturbance of the proposed Project. In addition, since the Regional Water Quality Control Board (RWQCB) jurisdictional boundaries are defined by the USACE, no resources

under the jurisdiction of the RWQCB occur within the limits of Project disturbance. This assessment is based on current project design plans. Also, USACE staff concurred in the findings of the jurisdictional delineation report at a site visit on March 2, 2010.

Resources under the jurisdiction of California Department of Fish and Game (CDFG) are present on site within an erosional feature that has formed within an area that has undergone significant modification as previously noted. Although no bed, bank or stream is present, the establishment of approximately 0.44 acre of willow scrub habitat would likely be considered jurisdictional by CDFG as riparian forest. The proposed Project would impact approximately 0.06 acre of the willow scrub resources. The impact on these resources would be considered significant. Implementation of Mitigation Measure No. 2 would reduce these impacts to less than significant.

In addition, the California Coastal Commission uses a single parameter for the identification of "Wetlands" using the USACE 1987 Manual and Arid West Supplement to the USACE Manual. CCC further defines wetlands as: "*Wetland*" means lands within the coastal zone which may be covered periodically or permanently with shallow water and includes salt marshes, freshwater marshes, open and closed brackish water marshes, swamps, mudflats, and fens". The site does not contain any evidence of the presence of a salt marsh, freshwater marsh, open and closed brackish water marsh, swamp, mudflat or fen within the limits of project disturbance. However, the final "wetlands" determination would be made by the California Coastal Commission based on the jurisdictional delineation report.

Response 14

Section 4.10, Hydrology and Water Quality, of the Draft EIR does address the effects of polluted runoff as well as other potential impacts; please refer to Section 4.10.7 Environmental Impacts on pages 4.10-17 through 4.10-23. Additionally, Section 4.10.9 entitled Mitigation Program discusses multiple Best Management Practices (BMPs), Standard Conditions and Requirements, and Mitigation Measures which would further reduce the potential impacts of the proposed Project on jurisdictional areas (refer to pages 4.10-24 through 4.10-27).

Letter P55

From: Chris Blasco [mailto: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 we 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

P55-1

P55-2

Letter P55 **Chris Blasco**
December 11, 2009

Response 1

The following measures are provided and included in the Final EIR to address potential unknown oil field facilities:

MM 4.9-3 Prior to grading, the contractor shall develop an approved Health and Safety Contingency Plan (HSCP) in the event that unanticipated/unknown environmental contaminants are encountered during construction. The plan shall be developed to protect workers, safeguard the environment, and meet the requirements of the California Code of Regulations (CCR), Title 8, General Industry Safety Orders – Control of Hazardous Substances.

The HSCP should be prepared as a supplement to the Contractor's Site-Specific Health and Safety Plan, which should be prepared to meet the requirements of CCR Title 8, Construction Safety Orders.

Specifically, the HSCP must:

1. Describe the methods, procedures, and processes necessary to identify, evaluate, control, or mitigate all safety and health hazards associated with any soil, groundwater, and/or air contamination that may be encountered during field construction activities.
2. Apply to all site construction workers, on-site subcontractors, site visitors, and other authorized personnel who are involved in construction operations.
3. Be approved by the Public Works Director.

The HSCP shall take effect only if materials affected by environmental contaminants are exposed during construction. This includes undocumented waste materials, contaminated soils, affected groundwater, and related substances that may be classified as hazardous or regulated materials, and/or materials that could endanger worker or public health. If affected materials are encountered, the HSCP shall be implemented to reduce the potential exposure to the environment and workers at the site. All site workers shall be required to perform work in a prescribed manner to reduce the potential that they will endanger themselves, others, or the general public.

MM 4.9-4 During construction, if environmentally affected soil, groundwater, or other materials are encountered on site, the Project Engineer shall be quickly mobilized to evaluate, assess the extent of, and mitigate the affected materials. The following is only applicable if materials affected by environmental contaminants are exposed during construction. The contractor or City's consultant shall be responsible for implementing all applicable sampling and monitoring of the project. Applicable sampling and monitoring activities can include air monitoring (both for personal protection and SCAQMD Rule 1166 compliance), collecting soil and groundwater samples for analysis, and

documenting mitigation activities. Specific applicable sampling and monitoring requirements shall vary, depending upon the nature, concentration, and extent of affected materials encountered.

Response 2

The Draft EIR addresses several alternatives to the proposed Project, including a Passive Park Alternative (Alternative C). Section 6, Alternatives to the Proposed Project, in the Draft EIR identifies that this alternative scenario assumes that only passive park uses would be developed on the Project site. Under this alternative scenario, no playing fields (i.e., baseball or soccer fields) would be constructed. Sunset Ridge Park would be developed with lawns, pedestrian paths, gardens, restroom facilities, and parking. No nighttime lighting except for public safety would be provided. Alternative C would require a zone change on that portion of the Project site in the City (13.7 acres) from Open Space-Active (OS-A) to Open Space-Passive (OS-P). Unlike the commenter's suggested alternative, the Draft EIR's Passive Park Alternative assumes a park access road would be constructed from West Coast Highway through the Newport Banning Ranch property, an on-site parking area, and improvements on West Coast Highway.

The Draft EIR notes that while Alternative C would have a slight reduction in grading, implementation of a passive park would still result in significant and unavoidable short-term, construction-related local air quality impacts and short-term construction-related noise impacts. These significant impacts would cease upon the completion of construction. All other impacts would be similar or the same and can be mitigated to a less than significant level. Although Alternative C would provide a park in this location, it would not achieve all of the Project objectives, specifically, to create more active parkland in West Newport Beach. The *City of Newport Beach General Plan* contains goals and policies that include developing Sunset Ridge Park with active and passive park uses, including facilities for picnicking, active sports, and other facilities that serve a larger population. Alternative C would not be consistent with these General Plan goals and policies.

With respect to the commenter's suggested alternative, the size of the park would be 13.7 acres because the Newport Banning Ranch property would not be a part of the Sunset Ridge Park Project (no vehicular access to the park site would be provided).

From: robert orbe [mailto: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

Letter P56

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.

P56-1

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 batters' 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.)

P56-2

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!

P56-3

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

Letter P56 Robert Orbe
December 11, 2009

Response 1

There is currently a four-way stop signal at the intersection of Superior Avenue and West Coast Highway. The City would hope that common sense would prevail and pedestrians would observe the existing traffic signals currently in place to safely cross the streets. In addition, no stopping is allowed on Superior Avenue and West Coast Highway. The proposed park plan includes a parking area with a designated drop-off area convenient and safe within the park which would encourage motorists to drop off and pick up in the park. However, if the City Public Works Department determines that signage near the pedestrian entrances to the proposed park is necessary, appropriate signage can be provided.

Response 2

The comment is noted. The design baseball field and surrounding passive park areas have been developed with the intent of balls being contained inside the park. The field distance for Pony League Baseball is 250 feet to right field and left field and 275 feet to center field. The park would be programmed for 14 years old and younger players. The City does not envision baseballs or soccer balls being hit or kicked on the roadways of Superior Avenue and West Coast Highway.

Response 3

Please refer to Topical Response 3.

From: Jim Mansfield [mailto:jtmansfield@ca.rr.com]
Sent: Friday, December 11, 2009 11:18 AM
To: Brown, Janet
Cc: Terry Welsh; Ray, Steve; Nelson, Kevin; Koken, Debby [HMA]; Bruce Bartram
Subject: Comments on the Draft Environmental Impact Report for Sunset Ridge Park Project

Letter P57

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

<<...>>

December 11, 2009

1857 Rhodes Drive
Costa Mesa, CA 92626

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.

P57-1

P57-2

P57-3

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.

P57-4

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).

P57-5

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.

P57-6

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:

P57-7

- 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

Letter P57 James T. Mansfield
December 11, 2009

Response 1

The City's Public Works Department has identified that access along the Superior Avenue and West Coast Highway frontages would not meet current traffic engineering standards and would therefore be unsafe. While additional studies would most likely further validate the denial of access at this point, the findings that the Traffic Engineer has previously identified are sufficient evidence to support denial of any access at these locations. The following are a few of the City identified issues associated with an access road along Superior Avenue and West Coast Highway:

Superior Avenue

- The measured speeds on Superior Avenue are 46 mph. At this speed, a driver needs 480 feet to decelerate into an access point.
- Given the grades of the slope between Superior Avenue and the Project site, it appears that the only logical location to consider access is at the northeast corner of the property. At this location, the City sight distance requirement of 450 feet cannot be met because of the curvature of the roadway.
- There is an on-street striped bike lane.

West Coast Highway

- The measured speeds on Coast Highway are 52 mph. At this speed, a driver needs 500 feet to decelerate into an access point. The length of the property frontage for Sunset Ridge Park on Coast Highway is approximately 350 feet. There is insufficient length for deceleration into the property.
- There is an existing lane drop across the entire property frontage on Coast Highway. Within a short segment of roadway there would be a mix of through traffic in the lane drop area with vehicles attempting to decelerate into a project driveway.
- The existing grade from Coast Highway to the Project site is steep. The maximum driveway grade per City standard is 15 percent. To provide a driveway into the site, the length of the driveway would approach approximately 200 feet.
- There is an existing on-street striped bike lane.
- There are dual right turn lanes from southbound Superior Avenue onto Coast Highway. This presents an additional volume of vehicles required to merge with through traffic and with vehicles trying to access the park driveway.

Response 2

The site contains a 197,720-square-foot (sf) scenic easement imposed by the California Department of Transportation (Caltrans) as a term of the sale of the property to the City. The easement is located generally from the property line adjacent to West Coast Highway to approximately halfway into the site. This easement restricts development rights to those permitted in the City's Open Space-Active (OS-A) zoning with additional limitations on the

placement of permanent structures and pavement in the scenic easement area. Thus, an access road into the site from West Coast Highway would not be permitted.

Please note that since the Superior Avenue Access Road was previously considered and rejected due to safety issues by the City's Public Works Department no further study's or options (including a variance for the Scenic Easement) have been pursued regarding this issue.

Response 3

Please refer to the response to Comment 1.

Response 4

Please refer to Topical Responses 1 and 2.

In addition, the Superior Avenue Access Road Alternative assumes that active and passive park uses are developed on the Sunset Ridge Park site. Vehicular access into the Project site would be provided from Superior Avenue between the existing Newport Crest Condominium development to the north and West Coast Highway to the south and across from the existing parking lot entrance on the east side of Superior Avenue.

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. This would not only result in the reduction of 5.2 acres of Newport Banning Ranch Property it would also result in the loss of additional usable park land on the City-owned property due to the construction of the road at this location.

As stated in Section 6.0, Alternatives to the Proposed Project, 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.

Response 5

The Cumulative analysis referenced in this comment addresses traffic levels for a short-term Year 2015 condition. The Newport Banning Ranch project is shown on the Cumulative Projects list, because a formal application process for the project is underway at the City.

The traffic signal warrant analysis is based on General Plan forecasts, as shown on Table 4.3-9. General Plan forecasts address long-range build-out of the City and the region. The City of Newport Beach General Plan has a dual land use designation for the Newport Banning Ranch property. The property is designated OS(RV): Open Space/Residential Village. Therefore, the traffic signal warrant analysis was conducted for both General Plan designations, as shown on Table 4.3-9 of the Draft EIR. Please also refer to Topical Response 3.

Response 6

The parallel parking would be provided along the section of the road closest to the parking lot, and would function as any parallel parking along a roadway functions. As shown on the conceptual site plan, and described in the Project Description of the Draft EIR, the segment of the road where the parallel parking would be provided would be 44 feet wide, which would provide ample additional width for the parking spaces outside of the travel lanes. A sidewalk would also be provided along that section of roadway. Since it would be the parking farthest

from any of the park uses, it is logical to assume that it would be used only if the parking lot is full. With the proposed design, and considering the low volume of traffic on the access road, and the likely infrequent usage of these parking spaces, parallel parking at this location would present no safety issues.

Response 7

The Draft EIR does acknowledge that Alternative B, Alternative Site, could achieve some of the Project objectives to create an active and passive park in West Newport Beach. However, the feasibility of the City's purchase of the property from Newport Banning Ranch is speculative as the Newport Banning Ranch property owner proposes the development of the 401-acre property including a 22-acre community park on the Alternative B site. In addition, the City's General Plan specifically identifies an active community park of 20 to 30 acres to be developed in the Newport Banning Ranch area in addition to the development of Sunset Ridge Park with active and passive park uses. Together, these identified park locations would help alleviate parkland deficiencies in West Newport Beach. With potentially only one park on the Newport Banning Ranch property, the parkland deficiency in West Newport would continue to occur. As stated in Section 6.0, Alternatives to the Proposed Project, of the Draft EIR, this alternative achieves the basic objective of providing parkland in West Newport; however, it would not result in the development of Sunset Ridge Park in conformance with the Caltrans Deed Restriction, which stipulates that the property be used as a park.

Similar to the analysis provided in Section 6.0, Alternatives to the Proposed Project, the development of either an active and passive park or only a passive park at this alternate location would not achieve all of the Project objectives, specifically, to create more active and passive parkland in West Newport Beach. The *City of Newport Beach General Plan* contains goals and policies that include developing Sunset Ridge Park and an active community park within Newport Banning Ranch with active and passive park uses. Therefore, creating a passive park at this alternative location would not be consistent with the General Plan goals and policies established for the West Newport Beach area.

From: Terry Koken [mailto:tkoken@att.net]

Sent: Friday, December 11, 2009 11:16 AM

To: Brown, Janet

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

Letter P58

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

This is clearly a land-grab designed to make an end-run around the controversy over Banning Ranch's proposed use as parkland. We have here a trumped-up situation artificially manufactured to "require" a four-lane road through the ranch because it is "the only feasible alternative". I have heard far better arguments from my children when they were five or six as to why I should buy them candy.

P58-1

This must be considered in context.

I would also highly recommend that a close look be taken at just who would benefit monetarily from this project... Perhaps a few termites would fall out of the paperwork as a consequence of such scrutiny.

P58-2

Terrell E. Koken
1778 Kenwood
Costa Mesa, CA

Letter P58 Terry Koken
December 11, 2009

Response 1

The opinions of the commenter are noted. As a part of the proposed Sunset Ridge Park Project, a two-lane (one lane in each direction) park access road would be constructed from West Coast Highway through the Newport Banning Ranch property to the park. Please also refer to Topical Responses 1 and 2.

Response 2

The opinions of the commenter are noted.

From: White, Kathy --- WW Acct Mgr-Corp Accts--- FTA [mailto:kathy.white@fedex.com]

Sent: Friday, December 11, 2009 4:50 PM

To: Don Bruner; Brown, Janet

Cc: urryk@pfm.com; Daigle, Leslie; Kiff, Dave; Rosansky, Steven; Selich, Edward; Gardner, Nancy; Henn, Michael; don2webb@earthlink.net

Subject: RE: Sunset Ridge Park DEIR Review of Biological Resources Issues

Letter P59

Ms. Brown, please note that I concur completely with Mr. Bruner and want to be entered into the record.
Thanks, kw

} P59-1

From: Don Bruner [mailto:don_bruner@hotmail.com]

Sent: Friday, December 11, 2009 3:10 PM

To: jbrown@newportbeachca.gov

Cc: urryk@pfm.com; leslejdaigle@aol.com; dkiff@city.newport-beach.ca.us; parahdigm@aol.com; edselich@roadrunner.com; gardnernc@aol.com; mfhenn@verizon.net; don2webb@earthlink.net

Subject: Sunset Ridge Park DEIR Review of Biological Resources Issues

Dear Ms. Brown:

Please enter the below mentioned comments regarding the Hamilton Biological Report dated November 10, 2009 and the DEIR for Sunset Ridge Park Project into the record.

The attached Biological Letter Report refers to information that indicates the DEIR does not present the minimal standard report including where members of the public are having to point out the existence of extensive wetlands, the apparent illegality of mowing native plant communities that are designated as critical habitat for a listed species, the occurrence of the same listed species in areas the DEIR deems unoccupied, the suppressed or ignored results of previous survey efforts of the project site, and many other basic facts that the EIR preparer has either overlooked or misinterpreted, always in the client's favor the City of Newport Beach.

On behalf of the Banning Ranch Conservancy, Hamilton Biological, Inc., reviewed the Draft EIR for the proposed Sunset Ridge project and on November 10, 2009, submitted the attached Biological Letter Report to you with his review comments on Appendix E to the Sunset Ridge DEIR (BonTerra's biological technical report). As part of the review, Mr. Hamilton visited the project site on the afternoons of November 4 and 6, 2009. All photos included in the letter were taken on those two days. During the course of these two visits Mr. Hamilton walked the entire City parcel and looked out onto the Newport Banning Ranch parcel from public lands to the east. Mr. Hamilton took samples of some wetland plants to botanist David Bramlet for identification.

SUMMARY & CONCLUSION (COPIED FROM THE LETTER REPORT)

As documented herein, the biological resources section of the Sunset Ridge DEIR does not reflect the best available science and is severely deficient in many ways:

- Numerous plant communities are incorrectly mapped and classified, including the failure to identify one or more obvious wetland areas covering approximately 0.7 acre. All of the DEIR's errors in plant community mapping are made in the direction of under-representing native communities and overstating the extent of ruderal or other communities that the EIR preparer considers to be of low biological sensitivity.
- The compendium of plant species identified by the EIR preparer on the project site does not include numerous species that are conspicuous on the site, most of which are obligate or facultative wetland indicator species. These include Emory Baccharis (*Baccharis emoryi*), Marsh Fleabane (*Pluchea odorata*), Salt Heliotrope (*Heliotropium curassavicum*), Spike Bentgrass (*Agrostis exarata*), spike-rush (*Eleocharis* sp.), Rabbitfoot

Grass (*Polypogon monspeliensis*), Narrowleaf Cattail (*Typha angustifolia*), and American Tule (*Scirpus americanus*).

- The compendium of wildlife species identified by the EIR preparer on the project site does not include the Side-blotched Lizard (*Uta stansburiana*), which is ubiquitous on the site. The failure to record this species during the many surveys that were conducted is nearly as surprising as the failure to detect the site's extensive wetlands.
- The DEIR's evaluations and findings about the California Gnatcatcher and its habitat usage on the project site are inconsistent with the substantial body of scientific literature concerning this federally listed species and its habitat requirements. The DEIR states that various scrub communities on the project "would not be considered utilized by the gnatcatcher" even though these areas contain the Primary Constituent Elements of California Gnatcatcher critical habitat. During just two brief afternoon visits I observed one or more pairs of California Gnatcatchers foraging within three areas of coastal scrub on the project site that the EIR preparer characterized as being unsuitable for the species.
- The DEIR states that 3.64 acres of disturbed encelia scrub that lies within designated critical habitat for the California Gnatcatcher is "regularly mowed for fuel modification and weed abatement purposes," but fails to inform the public (a) that California Encelia is not a "weed;" (b) that the Orange County Fire Authority expressly allows California Encelia to remain "in all fuel modification wet and dry zones in all locations;" (c) that mowing of California Encelia extends as much as 570 feet away from any structure that might require fire protection; and (d) that the City has not consulted with the U.S. Fish and Wildlife Service to determine whether mowing of encelia scrub at this location would represent a violation of the federal Endangered Species Act. Only by ignoring these relevant facts can the DEIR justify its finding that 3.64 acres of disturbed encelia scrub may be graded without resulting in any significant biological impacts.
- After failing to disclose the positive results of 2008 surveys for the Burrowing Owl at Newport Banning Ranch, the EIR preparer characterized the project site's shortgrass grasslands as being only marginally suitable for Burrowing Owls, citing their own negative survey results in 2009. Applying the DEIR's logic, a project proponent could simply keep hiring consultants to conduct surveys until negative results were achieved, either by the consultant's negligence or by the species occurring on the site only during certain years or seasons. By ignoring all previous survey results, the desired finding of no significant impact could be made.
- The EIR preparer fails to recognize that dumping 34,000 cubic yards of fill from the park site into 4.6 acres of shortgrass grassland habitat, together with the associated construction of a new haul road to the dumping sites, would degrade habitat suitability for Burrowing Owls and many other grassland-dependent species that currently use these grasslands in abundance. In the project vicinity during the late 1980s, severe habitat degradation of precisely this type occurred at Fairview Park.
- The DEIR's characterization of the site's grasslands as having "low biological value," and the DEIR's conclusion that "they may occasionally be used by native species" are not based in fact. It is plain to see that the grasslands in question are teeming with native wildlife of many different species.
- The Cactus Wren was documented using habitats on the project site in 1994, and some large cactus remains in this area, so it is erroneous for the DEIR to conclude that "Suitable habitat for this subspecies (i.e., cactus) is not present on the Project site."

The standard under which CEQA operates is that impact analyses must be made using the best available scientific information, including consideration of the results of other biological

surveys conducted at the project site and in nearby areas. The Sunset Ridge DEIR falls far short of this minimal standard, to the point where members of the public are having to point out the existence of extensive wetlands, the apparent illegality of mowing native plant communities that are designated as critical habitat for a listed species, the occurrence of the same listed species in areas the DEIR deems unoccupied, the suppressed or ignored results of previous survey efforts on the project site, and many other basic facts that the EIR preparer has either overlooked or misinterpreted, always in their client's favor.

In cases such as this one, where project proponent also serves as the CEQA Lead Agency for the project, it is important that the public be assured that the Lead Agency and its consultants are not violating the public trust to serve their own, narrowly defined interests. The errors and unfounded analyses in this DEIR are of sufficient scope and magnitude that they call into question the basic competence of the EIR preparer and the impartiality and scientific validity of the CEQA document's findings and conclusions. For example, the public can have no confidence that project biologists conducted competent surveys for the Burrowing Owl, a cryptic species, when those same biologists were unable to identify Side-blotched Lizards or extensive wetlands that include large areas of mud, standing water, and cattails, as well as numerous other obligate wetland plants. In my opinion, the biological surveys must be repeated by a third-party consultant (other than me) that would be acceptable to the Banning Ranch Conservancy. The revised biological resources section of the DEIR should then be recirculated for another round of public review and comment.

I appreciate the opportunity to review the Sunset Ridge Draft EIR on behalf of the Banning Ranch Conservancy. Please provide any responses to these comments to me at the address specified on my letterhead. You may send e-mail to robb@hamiltonbiological.com.

Sincerely,

A rectangular box with a thin black border, containing a small red 'x' icon in the top-left corner, indicating a redacted signature.

Robert A. Hamilton
President, Hamilton Biological, Inc.

Letter P59 **Kathy White**
December 11, 2009

Response 1

It is noted that the commenter concurs with Robert A. Hamilton's draft written comments dated November 10, 2009. The opinion of the commenter is noted.

**COMMENT LETTERS RECEIVED
DURING THE EXTENDED REVIEW PERIOD**

Letter A

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

January 14, 2010

Dear Ms. Brown,

I wanted to take the time to write this letter voicing my families support for the Sunset Ridge Park. My family has resided in Newport Beach for 7 years. My wife and I have three children ages five to ten who all play youth sports in our community and actively participate in community activities offered through the City of Newport Beach's Newport Navigator publication.

I am actively involved in our local AYSO Region 97 and volunteer on our Regional Board as a Division Director and as the Region 97 Kids Zone Director. Knowing what it takes to organize competitive youth sports first hand from registration through to awards and finishing a season, I know the challenges in finding quality playing fields and reserving times for youth sporting activities in and around the city of Newport Beach. It is for this very reason that I am expressing my entire families support for the Sunset Ridge Park. Many times the fields in the City of Newport Beach are serving multiple entities from the schools whose grounds the fields are on to Newport Harbor High School to private and public sporting clubs. Some fields are overused and there are simply not enough of them to support the thousands of youths in our community that participate in youth sports.

I understand that neighbors of the Sunset Ridge Park are voicing concern over the traffic, parking and noise issues. Having said that; it is my opinion that the many benefits of having a top notch youth sporting facility in the City of Newport Beach far outweigh the concerns expressed by a handful of neighbors and I sincerely feel that the Sunset Ridge Park will only serve to enhance the image of the City of Newport Beach and facilitate the growth of youth sports in our community. With careful planning the concerns of the neighbors can be abated and a wonderful community park can take shape at Sunset Ridge.

It is my hope that the planning commission and the residents of the City of Newport Beach will eventually see their way through to supporting the Sunset Ridge Park and final approvals will be issued to begin the much needed project.

Sincerely,

Alex Kassouf

A-1

A-2

Letter A **Alex Kassouf**
January 14, 2010

Response 1

The commenter's support of the Project is noted.

Response 2

The commenter's support of the Project is noted. With respect to traffic, parking, and noise, the Project would not result in any parking impacts; parking for the park would be provided on the site.

From: Johnston, Cheryl [mailto:Cheryl.Johnston@hbcasd.k12.ca.us]
Sent: Monday, February 22, 2010 10:28 AM
To: Brown, Janet
Subject: Sunset Ridge Park

Letter B

I would just like to state that I am opposed to the proposed project called Sunset Ridge Park. I believe we need to maintain it as a passive park or, better yet, leave it in it's natural state. After reviewing the proposal, I see that even CalTrans opposes the project. Finally, in my opinion, it appears to me that this is the beginning of a subtle attempt to move forward with the full development of Banning Ranch.

} B-1

PLEASE leave the small amount of undeveloped Newport Beach area, undeveloped!

Cheri Johnston
480 62nd Street
Newport Beach, CA 92663

Letter B **Cheryl Johnston**
February 22, 2010

Response 1

The commenter's opposition to the Project is noted.

From: chris bunyan [mailto:christopherbunyan@yahoo.com]
 Sent: Sunday, February 21, 2010 11:32 PM
 To: Brown, Janet
 Subject: DEIR Comments

Letter C

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 %

C-1

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.

C-2

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

C-3

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 are 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."*

C-3
cont.

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.

C-4

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

Letter C **Chris Bunyan**
February 21, 2010

Response 1

For the proposed Project, mass grading equipment has the potential to generate the highest noise levels. It is anticipated that the mass grading would occur over a period of approximately three months early in the Project construction effort. The maximum short-duration noise level to an occupied residence would occur when a large piece of equipment is operational nearest to a residence on the northern boundary of the Project site nearest to the Newport Crest Condominium development. As the center of construction activity moves, the impacts of construction noise at a single residence diminish with distance. Due to the comparatively low existing ambient noise levels and the proximity of the noise-sensitive receivers, construction would result in a temporary substantial increase in ambient noise to the residences adjacent to the site resulting from the use of grading mobile equipment. Construction of the Project would result in an unavoidable short-term significant impact that would cease upon completion of the noisier activities in the early months of Project construction.

The construction of the Project would not require pile driving or blasting. The most substantial vibration sources associated with Project construction would be the equipment used during grading and preparation of the Project site. The vibration data provided in Table 4.5-12 and vibration propagation calculations indicate that construction equipment vibration levels would be below the 0.24 in/sec ppv level of distinct perceptibility (Table 4.5-5) when heavy construction equipment is operating at distances over 15 feet from the Project site boundary. Therefore, vibration may be noticeable for short periods, but it would not likely be annoying and would not be a significant impact.

Response 2

Mass grading equipment has the potential to generate the highest noise levels. It is anticipated that the mass grading would occur over a period of approximately three months. The Draft EIR recognizes that 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, resulting in an unavoidable short-term significant impact that would cease upon completion of the noisier activities in the early months of Project construction.

Response 3

All activities within the Project site would be required to comply with the City of Newport Beach Noise Ordinance, which limits daytime noise levels to the nearby residential areas to 55 dBA L_{eq} . The noise impact from the various park activities was calculated at the patios and balconies that would be closest to the proposed noise activities areas.

Tables 4.5-9 and 4.5-10 show that when the park activities are combined with the existing ambient noise, the noise increase from park activities at the nearest noise-sensitive receptors would range from 2.0 to 8.6 dBA L_{eq} . While park activities would generate perceptible noise increases, they would result in noise levels well below the City of Newport Beach 55 dB L_{eq} daytime noise standard.

Response 4

Section 15126.6(e)(2) of the CEQA Guidelines specifies that the "No Project analysis shall discuss the existing conditions at the time the Notice of Preparation (NOP) is published, as well

as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services". Section 15126.6(e)(3) of the CEQA Guidelines indicates that when the project is not a land use or regulatory plan, the No Project Alternative "is the circumstance under which the project does not proceed... the discussion would compare the environmental effects of the property remaining in its existing state against environmental effects which would occur if the project is approved".

Section 6.0, Alternatives to the Proposed Project, in the Draft EIR addresses several alternatives to the proposed Project, including the No Project/No Development Alternative (Alternative A).

Alternative A in the Draft EIR assumes existing conditions on the Project site are retained. The City's 13.7-acre property would remain vacant. The 5.2-acre portion of the Project site located on the Newport Banning Ranch property would continue to be part of the oil field. No oil operations currently occur in this area.

Based on the analysis in the Draft EIR, Alternative A: No Project/No Development Alternative would be considered the environmentally superior alternative. With this alternative the site would remain vacant. This alternative would eliminate the significant impacts identified with implementation of the proposed Project, including the unavoidable significant impacts related to short-term construction related air quality and noise impacts.

The Draft EIR is intended to provide information to the Lead Agency and other public agencies, the general public, and decision makers regarding the potential environmental impacts from the construction and operation of the proposed Project. Based on the finding in the Draft EIR including a range of alternatives to the proposed Project, the City, as the Lead Agency, will review and consider this EIR in its decision to approve, revise, or deny the proposed Project.

Letter D

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

January 12, 2010

Dear Ms. Brown,

I am writing to express my support for Sunset Ridge Park. I am a nine year resident of Newport Beach with four children, who have participated in youth sports in the community. I am also a past Regional Commissioner of AYSO Region 97. In addition I was the founder of the Newport Mesa Soccer Club. I also served on Costa Mesa's Parks and Recreation Commission while I lived in that community.

I have been aware of the field shortages in Newport Beach for many years and I am aware that this is one of the last parcels available to develop a sports park on the west side of the bay. I understand when neighbors of Sunset Ridge Park voice their concern over issues of noise and traffic. In the past I have worked with the neighbors bordering the local fields to solve these issues. As we can all agree there is a shortage of athletic facilities, the need for this park far outweighs any perceived nuisance it creates.

This park will not only serve the active youth sports but will also provide the residents of Sunset Ridge, offering many hours of tranquil use. Our community needs this park.

Thank you to all who have worked so hard to bring this field to the community.

Sincerely

Chris Sarris
1758 Centella Place
Newport Beach, CA 92660

} D-1

Letter D **Chris Sarris**
January 12, 2010

Response 1

The commenter's support of the Project is noted.

Letter E

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

January 12, 2010

Dear Ms. Brown,

I am writing to express my support for Sunset Ridge Park. I am a ten year resident of West Newport Beach with three children, ages eight to 13, actively participating in youth sports in the community. I am also the Regional Commissioner of AYSO Region 97 which serves 1800 children in our community, most of whom live in West Newport Beach.

For years now our families have been faced with a recreational field shortage in the west side of town. In fact, the only west side fields available to our youth for sporting activities are Bob Henry Park, Mariners Park, and Peninsula Park. These three fields cannot support the 3000 or more children of our community who are actively involved in the sports of soccer, baseball, field hockey, football, and lacrosse. In fact, many of our children are traveling to fields in east side Costa Mesa and Corona Del Mar to participate in practices and games. You can only imagine the hardship this travel places on families with multiple children who try to accommodate the schedules of many volunteer coaches that are trying to keep our children active so they become model citizens of our community.

I very much understand when neighbors of Sunset Ridge Park voice their concern over issues of noise and traffic. I am a neighbor of Galaxy Park and frequently observe issues with parking and teens making use of the park at late hours. However, the joy a neighborhood park brings to my family and friends far outweighs any nuisance it creates. To see children running around, playing catch, or tackling their parents is a sight for sore eyes. Watching owners walk their dogs or residents laying out a blanket to enjoy a bay view makes you appreciate the small things in life that we often forget about as we grow older and obsess over work.

This park is not only for our children and grandchildren, but also for us so we can take a moment to appreciate why most of us endure the stress of work on a daily basis. Our community needs this park. Any nuisance it may bring to its neighbors can be abated with smart planning and open communication.

Thank you to all who have worked so hard to bring this concept to the table. I trust that when it is built those who make use of it will have stories to tell about a game or an ocean view for years to come.

Jeff Braun

E-1

Letter E **Jeff Braun**
January 12, 2010

Response 1

The commenter's support of the Project is noted.

Letter F

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

From: Mark Bartholio [mailto:mbartholio@gmail.com]
Sent: Monday, February 22, 2010 10:12 AM
To: Brown, Janet
Subject: Banning Ranch/Sunset Park

Dear Mr Brown:

My name is Mark Bartholio. I live at 12 Windsong Ct in Newport Beach.
I would like it known that I am not in favor of establish a road to
access the proposed Sunset Park, nor am I in favor of palcing a
traffic light on Pacific Coast Highway to access the road.

} F-1

Thank you for your attention,

Mark Bartholio

Letter F **Mark Bartholio**
February 22, 2010

Response 1

The commenter's opposition to the park access road and signalization is noted. Please also refer to Topical Responses 1, 2, and 3.

Letter G

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

January 12, 2010

Dear Ms. Brown,

I am writing to express my support for Sunset Ridge Park. I am a thirty year resident of West Newport Beach with four children, ages 10 through 18, actively participating in youth sports in the community. I am also the Regional Referee Administrator of AYSO Region 97 which serves 1800 children in our community, most of whom live in West Newport Beach.

For years now our families have been faced with a recreational field shortage in the west side of town. In fact, the only west side fields available to our youth for sporting activities are Bob Henry Park, Mariners Park, and Peninsula Park. These three fields cannot support the 3000 or more children of our community who are actively involved in the sports of soccer, baseball, field hockey, football, and lacrosse. In fact, many of our children are traveling to fields in east side Costa Mesa and Corona Del Mar to participate in practices and games. You can only imagine the hardship this travel places on families with multiple children who try to accommodate the schedules of many volunteer coaches that are trying to keep our children active so they become model citizens of our community.

This park is not only for our children and grandchildren, but also for us so we can take a moment to appreciate why most of us endure the stress of work on a daily basis. Our community needs this park. Any nuisance it may bring to its neighbors can be abated with smart planning and open communication.

Thank you to all who have worked so hard to bring this concept to the table. I trust that when it is built those who make use of it will have stories to tell about a game or an ocean view for years to come.

Mitch Faigen
1834 Commodore Road
Newport Beach, CA 92660

G-1

Letter G **Mitch Faigen**
January 12, 2010

Response 1

The commenter's support of the Project is noted.

From: Alvarez, Rudy (MVCI) [mailto:Rudy.Alvarez@vacationclub.com] **Letter H**
Sent: Friday, February 19, 2010 7:50 AM
To: Brown, Janet
Subject: Newport Crest is IN FAVOR of Sunset Ridge Park

Good morning Ms. Brown

I am a resident of Newport Crest, and like the far majority of Crest residents, I believe Sunset Ridge Park will be a wonderful addition to West Newport, and specifically a great amenity for Newport Crest residents. Please do not believe what Ginny Lombardi spews. She does NOT represent the wishes of the Crest majority. Some time back, I knocked on about 70+ Crest doors and asked the residents to sign a petition asking our board of directors to allow the city to install security gates leading from the Crest to Sunset Ridge Park. Every resident except for 3 signed the petition and were in favor of the park. One resident that did not sign was a Board Member, the other was a Ginny Lombardi Sunset Ridge Park Committee member and the other was a resident that did not want to get involved. I have asked the Newport Crest Management Company to communicate to the Newport Crest/Sunset Ridge Park Committee that I would like to be involved, and I have been denied participation. From what I have been told, the committee is made up 4-5 Crest residents/Board members and that's it. The committee is lead by Ginny Lombardi who is not in favor of the Park for her own person reasons. I can't stress how much she does NOT represent the Crests majority. I hope the Park is developed quickly.

A request - I have been trying to get the Crest's Landscape Committee to trim some trees so that I may have an Ocean View, yet the committee, along with the Board of Directors have told me that the Crest does not preserve views, so they will not trim trees for residents to have a view of the Ocean. With that selfish position by the Board, it would be great if you would incorporate into your Park design lots and lots of trees along the Sunset Ridge Park and Newport Crest boundaries so that they would understand the true selfishness of their decisions.

Thank you for all you do,

Rudy Alvarez
Regional Dir., Inventory & Revenue Mgmt. - Desert Region
Marriott Vacation Club International
3130 S. Harbor Blvd. Ste 500
Santa Ana CA 92704
Phone 714 662 4202
Fax 714 662 4714
rudy.alvarez@vacationclub.com

H-1

Letter H **Rudy Alvarez**
February 19, 2010

Response 1

The commenter's support of the Project is noted.

From: Dorothy Kraus [mailto:medjkraus@yahoo.com]
Sent: Sunday, February 21, 2010 2:58 PM
To: Brown, Janet
Subject: Sunset Ridge Park DEIR - Comment

Letter I1

TO: Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Dept.

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

Dear Ms. Brown,

The Sunset Ridge Park DEIR did not address the impact that the dust and excavated contaminated soil that will be transported and deposited on one of the 2 dump sites located on Banning Ranch will have on the children attending school at Carden Hall, located adjacent to Banning Ranch at 1541 Monrovia Avenue, Newport Beach, CA, or the residents of the following condominium communities also adjacent to Banning Ranch:

- Brookview Newport, 819 W. 15th Street, Newport Beach, CA
- 1 Nautical Mile, Newport Beach, CA
- Newport Knolls, 898 Monrovia Ave., Newport Beach, CA.

Additionally, the Sunset Ridge Park DEIR does not address the impact that the dust and excavated contaminated soil hauled to one of the 2 dump sites located on Banning Ranch will have on the employees who work in the office building located adjacent to Banning Ranch at 1499 Monrovia Avenue, Newport Beach, CA.

Thank you.

Sincerely,

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

I1-1

Letter I1 **Dorothy Kraus**
February 21, 2010

Response 1

The commenter expresses concern about the impact of grading and excavation on students at Carden Hall, employees at 1499 Monrovia Avenue, and residents of condominium communities Brookview Newport, 1 Nautical Mile and Newport Knolls. The closest sensitive receptors to the Project site are the Newport Crest Condominium development (located to the north and northeast); Carden Hall (located east of one of the proposed stockpile sites); Hoag Hospital, located to the southeast across Superior Avenue; and residences across West Coast Highway to the southwest. In accordance with South Coast Air Quality Management District (SCAQMD) Rule 403, stockpiles would be stabilized to minimize the fugitive dust emissions. The Mitigation Program set forth in the Final EIR applies to the Project as well as the haul route and stockpile locations, should the City choose the option of use of the Newport Banning Ranch property.

Notwithstanding the above factors, the City understands the concern of the commenter. In order to reduce the potential for elevated short-term PM10 and PM2.5 concentrations, the City has added the following mitigation incorporated into the Final EIR as follows:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.

MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;
- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;
- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.

MM 4.4-3 The following actions shall be implemented as a part of the construction of the Sunset Ridge Park Project:

- a. Watering and visible dust control shall exceed the requirements of SCAQMD Rule 403 as follows: The Contractor shall suspend grading operations when wind gusts exceed 15 miles per hours.
- b. In windy conditions, the dust control measures of SCAQMD Rule 403, Table 2 (Large Operations) shall be applied.
- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.
- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the investigation. The City contact person shall maintain a log of all complaints and resolutions.

The following measures are provided and included in the Final EIR to address potential unknown oil field facilities:

MM 4.9-3 Prior to grading, the contractor shall develop an approved Health and Safety Contingency Plan (HSCP) in the event that unanticipated/unknown environmental contaminants are encountered during construction. The plan shall be developed to protect workers, safeguard the environment, and meet the requirements of the California Code of Regulations (CCR), Title 8, General Industry Safety Orders – Control of Hazardous Substances.

The HSCP should be prepared as a supplement to the Contractor's Site-Specific Health and Safety Plan, which should be prepared to meet the requirements of CCR Title 8, Construction Safety Orders.

Specifically, the HSCP must:

1. Describe the methods, procedures, and processes necessary to identify, evaluate, control, or mitigate all safety and health hazards associated with any soil, groundwater, and/or air contamination that may be encountered during field construction activities.
2. Apply to all site construction workers, on-site subcontractors, site visitors, and other authorized personnel who are involved in construction operations.
3. Be approved by the Public Works Director.

The HSCP shall take effect only if materials affected by environmental contaminants are exposed during construction. This includes undocumented waste materials, contaminated soils, affected groundwater, and related substances that may be classified as hazardous or regulated materials, and/or materials that could endanger worker or public health. If affected materials are encountered, the HSCP shall be implemented to reduce the potential exposure to the environment and workers at the site. All site workers shall be required to perform work in a prescribed manner to reduce the potential that they will endanger themselves, others, or the general public.

MM 4.9-4 During construction, if environmentally affected soil, groundwater, or other materials are encountered on site, the Project Engineer shall be quickly mobilized to evaluate, assess the extent of, and mitigate the affected materials. The following is only applicable if materials affected by environmental contaminants are exposed during construction. The contractor or City's consultant shall be responsible for implementing all applicable sampling and monitoring of the project. Applicable sampling and monitoring activities can include air monitoring (both for personal protection and SCAQMD Rule 1166 compliance), collecting soil and groundwater samples for analysis, and documenting mitigation activities. Specific applicable sampling and monitoring requirements shall vary, depending upon the nature, concentration, and extent of affected materials encountered.

From: Dorothy Kraus [mailto:medjkraus@yahoo.com]
Sent: Monday, February 22, 2010 12:13 PM
To: Brown, Janet
Cc: Bruce Bartram
Subject: Sunset Ridge Park - DEIR Comment

Letter I2

TO: Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Dept.

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

Dear Ms. Brown:

The Sunset Ridge Park DEIR falls short of thoroughly addressing the traffic impacts that will result from the installation of a 3-way park access traffic signal on West Coast Highway.

The following is taken from the Sunset Ridge Park DEIR Section 4.3, Transportation: "[O]perating conditions at intersections are typically described in terms of a 'level of service' (LOS). Level of service is a qualitative measure of a facility's operating performance and is described with a letter designation from A to F with LOS A representing uncongested free-flowing operating conditions and LOS F representing congested over-capacity conditions. The HCM methodology returns a delay value, expressed in terms of the average seconds of delay per vehicle, which also corresponds to a level of service measure.

The City of Newport Beach has adopted LOS D as the peak hour operating standard for intersection locations. For signalized intersections, an ICU value less than or equal to 0.90 satisfies the City's standards. For State-controlled intersections, the Caltrans Guide for the Preparation of Traffic Impact Studies states that "Caltrans endeavors to maintain a target Level of Service at the transition between LOS 'C' and LOS 'D' on State highway facilities. If an existing State highway facility is operating at less than the target LOS, the existing Level of Service is to be maintained."

CalTrans' DEIR comment (dated December 9, 2009 and received by the City on December 10, 2009, and also attached below as a PDF document) states that "The proposed signalized intersection (the 3-way park access traffic signal on West Coast Highway) is not recommended based on the MUTCD, chapter 4, which reads, 'a traffic control signal should not be installed if it shall seriously disrupt progressive traffic flow.' As shown below, in answer to my email question in follow up, Caltrans states as follows:

"Question #2

In the event that the City of Newport Beach acquires the Pacific Coast Highway area including the proposed traffic signal site would the City now have the authority/jurisdiction to ignore Caltran's recommendation as stated above and install the signal despite the traffic disruption it would cause?

In the event that the State relinquishes control of Pacific Coast Highway to the city of Newport Beach, the Department, per the California Environmental Quality Act (CEQA), would only serve as a commenting agency, as opposed to a responsible agency under the current situation. Therefore, the city could install the proposed traffic signal without approval from the Department.

Tracey Lavelle
Office Chief, Public Information/Governmental Affairs/EEO

I2-1

I2-2

Caltrans - District 12 Orange County
(949) 724-2031 office
(949) 279-8552 cell
(949) 724-2748 fax"

It is our understanding that the City is acquiring jurisdiction from Caltrans over PCH from Jamboree north to the Santa Ana River. This includes the area of the proposed 3-way park access traffic signal on West Coast Highway. In light of the City's lower traffic intersection standards versus Caltrans shown above it appears the City anticipated Caltrans opposition to the park access road signal and "went around it." Caltrans opposition to the park access road signal renders the conclusion contained in the Sunset Ridge Park DEIR Executive Summary Table 1-1 regarding Transportation and Circulation that the "Project's" environmental impact as "Less Than Significant" misleading and of grave concern to us. It is only under the City's lower standards regarding traffic and circulation that such a conclusion can be made.

The Sunset Ridge Park DEIR needs to be rewritten to reflect Caltrans opposition to the proposed 3-way park access traffic signal on West Coast Highway and that the City is imposing its lower traffic standards on all PCH intersections mentioned in its Traffic and Circulation section.

Thank you.

Sincerely,

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

----- Forwarded Message -----

From: Tracey Lavelle <tracey_lavelle@dot.ca.gov>
To: Dorothy Kraus <medjkraus@yahoo.com>
Sent: Fri, February 19, 2010 11:36:03 AM
Subject: Re: Fw: Fw: Fw: Sunset Ridge Park - Caltrans DEIR Comment

Hello Dorothy, I didn't receive the information yesterday but if i do get it over this weekend or early Monday I will forward it to you. just wanted to give you a status update.

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

Due to Executive Order S-13-09 Caltrans will be closed on the 1st, 2nd, and 3rd Fridays of each month through June 2010.

Dorothy Kraus
<medjkraus@yahoo.com>
02/18/2010 05:41 AM

To Tracey Lavelle <tracey_lavelle@dot.ca.gov>
cc
Subject Fw: Fw: Fw: Sunset Ridge Park - Caltrans
DEIR Comment

Hi Tracey,

} I2-2
cont.

I wanted to check with you again regarding your response to the request for information in my February 2, 2010 email below.

The deadline for submitting comments to the Sunset Ridge Park DEIR was extended to February 22, 2010 which is coming up quickly this Monday. Please provide me with your response before Monday if possible as I'd like to ensure that I can make this deadline as appropriate.

Feel free to contact me at 949-337-6651 if you wish to discuss.

Thank you again for your time and effort.

Sincerely,

Dorothy Kraus

----- Forwarded Message -----

From: Dorothy Kraus <medjkraus@yahoo.com>
To: Tracey Lavelle <tracey_lavelle@dot.ca.gov>
Sent: Thu, February 11, 2010 8:30:17 AM
Subject: Fw: Fw: Sunset Ridge Park - Caltrans DEIR Comment

Hi Tracey,

Just a quick check to see how your research is progressing.

Thanks again.

Dorothy Kraus

----- Forwarded Message -----

From: Tracey Lavelle <tracey_lavelle@dot.ca.gov>
To: Dorothy Kraus <medjkraus@yahoo.com>
Sent: Wed, February 3, 2010 1:01:09 PM
Subject: Re: Fw: Sunset Ridge Park - Caltrans DEIR Comment

Hello Dorothy, I will research this for you and respond accordingly.

Regards,

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

Due to Executive Order S-13-09 Caltrans will be closed on the 1st, 2nd, and 3rd Fridays of each month through June 2010.

Dorothy Kraus <medjkraus@yahoo.com>
02/02/2010 09:39 AM

To
Tracey Lavelle <tracey_lavelle@dot.ca.gov>
cc

Subject
Fw: Fw: Sunset Ridge Park - Caltrans DEIR Comment

Dear Ms. LaVelle,

Thank you for your response to my question regarding the CalTrans' Sunset Ridge Park DEIR comment. I have a couple of follow-up questions that I'm hoping you can assist me with.

The following is taken from the Sunset Ridge Park DEIR Section 4.3, Transportation (reference Sunset Ridge Park DEIR at the City of Newport Beach website, <http://www.newportbeachca.gov/index.aspx?page=1347>):

"[O]perating conditions at intersections are typically described in terms of a "level of service" (LOS). Level of service is a qualitative measure of a facility's operating performance and is described with a letter designation from A to F with LOS A representing uncongested free-flowing operating conditions and LOS F representing congested over-capacity conditions. The HCM methodology returns a delay value, expressed in terms of the average seconds of delay per vehicle, which also corresponds to a level of service measure.

The City of Newport Beach has adopted LOS D as the peak hour operating standard for intersection locations. For signalized intersections, an ICU value less than or equal to 0.90 satisfies the City's standards. For State-controlled intersections, the Caltrans Guide for the Preparation of Traffic Impact Studies states that "Caltrans endeavors to maintain a target Level of Service at the transition between LOS 'C' and LOS 'D' on State highway facilities. If an existing State highway facility is operating at less than the target LOS, the existing Level of Service is to be maintained".

In light of CalTrans' DEIR comment (attached) that "The proposed signalized intersection is not recommended based on the MUTCD, chapter 4, which reads, "a traffic control signal should not be installed if it shall seriously disrupt progressive traffic flow." ", does Caltrans have an estimate of the level of service (LOS) if the access road 3-way traffic signal is built as to traffic on West Coast Highway at its intersection with: 1) Newport Blvd.; 2) Superior Ave. 3) Park Access Road; and , 4) Prospect St.?

Will the "level of service" on West Coast Highway at these intersections fall below "LOS D" as a result of the park access traffic signal being built by the City of Newport Beach?

I appreciate your time in researching the answers to these follow-up

questions.

Sincerely,

Dorothy Kraus

----- Forwarded Message -----

From: Tracey Lavelle <tracey_lavelle@dot.ca.gov>

To: Dorothy Kraus <medjkraus@yahoo.com>

Cc: Cindy.Quon@dot.ca.gov

Sent: Thu, January 28, 2010 11:42:03 AM

Subject: Re: Fw: Sunset Ridge Park - Caltrans DEIR Comment

Good Morning Ms. Kraus, please find responses to the questions in your email dated January 24th, 2010.

Question #1

Can you please elaborate in layman's terms how the proposed signal would 'seriously disrupt progressive traffic flow'?

When intersections are in close proximity to each other it can compromise the Department's attempt to synchronize traffic signals, resulting in disrupted traffic flow.

Question #2

In the event that the City of Newport Beach acquires the Pacific Coast Highway area including the proposed traffic signal site would the City now

have the authority/jurisdiction to ignore Caltran's recommendation as stated above and install the signal despite the traffic disruption it would cause?

In the event that the State relinquishes control of Pacific Coast Highway to the city of Newport Beach, the Department, per the California Environmental Quality Act (CEQA), would only serve as a commenting agency,

as opposed to a responsible agency under the current situation. Therefore,

the city could install the proposed traffic signal without approval from the Department.

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

Due to Executive Order S-13-09 Caltrans will be closed on the 1st, 2nd, and 3rd Fridays of each month through June 2010.

Dorothy Kraus <medjkraus@yahoo.com>
01/28/2010 08:00 AM

To
Tracey Lavelle <tracey_lavelle@dot.ca.gov>
cc
Cindy.Quon@dot.ca.gov
Subject
Fw: Sunset Ridge Park - Caltrans DEIR Comment

Dear Ms. LaVelle,

Having not yet received a response, I wanted to follow up to ensure that you had indeed received my email below requesting clarification.

Thank you!

Dorothy Kraus

----- Forwarded Message -----

From: Dorothy Kraus <medjkraus@yahoo.com>
To: Tracey Lavelle <tracey_lavelle@dot.ca.gov>
Cc: Cindy.Quon@dot.ca.gov
Sent: Sun, January 24, 2010 2:22:01 PM
Subject: Sunset Ridge Park - Caltrans DEIR Comment

Dear Ms. Lavelle,

In Caltrans' Sunset Ridge Park DEIR comment letter dated December 9, 2009 (attached PDF file and text from comment letter displayed below), Caltrans

states the following in # 2:

'2. The proposed signalized intersection is not recommended based on the MUTCD, chapter 4, which reads, "a traffic control signal should not be installed if it shall seriously disrupt progressive traffic flow." '

Can you please elaborate in layman's terms how the proposed signal would 'seriously disrupt progressive traffic flow'?

Also, in the event that the City of Newport Beach acquires the Pacific Coast Highway area including the proposed traffic signal site would the City now have the authority/jurisdiction to ignore Caltrans' recommendation as stated above and install the signal despite the traffic disruption it would cause?

Thank you.

Sincerely,

Dorothy Kraus

Letter I2 **Dorothy Kraus**
February 21, 2010

Response 1

As addressed in the Draft EIR and in with consultation with Caltrans, the City is proposing a signal at the future West Coast Highway and park access road intersection. Please refer to Topical Response 3.

Response 2

Coast Highway is a State highway. It is the intent of the City to continue coordination of improvements to Coast Highway with Caltrans.

From: Dorothy Kraus [mailto:medjkraus@yahoo.com]
Sent: Sunday, January 31, 2010 4:01 PM
To: Wood, Sharon
Subject: Re: Council Meeting - 1/12: Closed Session on

Letter I3

Hi Sharon,

Thank you for your responsiveness regarding the closed session on Sunset Ridge Park access and Banning Ranch easement discussion. Thanks also for your additional comments explaining that there is only one feasible way to provide public access to the future park which is across Banning Ranch property where the slope is not so steep.

Having re-reviewed the Sunset Ridge Park DEIR and appendixes, there is nothing about a West Coast Highway access road alternative not on Banning Ranch property and instead on City owned property in addition to the Superior Avenue access alternative that was addressed.

The November 19, 2009 EQAC comment (attached page 8, section 4.3 Transportation) questioned the access road path across Banning Ranch and offered a West Coast Highway access alternative as follows: "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."

Also, there is nothing in the DEIR Appendix G, 'GEOTECHNICAL STUDY FOR THE PROPOSED SUNSET RIDGE PARK PROJECT FOR THE ENVIRONMENTAL IMPACT REPORT (EIR), SUPERIOR AVENUE AND PACIFIC COAST HIGHWAY, CITY OF NEWPORT BEACH, CALIFORNIA' (attached) that supports the conclusion that the only way to access the future park is across Banning Ranch property where the slope is not so steep. The study only states that 'We understand that the access road to the site will be constructed starting from Pacific Coast Highway trending north and east through the Banning Ranch property to the future park entrance.' (Page 12)

I'm very concerned that the conclusion stated in your email that 'the only way we can provide public access to the future park is across the Banning Ranch property, where the slope is not so steep' is not supported by facts and analysis. Can you point me to the sections of the DEIR or the appendix where there is meaningful fact-based detailed information that forms the basis of this conclusion?

Thank you again and have a good week.

Sincerely,

Dorothy Kraus

----- Forwarded Message -----

From: "Wood, Sharon" <SWood@newportbeachca.gov>
To: Dorothy Kraus <medjkraus@yahoo.com>
Sent: Tue, January 12, 2010 9:27:00 AM
Subject: RE: Council Meeting - 1/12: Closed Session on

Dorothy,

First, thank you for attending our Saturday session and being so interested in your community. It's nice to see new faces at these events.

I3-1

Closed sessions of city councils have special provisions under the Brown Act (the State open public meeting law) to allow councils to have private discussions on certain limited matters, including labor negotiations; hiring, firing and evaluation of employees like the City Manager; filing and settlement of litigation; and real property negotiations. I think you can understand that if these things had to be done in open session, cities would be revealing their negotiation strategy and would be at a disadvantage in negotiations. So there is no public access to the closed session discussion, and there are no minutes. When a decision is made in closed session, such as to settle a lawsuit or hire a new City Manager, the law requires that that decision is announced in open session at the start of the regular meeting. For things like real property negotiations, which the Sunset Ridge Park access easement discussion is, the Council will only give direction to its negotiators in closed session, and there will be no public report. When tentative agreement on a real property transaction is reached, following the Council's negotiating instructions, action to approve that transaction will be taken at a regular open session of the Council, and the public will know the terms of the transaction.

The reason we are negotiating an access easement for Sunset Ridge Park is that the property has no practical, usable access from either Coast Highway or Superior Avenue. The only way we can provide public access to the future park is across the Banning Ranch property, where the slope is not so steep. Rather than buying additional property that would be used only for access and not for active park use, the City is working with the Banning Ranch owners to obtain an easement for access.

I hope this answers your questions; feel free to follow up if you need more information.

Sharon Wood
Assistant City Manager

Letter I3 **Dorothy Kraus**
January 31, 2010

Response 1

Please refer to Topical Responses 1 and 2.

The City's Public Works Department has identified that access along the Superior Avenue and West Coast Highway frontages would not meet current traffic engineering standards and would therefore be unsafe. While additional studies would most likely further validate the denial of access at this point, the findings that the Traffic Engineer has previously identified are sufficient evidence to support denial of any access at these locations. The following are a few of the City identified issues associated with an access road along Superior Avenue and West Coast Highway:

Superior Avenue

- The measured speeds on Superior Avenue are 46 mph. At this speed, a driver needs 480 feet to decelerate into an access point.
- Given the grades of the slope between Superior Avenue and the Project site, it appears that the only logical location to consider access is at the northeast corner of the property. At this location, the City sight distance requirement of 450 feet cannot be met because of the curvature of the roadway.
- There is an on-street striped bike lane.

West Coast Highway

- The measured speeds on Coast Highway are 52 mph. At this speed, a driver needs 500 feet to decelerate into an access point. The length of the property frontage for Sunset Ridge Park on Coast Highway is approximately 350 feet. There is insufficient length for deceleration into the property.
- There is an existing lane drop across the entire property frontage on Coast Highway. Within a short segment of roadway there would be a mix of through traffic in the lane drop area with vehicles attempting to decelerate into a project driveway.
- The existing grade from Coast Highway to the Project site is steep. The maximum driveway grade per City standard is 15 percent. To provide a driveway into the site, the length of the driveway would approach approximately 200 feet.
- There is an existing on-street striped bike lane.
- There are dual right turn lanes from southbound Superior Avenue onto Coast Highway. This presents an additional volume of vehicles required to merge with through traffic and with vehicles trying to access the park driveway.

With respect to the construction of a park access road on the City's property from West Coast Highway, the site contains a 197,720-square-foot (sf) scenic easement imposed by the California Department of Transportation (Caltrans) as a term of the sale of the property to the City. The easement is located generally from the property line adjacent to West Coast Highway to approximately halfway into the site. This easement restricts development rights to those

permitted in the City's Open Space-Active (OS-A) zoning with additional limitations on the placement of permanent structures and pavement in the scenic easement area. Therefore, a road from West Coast Highway would not be permitted.

>>> "Brown, Janet" <JBrown@newportbeachca.gov> 2/17/2010 9:37 AM >>>

Letter J1

Dear Mr. Bartram:

Thank you for your email and comments. Although your comments are not CEQA-related, they have been entered into the record, and they will be forwarded to the decision-makers for their consideration.

With regard to the access road, and export of soil sites and haul road on the Newport Banning Ranch property, please be advised that negotiations are on-going and the agreement is not in final form at this time.

Banning Ranch will not indemnify the City under NBMC Chapter 1.07 because the City is the applicant in this instance, not Banning Ranch. Chapter 1.07 is designed to protect the City when it processes applications on behalf of third-party applicants. But in the present instance the City is the applicant. Thus, Banning Ranch has no duty to indemnify the City under Chapter 1.07.

Lastly, the City of Newport Beach and Newport Banning Ranch property owners did not "commonly agree to use the same environmental consultant." Because both projects were subject to similar issues, the City selected BonTerra Consulting to work on the Sunset Ridge Park project in order to provide continuity in the analysis of the various environmental issues analyzed.

Sincerely,

Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@city.newport-beach.ca.us

From: Bruce Bartram [mailto:b.bartram@verizon.net]
Sent: Wednesday, February 17, 2010 9:08 AM
To: Brown, Janet
Cc: Terry Welsh; slgenis@stanfordalumni.org; jtmansfield@ca.rr.com; mezzohiker@msn.com; dkoken@hmausa.com; marktabbert@sbcglobal.net; steveray4surfcity@hotmail.com; jenniferfrutig@aol.com; knelson@web-conferencing-central.com; greenp1@cox.net; jonfox7@yahoo.com; evenkeel4@sbcglobal.net; jimcassidy52@earthlink.net; jamesrquigg@yahoo.com; 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; Ginny Lombardi; Gary Garber; Robb Hamilton; Sharon Boles; Dorothy Kraus; Paul Malkemus; Sami & Ramzy Mankarious
Subject: Sunset Ridge Park DEIR Follow Up Questions II

Dear Ms Brown:

On February 5, 2010 I sent you a second email again requesting information concerning the Sunset Ridge Park Project. As I explained, I needed the requested information to prepare additional comments concerning the Sunset Ridge Park DEIR. Since that date I have heard nothing from you in response concerning that email or my original questions contained my initial email to you dated January 22, 2010. On that same day, I received an email from you in response stating that you were out of your office until January 26, 2010. To date that has been only response to my request for information. Copies of both my emails and your out of office response are listed below.

} J1-1

As you well know, the comment period regarding the Sunset Ridge Park DEIR ends February 22, 2010. California law holds that the evaluation and response to public comments is an essential part of the CEQA process. Failure by the public agency to comply with the requirement can lead to disapproval of a project by a reviewing court. CEQA Guideline 15088; Environmental Protection Information Center v. Johnson (1985) 170 Cal.App.3d 604, 627; Gallegos v. California State Board of Forestry (1978) 76 Cal.App.3d 945, 952-955. Once again, your prompt attention to this matter is necessary and appreciated.

J1-1
cont.

Very truly yours,

Bruce Bartram

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

From: [Bruce Bartram](#)

To: [Brown, Janet](#)

Cc: [Terry Welsh](#) ; [slgenis@stanfordalumni.org](#) ; [itmansfield@ca.rr.com](#) ; [mezzohiker@msn.com](#) ; [dkoken@hmausa.com](#) ; [marktabbert@sbcglobal.net](#) ; [steveray4surfcity@hotmail.com](#) ; [jenniferfrutig@aol.com](#) ; [knelson@web-conferencing-central.com](#) ; [greenp1@cox.net](#) ; [jonfox7@yahoo.com](#) ; [evenkeel4@sbcglobal.net](#) ; [jimcassidy52@earthlink.net](#) ; [jamesrquigg@yahoo.com](#) ; [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](#) ; [Ginny Lombardi](#) ; [Gary Garber](#) ; [Robb Hamilton](#)

Sent: Friday, February 05, 2010 10:59 AM

Subject: Sunset Ridge Park DEIR Follow Up Questions

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Very truly yours,

Bruce Bartram
2 Seaside Circle
Newport Beach, CA 92663

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

From: [Brown, Janet](#)

To: [Bruce Bartram](#)

Sent: Friday, January 22, 2010 10:36 AM

Subject: Out of Office AutoReply: Sunset Ridge Park DEIR Follow Up uestions

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Thank you.

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

From: [Bruce Bartram](#)
To: [Brown, Janet](#)
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Sent: Friday, January 22, 2010 10:33 AM
Subject: Re: Sunset Ridge Park DEIR Follow Up uestions

Dear Ms. Brown:

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In my DEIR comment dated December 2, 2009, I discussed the fact that the City of Newport Beach must enter into two agreement with the adjacent Banning Ranch property owners in order for the Project to be built as described in the DEIR. 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)

I was informed by Newport Beach Councilmember Steve Rosansky that the terms of the above 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. On January 12, 2010 the Newport Beach City Council apparently met in close session to discuss the negotiations concerning the access road agreement. According to the Council Meeting Agenda this item was described as follows:

· "Property: Access Road to Sunset Ridge Park - City Negotiators: Ed Selich, Steve Rosansky and David Webb - Under Negotiation: Acquisition of easement for access to proposed Sunset Ridge Park."

There is no mention in the above "item" if these access road negotiations also include the "dump site agreements" described above. Please advise if in fact the terms to permit

the dumping of 34,000 cy of soil are being negotiated with the Banning Ranch property owners and what are the status of any negotiations? A review of the City Council Meeting Agendas from the date of my December 2, 2009 comment reveals no mention of any closed session meeting of the City Council regarding any Sunset Ridge Park "dump site agreements" with the Banning Ranch Property owners. Please advise me as to what is going on as to this issue.

Also, I wish to know the applicability of Newport Beach Municipal Code (NBMC) Chap. 1.07 Indemnification of the City for Third Party Challenges brought under the California Environmental Quality Act (CEQA) as to the Sunset Ridge Park Project. As you know NBMC 1.07.010 B states that "Judicial challenges to the City's CEQA determinations for projects requiring discretionary approvals are costly and time consuming. In additional, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenges, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger." Section 1.07.030 further states:"Any applicant for a discretionary permit under any provision of the Code which also requires a determination under CEQA shall be provided notice of the provisions of this chapter. Any project approval may, in the discretion of the approving body, be conditioned to indemnify the City according to the provisions of this chapter, as follows..."

The City of Newport Beach is nominally the "Applicant" as regards the Sunset Ridge Park Project. However, the Banning Ranch property owners have their own project the "Newport Banning Ranch Project" currently pending before the City for approval. As you know, its own EIR is being prepared. As part of the terms of "access road agreement," "dump site agreement" and/or City approval of the "Newport Banning Ranch Project" will the City of Newport Beach demand that the Banning Ranch property owners indemnify and defend the City as to any CEQA challenge brought against the Sunset Ridge Park Project. No doubt the City will condition approval of the Newport Banning Ranch Project upon City indemnification by the Banning Ranch property owners under NBMC Chap. 1.07 described above. Given the two projects' interrelationship and interdependency it would be logical for the City to request indemnification for Sunset Ridge Park as well. To add one more additional "fact" in support of my conclusion, BonTerra Consulting is preparing both the Sunset Ridge Park Project and the Newport Banning Ranch Project EIRs. Additionally, did the City of Newport Beach and the Banning Ranch property commonly agree to use the same environmental consultant to prepare their respective projects EIRs? What were the circumstances concerning the City's retention of BonTerra Consultants?

I look forward to receiving your responses to my questions above. Your anticipated prompt attention to this matter is appreciated.

Very truly yours,

Bruce Bartram

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

From: [Brown, Janet](#)

Sent: Friday, January 08, 2010 6:27 PM

Subject: Sunset Ridge Park DEIR

To all interested parties who have submitted a written comment regarding the Sunset Ridge Park Draft Environmental Impact Report, please see the attached.

If you have any questions, please do not hesitate to contact me.

Thank you.

*Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@newportbeachca.gov*

Letter J1 **Bruce Bartram**
February 17, 2010

Response 1

With respect to the access agreement, the City is currently negotiating an access agreement with the Newport Banning Ranch property owner. The City Council will consider approving this agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines. The access agreement is intended to be independent and does not presuppose development by the Newport Banning Ranch applicant.

With respect to indemnification, the Newport Banning Ranch property owner would not indemnify the City under Newport Beach Municipal Code Chapter 1.07 because the City is the applicant for the Sunset Ridge Park Project, not Newport Banning Ranch. Chapter 1.07 is intended to protect the City when it processes applications on behalf of third-party applicants. In this case, the City is the applicant. The Newport Banning Ranch property owner has no obligation to indemnify the City under Chapter 1.07.

From: Bruce Bartram [mailto:b.bartram@verizon.net]
Sent: Friday, February 19, 2010 12:20 PM
To: Brown, Janet
Cc: Terry Welsh; slgenis@stanfordalumni.org; jtmansfield@ca.rr.com; mezzohiker@msn.com; dkoken@hmausa.com; marktabbert@sbcglobal.net; steveray4surfcity@hotmail.com; jenniferfrutig@aol.com; knelson@web-conferencing-central.com; greenp1@cox.net; jonfox7@yahoo.com; evenkeel4@sbcglobal.net; jimcassidy52@earthlink.net; jamesrquigg@yahoo.com; 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; Ginny Lombardi; Gary Garber; Robb Hamilton; Sharon Boles; Dorothy Kraus; Paul Malkemus; Sami & Ramzy Mankarious; Dave Sutherland
Subject: Sunset Ridge Park DEIR Comment IV

Letter J2

February 19, 2010

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 IV

Dear Ms. Brown:

Thank you for your response to my recent Sunset Ridge Park questions, a copy of which is listed below. I add my comments to your responses as follows and request they be included as part of the public comments to the Sunset Ridge Park DEIR.

"With regard to the access road, and export of soil sites and haul road on the Newport Banning Ranch property, please be advised that negotiations are on-going and the agreement is not in final form at this time."

This means that, as before, the Sunset Ridge Park DEIR Project Description is still uncertain and subject to change. An accurate project description is necessary for an intelligent evaluation of the potential environmental impacts and is the *sine qua non* of an informative and legally sufficient EIR. A curtailed, enigmatic or unstable project description draws a red herring across the path of public input. *Silveira v. Las Gallinas Valley Sanitary Dist.* (1997) 54 Cal. App. 4th 980, 990. Without these "finalized terms" the project description in the Sunset Ridge Park Project DEIR is simply deficient under CEQA.

"Banning Ranch will not indemnify the City under NBMC Chapter 1.07 because the City is the applicant in this instance, not Banning Ranch. Chapter 1.07 is designed to protect the City when it processes applications on behalf of third-party applicants. But in the present instance the City is the applicant. Thus, Banning Ranch has no duty to indemnify the City under Chapter 1.07."

Granted, Banning Ranch has no "duty" to indemnify the City under Chapter 1.07 of the Newport Beach Municipal Code. However, this fails to answer the question asked in my email below "As part of the terms of "access road agreement," "dump site agreement" and/or City approval of the "Newport Banning Ranch Project" will the City of Newport Beach demand that the Banning Ranch property owners indemnify and defend the City as to any CEQA challenge brought against the Sunset Ridge Park Project? No doubt the City will condition approval of the Newport Banning Ranch Project upon City indemnification by the Banning Ranch property owners under NBMC Chap. 1.07 described above. Given the two projects' interrelationship and interdependency it would be logical for the City to request indemnification for Sunset Ridge Park

J2-1

J2-2

as well." While indemnification of the City is not technically a CEQA issue, indemnification regarding the Sunset Ridge EIR would obviously affect the City Council's decision to certify the EIR and approve the project. Banning Ranch agreeing to pay the City's litigation expenses with regards to any CEQA challenge directed against the Sunset Ridge Park EIR makes City Council certification of the EIR and approved the project more likely. And, of course, any such indemnification agreement further proves the interrelationship between the Banning Ranch and Sunset Ridge Park Projects.

J2-2
cont.

"Lastly, the City of Newport Beach and Newport Banning Ranch property owners did not commonly agree to use the same environmental consultant." Because both projects were subject to similar issues, the City selected BonTerra Consulting to work on the Sunset Ridge Park project in order to provide continuity in the analysis of the various environmental issues analyzed."

The "continuity in the analysis of the various environmental issues analyzed" means that the shortcomings, mistakes and biases of BonTerra Consulting analysis contained in the Sunset Ridge Park DEIR will likely be carried over into BonTerra's analysis for the Banning Ranch DEIR. Those shortcomings are ably demonstrated in at least two comments to the Sunset Ridge Park DEIR received by the City of Newport Beach in the initial DEIR comment period. In Robert A. Hamilton, President of Hamilton Biological, Inc.'s Report entitled "Review of Biological Issues Sunset Ridge Draft DEIR" dated December 10, 2009 Mr. Hamilton concludes in part as follows:

"The standard under which CEQA operates is that impact analyses must be made using the best available scientific information, including consideration of the results of other biological surveys conducted at the project site and in nearby areas. The Sunset Ridge DEIR falls far short of this minimal standard, to the point where members of the public are having to document the existence of extensive wetlands, explain the apparent illegality of mowing native plant communities that are designated as critical habitat for a listed species, document the occurrence of a listed species in areas the DEIR deems unoccupied, find and publish the results of previous survey efforts on the project site, and generally bring to light numerous highly relevant, factual items that the EIR preparer (BonTerra Consulting) has overlooked, ignored, suppressed, or misinterpreted."

J2-3

A further indication of BonTerra's shortcomings is contained in Matt Hagemann, P.G.'s report dated December 10, 2009. The report is entitled "Comments on the Draft Environmental Impact Report for the proposed Sunset Ridge Park Project." It states the Sunset Ridge Park DEIR's Hazards and Hazardous Materials section "fails to identify an oil well" on the Project site; "inadequately assesses the environmental conditions" on the Project site; and, fails to document the clean up of soils on the Project site.

The chief purpose of an environmental impact report (EIR) under the California Environmental Quality Act (CEQA) is to provide detailed information regarding the significant environmental effects of the proposed project on the physical conditions that exist within the area. It follows that the existing conditions must be determined, within the fullest extent possible, in the EIR itself. It is only against this baseline that any significant environmental effects can be determined. Thus, baseline determination is the first rather than the last step in the environmental review process. *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal. App. 4th 99.

In summary, both the Hamilton and Hagemann comments demonstrate that the Sunset Ridge Park DEIR has failed to accurately establish the baseline conditions on the project site. Under CEQA, an EIR must provide an accurate description of the existing physical conditions on the property at the start of the environmental review process to ensure meaningful assessment of a proposed project's significant environmental impacts and consideration of mitigation measures. *Sierra Club v. City of Orange* (2008) 163 Cal. App.4th 523. As shown above, no such accurate description of the project site is contained in the Sunset Ridge Park DEIR.

I look forward to reviewing your comments regarding the foregoing.

Very truly yours,

Bruce
Bartram

Seaside

Circle

Newport

Beach CA 92663

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

From: Brown, Janet

To: Bruce Bartram

Cc: Terry Welsh ; slgenis@stanfordalumni.org ; itmansfield@ca.rr.com ; mezzohiker@msn.com ; dkoken@hmausa.com ; marktabbert@sbcglobal.net ; steveray4surfcity@hotmail.com ; jenniferfrutiq@aol.com ; knelson@web-conferencing-central.com ; greenp1@cox.net ; jonfox7@yahoo.com ; evenkeel4@sbcglobal.net ; jimcassidy52@earthlink.net ; jamesrquigg@yahoo.com ; 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 ; Ginny Lombardi ; Gary Garber ; Robb Hamilton ; Sharon Boles ; Dorothy Kraus ; Paul Malkemus ; Sami & Ramzy Mankarious

Sent: Wednesday, February 17, 2010 9:37 AM

Subject: RE: Sunset Ridge Park DEIR Follow Up Questions II

Dear Mr. Bartram:

Thank you for your email and comments. Although your comments are not CEQA-related, they have been entered into the record, and they will be forwarded to the decision-makers for their consideration. With regard to the access road, and export of soil sites and haul road on the Newport Banning Ranch property, please be advised that negotiations are on-going and the agreement is not in final form at this time.

Banning Ranch will not indemnify the City under NBMC Chapter 1.07 because the City is the applicant in this instance, not Banning Ranch. Chapter 1.07 is designed to protect the City when it processes applications on behalf of third-party applicants. But in the present instance the City is the applicant. Thus, Banning Ranch has no duty to indemnify the City under Chapter 1.07.

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Sincerely,

Janet Johnson Brown

Associate Planner

City of Newport Beach

(949) 644-3236

jbrown@city.newport-beach.ca.us

From: Bruce Bartram [mailto:b.bartram@verizon.net]

Sent: Wednesday, February 17, 2010 9:08 AM

To: Brown, Janet

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2

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I look forward to receiving your responses to my questions above. Your anticipated prompt attention to this matter is appreciated.

Very truly yours,

Bruce Bartram

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

From: Brown, Janet

Sent: Friday, January 08, 2010 6:27 PM

Subject: Sunset Ridge Park DEIR

To all interested parties who have submitted a written comment regarding the Sunset Ridge Park Draft Environmental Impact Report, please see the attached.

If you have any questions, please do not hesitate to contact me.

Thank you.

Janet Johnson Brown

Associate Planner

City of Newport Beach

(949) 644-3236

jbrown@newportbeachca.gov

Letter J2 **Bruce Bartram**
February 19, 2010

Response 1

The commenter's opinion is noted. The proposed Project, as set forth in the EIR, analyzes the potential environmental effects associated with the implementation and operation of the park, inclusive of a park access road. The access road is proposed on the Newport Banning Ranch property because safe ingress/egress to the City's property cannot be provided. With respect to the temporary haul road and stockpile locations on the Newport Banning Ranch property, the Draft EIR identifies and evaluates two options for the disposal of excess material from the Sunset Ridge Park site: the adjacent Newport Banning Ranch property or an alternative off-site location. While the stockpile areas are evaluated in the Draft EIR, they are not required as a part of the Project.

Response 2

The opinion of the commenter is noted.

Response 3

The opinion of the commenter is noted.

Brown, Janet

From: Bruce Bartram [b.bartram@verizon.net]
Sent: Friday, January 22, 2010 10:34 AM
To: Brown, Janet
Cc: Terry Welsh; slgenis@stanfordalumni.org; jtmansfield@ca.rr.com; mezzohiker@msn.com; dkoken@hmausa.com; marktabbert@sbcglobal.net; steveray4surfcity@hotmail.com; jenniferfrutig@aol.com; knelson@web-conferencing-central.com; greenp1@cox.net; jonfox7@yahoo.com; evenkeel4@sbcglobal.net; jimcassidy52@earthlink.net; jamesrquigg@yahoo.com; 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; Ginny Lombardi; Gary Garber; Robb Hamilton
Subject: Re: Sunset Ridge Park DEIR Follow Up uestions

Dear Ms. Brown:

I am in receipt of your January 8, 2010 email regarding the Sunset Ridge Park Draft Environmental Impact Report (DEIR). In your email you announce that the comment period regarding the DEIR has been reopened for the period of January 8, 2010 through February 22, 2010. I am in the process of preparing additional comments to the DEIR. However, to do so I need some additional information concerning the Sunset Ridge Park Project.

In my DEIR comment dated December 2, 2009, I discussed the fact that the City of Newport Beach must enter into two agreement with the adjacent Banning Ranch property owners in order for the Project to be built as described in the DEIR. 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)

J3-1

I was informed by Newport Beach Councilmember Steve Rosansky that the terms of the above 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. On January 12, 2010 the Newport Beach City Council apparently met in close session to discuss the negotiations concerning the access road agreement. According to the Council Meeting Agenda this item was described as follows:

- "Property: Access Road to Sunset Ridge Park - City Negotiators: Ed Selich, Steve Rosansky and David Webb - Under Negotiation: Acquisition of easement for access to proposed Sunset Ridge Park."

There is no mention in the above "item" if these access road negotiations also include the "dump site agreements" described above. Please advise if in fact the terms to permit the dumping of 34,000 cy of soil are being negotiated with the Banning Ranch property owners and what are the status of any negotiations? A review of the City Council Meeting Agendas from the date of my December 2, 2009 comment reveals no mention of any closed session meeting of the City Council regarding any Sunset Ridge Park "dump site agreements" with the Banning Ranch Property owners. Please advise me as to what is going on as to this issue.

Also, I wish to know the applicability of Newport Beach Municipal Code (NBMC) Chap. 1.07 Indemnification of the City for Third Party Challenges brought under the California Environmental Quality Act (CEQA) as to the Sunset Ridge Park Project. As you know NBMC 1.07.010 B states that "Judicial challenges to the City's CEQA determinations for projects

J3-2

requiring discretionary approvals are costly and time consuming. In additional, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenges, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger." Section 1.07.030 further states:"Any applicant for a discretionary permit under any provision of the Code which also requires a determination under CEQA shall be provided notice of the provisions of this chapter. Any project approval may, in the discretion of the approving body, be conditioned to indemnify the City according to the provisions of this chapter, as follows..."

The City of Newport Beach is nominally the "Applicant" as regards the Sunset Ridge Park Project. However, the Banning Ranch property owners have their own project the "Newport Banning Ranch Project" currently pending before the City for approval. As you know, its own EIR is being prepared. As part of the terms of "access road agreement," "dump site agreement" and/or City approval of the "Newport Banning Ranch Project" will the City of Newport Beach demand that the Banning Ranch property owners indemnify and defend the City as to any CEQA challenge brought against the Sunset Ridge Park Project. No doubt the City will condition approval of the Newport Banning Ranch Project upon City indemnification by the Banning Ranch property owners under NBMC Chap. 1.07 described above. Given the two projects' interrelationship and interdependency it would be logical for the City to request indemnification for Sunset Ridge Park as well. To add one more additional "fact" in support of my conclusion, BonTerra Consulting is preparing both the Sunset Ridge Park Project and the Newport Banning Ranch Project EIRs. Additionally, did the City of Newport Beach and the Banning Ranch property commonly agree to use the same environmental consultant to prepare their respective projects EIRs? What were the circumstances concerning the City's retention of BonTerra Consultants?

J3-2
cont.

I look forward to receiving your responses to my questions above. Your anticipated prompt attention to this matter is appreciated.

Very truly yours,

Bruce Bartram

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

From: Brown, Janet
Sent: Friday, January 08, 2010 6:27 PM
Subject: Sunset Ridge Park DEIR

To all interested parties who have submitted a written comment regarding the Sunset Ridge Park Draft Environmental Impact Report, please see the attached.

If you have any questions, please do not hesitate to contact me.

Thank you.

Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@newportbeachca.gov

Letter J3 **Bruce Bartram**
February 22, 2010

Response 1

The City is currently negotiating an access agreement with the Newport Banning Ranch property owner. The City Council will consider approving this agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines.

Response 2

The opinions of the commenter are noted.

From: Bruce Bartram [mailto:b.bartram@verizon.net]
Sent: Monday, February 22, 2010 3:05 PM
To: Brown, Janet
Cc: Terry Welsh; slgenis@stanfordalumni.org; jtmansfield@ca.rr.com; mezzohiker@msn.com; dkoken@hmausa.com; marktabbert@sbcglobal.net; steveray4surfcity@hotmail.com; jenniferfrutig@aol.com; knelson@web-conferencing-central.com; greenp1@cox.net; jonfox7@yahoo.com; evenkeel4@sbcglobal.net; jimcassidy52@earthlink.net; jamesrquigg@yahoo.com; 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; Ginny Lombardi; Gary Garber; Robb Hamilton; Sharon Boles; Dorothy Kraus; Paul Malkemus; Sami & Ramzy Mankarious; Dave Sutherland
Subject: Sunset Ridge Park DEIR Comment V

February 22, 2010

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 V

Dear Ms. Brown:

My neighbors Mike and Dorothy Kraus have been kind enough to forward to me a copy of their Sunset Ridge Park DEIR comment, which is listed below. The comment concerns Caltrans' opposition as a responsible agency under CEQA to the installation of the 3-way park access road traffic signal on West Coast Highway. This on grounds the signal "should not be installed if it shall seriously disrupt progressive traffic flow." I have additional information to add to this comment and request it be included as part of the public comments to the Sunset Ridge Park DEIR.

In response to Ms. Kraus' question listed below, Caltrans responds as follows:

"Question #2

In the event that the City of Newport Beach acquires the Pacific Coast Highway area including the proposed traffic signal site would the City now have the authority/jurisdiction to ignore Caltran's recommendation as stated above and install the signal despite the traffic disruption it would cause?

In the event that the State relinquishes control of Pacific Coast Highway to the city of Newport Beach, the Department, per the California Environmental Quality Act (CEQA), would only serve as a commenting agency, as opposed to a responsible agency under the current situation. Therefore, the city could install the proposed traffic signal without approval from the Department." (Emphasis added)

According to the California State Legislature website, Assembly Bill (AB) 344 authorizes the California Transportation Commission to relinquish to the City of Newport Beach the section of

Pacific Coast Highway from Jamboree Avenue north to the Santa Ana River. This area includes the location of the proposed installation of the Sunset Ridge Park road access traffic signal. AB 344 was introduced on February 19, 2009 and became law on October 11, 2009. I have been unable to determine if the Commission has relinquished control to the City of PCH and with it Caltrans approval authority over the park road access traffic signal. In any event, no mention of AB 344 appears anywhere in the Sunset Ridge Park DEIR. Nor is the significance of Caltrans no longer being a responsible agency for proposes of the Sunset Ridge Park Project discussed.

Under the California Environmental Quality Act (CEQA) if an agency's approval is required for any activity integral to a project and the agency could, in its discretion, deny approval, then that agency is a responsible agency under CEQA. If the responsible agency finds that any alternatives or mitigation measures within its powers are feasible and would substantially lessen or avoid a significant effect of the project, the responsible agency may not approve the project as proposed, but must adopt the feasible mitigation measures or alternatives. (Emphasis added) CEQA Guideline 15381; RiverWatch v. Olivenhain Municipal Water Dist. (2007) 170 Cal. App. 4th 1186.

The responsible agency here, of course, is Caltrans. The activity "integral" to the project is the proposed installation of the 3-way park access road traffic signal. Through AB 344 the City can cut off any Caltrans "mitigation measures or alternatives" it might propose to lessen or eliminate the "serious disruption to progressive traffic flow" the signal's installation will bring. All of this, including Caltrans data and methodology in support of its opposition to signal, should be present and subject to review and discussion in the Sunset Ridge Park DEIR but is not.

If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. The EIR process protects not only the environment but also informed self-government. RiverWatch v. Olivenhain Municipal Water Dist., supra. Here, the Sunset Ridge Park DEIR fails to inform the public regarding AB 344 and the reasons behind Caltrans opposition to the park access road traffic signal. It is, therefore, on these grounds alone, deficient under CEQA.

I look forward to reviewing your comments regarding the foregoing.

Very truly yours,

Bruce
Bartram

2

Seaside
Circle

Newport

Beach CA 92663

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

From: [Dorothy Kraus](#)

To: jbrown@newportbeachca.gov

Cc: [Bruce Bartram](#)

Sent: Monday, February 22, 2010 12:12 PM

Subject: Sunset Ridge Park - DEIR Comment

TO: Janet Johnson Brown, Associate Planner
City of Newport Beach, Planning Dept.

FROM: Mike and Dorothy Kraus
10 Wild Goose Court

J4-1
cont.

Newport Beach, CA 92663

Dear Ms. Brown:

The Sunset Ridge Park DEIR falls short of thoroughly addressing the traffic impacts that will result from the installation of a 3-way park access traffic signal on West Coast Highway.

The following is taken from the Sunset Ridge Park DEIR Section 4.3, Transportation: "[O]perating conditions at intersections are typically described in terms of a 'level of service' (LOS). Level of service is a qualitative measure of a facility's operating performance and is described with a letter designation from A to F with LOS A representing uncongested free-flowing operating conditions and LOS F representing congested over-capacity conditions. The HCM methodology returns a delay value, expressed in terms of the average seconds of delay per vehicle, which also corresponds to a level of service measure.

The City of Newport Beach has adopted LOS D as the peak hour operating standard for intersection locations. For signalized intersections, an ICU value less than or equal to 0.90 satisfies the City's standards. For State-controlled intersections, the Caltrans Guide for the Preparation of Traffic Impact Studies states that "Caltrans endeavors to maintain a target Level of Service at the transition between LOS 'C' and LOS 'D' on State highway facilities. If an existing State highway facility is operating at less than the target LOS, the existing Level of Service is to be maintained."

CalTrans' DEIR comment (dated December 9, 2009 and received by the City on December 10, 2009, and also attached below as a PDF document) states that "The proposed signalized intersection (the 3-way park access traffic signal on West Coast Highway) is not recommended based on the MUTCD, chapter 4, which reads, 'a traffic control signal should not be installed if it shall seriously disrupt progressive traffic flow.'" As shown below, in answer to my email question in follow up, Caltrans states as follows:

"Question #2

In the event that the City of Newport Beach acquires the Pacific Coast Highway area including the proposed traffic signal site would the City now have the authority/jurisdiction to ignore Caltran's recommendation as stated above and install the signal despite the traffic disruption it would cause?

In the event that the State relinquishes control of Pacific Coast Highway to the city of Newport Beach, the Department, per the California Environmental Quality Act (CEQA), would only serve as a commenting agency, as opposed to a responsible agency under the current situation. Therefore, the city could install the proposed traffic signal without approval from the Department.

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"

It is our understanding that the City is acquiring jurisdiction from Caltrans over PCH from Jamboree north to the Santa Ana River. This includes the area of the proposed 3-way park access traffic signal on West Coast Highway. In light of the City's lower traffic intersection standards versus Caltrans shown above it appears the City anticipated Caltrans opposition to the park access road signal and "went around it." Caltrans opposition to the park access road signal renders the conclusion contained in the Sunset Ridge Park DEIR Executive Summary

Table 1-1 regarding Transportation and Circulation that the "Project's" environmental impact as "Less Than Significant" misleading and of grave concern to us. It is only under the City's lower standards regarding traffic and circulation that such a conclusion can be made.

The Sunset Ridge Park DEIR needs to be rewritten to reflect Caltrans opposition to the proposed 3-way park access traffic signal on West Coast Highway and that the City is imposing its lower traffic standards on all PCH intersections mentioned in its Traffic and Circulation section.

Thank you.

Sincerely,

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

----- Forwarded Message -----

From: Tracey Lavelle <tracey_lavelle@dot.ca.gov>
To: Dorothy Kraus <medjkraus@yahoo.com>
Sent: Fri, February 19, 2010 11:36:03 AM
Subject: Re: Fw: Fw: Fw: Sunset Ridge Park - Caltrans DEIR Comment

Hello Dorothy, I didn't receive the information yesterday but if i do get it over this weekend or early Monday I will forward it to you. just wanted to give you a status update.

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

Due to Executive Order S-13-09 Caltrans will be closed on the 1st, 2nd, and 3rd Fridays of each month through June 2010.

Dorothy Kraus
<medjkraus@yahoo.com>
02/18/2010 05:41 AM

To Tracey Lavelle <tracey_lavelle@dot.ca.gov>
cc
Subject Fw: Fw: Fw: Sunset Ridge Park - Caltrans
DEIR Comment

Hi Tracey,

I wanted to check with you again regarding you response to the request for information in my February 2, 2010 email below.

The deadline for submitting comments to the Sunset Ridge Park DEIR was extended to February 22, 2010 which is coming up quickly this Monday. Please provide me with your response before Monday if possible as I'd like to ensure that I can make this deadline as appropriate.

Feel free to contact me at 949-337-6651 if you wish to discuss.

Thank you again for your time and effort.

Sincerely,

Dorothy Kraus

----- Forwarded Message -----

From: Dorothy Kraus <medjkraus@yahoo.com>
To: Tracey Lavelle <tracey_lavelle@dot.ca.gov>
Sent: Thu, February 11, 2010 8:30:17 AM
Subject: Fw: Fw: Sunset Ridge Park - Caltrans DEIR Comment

Hi Tracey,

Just a quick check to see how your research is progressing.

Thanks again.

Dorothy Kraus

----- Forwarded Message -----

From: Tracey Lavelle <tracey_lavelle@dot.ca.gov>
To: Dorothy Kraus <medjkraus@yahoo.com>
Sent: Wed, February 3, 2010 1:01:09 PM
Subject: Re: Fw: Sunset Ridge Park - Caltrans DEIR Comment

Hello Dorothy, I will research this for you and respond accordingly.

Regards,

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

Due to Executive Order S-13-09 Caltrans will be closed on the 1st, 2nd, and 3rd Fridays of each month through June 2010.

Dorothy Kraus <medjkraus@yahoo.com>
02/02/2010 09:39 AM

To
Tracey Lavelle <tracey_lavelle@dot.ca.gov>
cc

Subject
Fw: Fw: Sunset Ridge Park - Caltrans DEIR Comment

Dear Ms. LaVelle,

Thank you for your response to my question regarding the CalTrans' Sunset Ridge Park DEIR comment. I have a couple of follow-up questions that I'm hoping you can assist me with.

The following is taken from the Sunset Ridge Park DEIR Section 4.3, Transportation (reference Sunset Ridge Park DEIR at the City of Newport Beach website, <http://www.newportbeachca.gov/index.aspx?page=1347>):

"[O]perating conditions at intersections are typically described in terms of a "level of service" (LOS). Level of service is a qualitative measure of a facility's operating performance and is described with a letter designation from A to F with LOS A representing uncongested free-flowing operating conditions and LOS F representing congested over-capacity conditions. The HCM methodology returns a delay value, expressed in terms of the average seconds of delay per vehicle, which also corresponds to a level of service measure.

The City of Newport Beach has adopted LOS D as the peak hour operating standard for intersection locations. For signalized intersections, an ICU value less than or equal to 0.90 satisfies the City's standards. For State-controlled intersections, the Caltrans Guide for the Preparation of Traffic Impact Studies states that "Caltrans endeavors to maintain a target Level of Service at the transition between LOS 'C' and LOS 'D' on State highway facilities. If an existing State highway facility is operating at less than the target LOS, the existing Level of Service is to be maintained".

In light of CalTrans' DEIR comment (attached) that "The proposed signalized intersection is not recommended based on the MUTCD, chapter 4, which reads, "a traffic control signal should not be installed if it shall seriously disrupt progressive traffic flow." ", does Caltrans have an estimate of the level of service (LOS) if the access road 3-way traffic signal is built as to traffic on West Coast Highway at its intersection with: 1) Newport Blvd.; 2) Superior Ave. 3) Park Access Road; and , 4) Prospect St.?

Will the "level of service" on West Coast Highway at these intersections fall below "LOS D" as a result of the park access traffic signal being built by the City of Newport Beach?

I appreciate your time in researching the answers to these follow-up questions.

Sincerely,

Dorothy Kraus

----- Forwarded Message -----

From: Tracey Lavelle <tracey_lavelle@dot.ca.gov>

To: Dorothy Kraus <medjkraus@yahoo.com>

Cc: Cindy.Quon@dot.ca.gov

Sent: Thu, January 28, 2010 11:42:03 AM

Subject: Re: Fw: Sunset Ridge Park - Caltrans DEIR Comment

Good Morning Ms. Kraus, please find responses to the questions in your email dated January 24th, 2010.

Question #1

Can you please elaborate in layman's terms how the proposed signal would 'seriously disrupt progressive traffic flow'?

When intersections are in close proximity to each other it can compromise the Department's attempt to synchronize traffic signals, resulting in disrupted traffic flow.

Question #2

In the event that the City of Newport Beach acquires the Pacific Coast Highway area including the proposed traffic signal site would the City now

have the authority/jurisdiction to ignore Caltran's recommendation as stated above and install the signal despite the traffic disruption it would cause?

In the event that the State relinquishes control of Pacific Coast Highway to the city of Newport Beach, the Department, per the California Environmental Quality Act (CEQA), would only serve as a commenting agency,

as opposed to a responsible agency under the current situation. Therefore,

the city could install the proposed traffic signal without approval from the Department.

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

Due to Executive Order S-13-09 Caltrans will be closed on the 1st, 2nd, and 3rd Fridays of each month through June 2010.

Dorothy Kraus <medjkraus@yahoo.com>
01/28/2010 08:00 AM

To
Tracey Lavelle <tracey_lavelle@dot.ca.gov>
cc
Cindy.Quon@dot.ca.gov
Subject
Fw: Sunset Ridge Park - Caltrans DEIR Comment

Dear Ms. LaVelle,

Having not yet received a response, I wanted to follow up to ensure that you had indeed received my email below requesting clarification.

Thank you!

Dorothy Kraus

----- Forwarded Message -----

From: Dorothy Kraus <medjkraus@yahoo.com>

To: Tracey Lavelle <tracey_lavelle@dot.ca.gov>

Cc: Cindy.Quon@dot.ca.gov

Sent: Sun, January 24, 2010 2:22:01 PM

Subject: Sunset Ridge Park - Caltrans DEIR Comment

Dear Ms. Lavelle,

In Caltrans' Sunset Ridge Park DEIR comment letter dated December 9, 2009 (attached PDF file and text from comment letter displayed below), Caltrans

states the following in # 2:

'2. The proposed signalized intersection is not recommended based on the MUTCD, chapter 4, which reads, "a traffic control signal should not be installed if it shall seriously disrupt progressive traffic flow."'

Can you please elaborate in layman's terms how the proposed signal would 'seriously disrupt progressive traffic flow'?

Also, in the event that the City of Newport Beach acquires the Pacific Coast Highway area including the proposed traffic signal site would the City now have the authority/jurisdiction to ignore Caltrans' recommendation as stated above and install the signal despite the traffic disruption it would cause?

Thank you.

Sincerely,

Dorothy Kraus

Letter J4 **Bruce Bartram**
February 22, 2010

Response 1

Coast Highway is a State highway. It is the intent of the City to continue coordination of improvements to Coast Highway with Caltrans. Please refer to Topical Response 3. The opinions of the commenter are noted.

From: Koken, Debby [HMA] [mailto:dkoken@hmausa.com]
Sent: Monday, February 22, 2010 1:20 PM
To: Brown, Janet
Subject: Sunset Ridge Park DEIR Comment

Letter K

February 22, 2010

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

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

Dear Ms. Brown:

I would like to add my support to the comments by Bruce Bartram that the DEIR is incomplete and cannot be adequately reviewed without the terms of the final agreement between the City of Newport Beach and the Newport Banning Ranch property owner regarding access easement from Banning Ranch and dumping of excavated soil on Banning Ranch. If negotiations are on-going and the agreement is not in final form, then the project description in the DEIR as it stands is not complete and not sufficient to allow the public to evaluate the potential environmental impact.

} K-1

The Sunset Ridge and Banning Ranch projects should be reviewed under a single DEIR. Only a single DEIR for both will allow the public to intelligently evaluate the cumulative environmental impact. Presenting it as two separate projects is a piecemeal approach that would effectively defeat the CEQA 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.

} K-2

Traffic impacts on Pacific Coast Highway have not been adequately reviewed. There is no mention of the Caltrans' assertion that installation of a traffic light at the proposed location will further snarl traffic on an already overburdened road.

} K-3

Debby Koken
Phone: 949-574-0333
E-mail: dkoken@hmausa.com

Letter K **Debby Koken**
February 22, 2010

Response 1

It is noted that the commenter concurs with Mr. Bartram's written comments. With respect to the access agreement, the City is currently negotiating an access agreement with the Newport Banning Ranch property owner. The City Council will consider approving this agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines. The access agreement is intended to be independent and does not presuppose development by the Newport Banning Ranch applicant.

Response 2

The commenter's opinion that the Sunset Ridge Park Project and the Newport Banning Ranch Project are one project is noted. Neither project must be approved and constructed for the other project to be approved and constructed. An EIR for the proposed Newport Banning Ranch development project is currently being drafted and will evaluate that development's project-specific impacts and contribution to cumulative impacts. Based on information provided to the City by the Newport Banning Ranch applicant, site remediation would commence in 2014 which is subsequent to the anticipated completion of the Sunset Ridge Park Project. Please also refer to Topical Responses 1 and 2.

Response 3

The commenter's opinion regarding the adequacy of the traffic analysis is noted. It is the intent of the City to continue coordination of improvements to Coast Highway with Caltrans. As addressed in the Draft EIR and in consultation with Caltrans, the City is proposing a signal at the future West Coast Highway and park access road intersection. Please refer to Topical Response 3.

Letter L

To: City of Newport Beach, California

From: Christopher McEvoy

Subject: Sunset Ridge DEIR Comments

I would like to focus my comments primarily on the proposed Banning Ranch access road/parking lot. From what I have read and understand the City of Newport Beach is planning to install a traffic light on West Coast Highway, a four lane access road and up to 97 parking spots.

Here are my concerns with this current direction

- Added traffic signal to a major thoroughfare. This will lead to higher congestion especially during summer days. Huntington Beach has a high concentration of traffic lights on PCH, which leads contributes to its high congestion. } L-1
- Increased potential for vehicle, bicycle and pedestrian accidents } L-2
- Unnecessary expense for acquisition of Banning Ranch property, construction of road and parking lot when an adjacent parking lot already exists, the current multimillion dollar budget shortfall should be considered. } L-3
- Caltrans opposed. } L-4
- Newport Beach already has an existing and very underutilized parking lot adjacent to the proposed park. } L-5
- City of Newport spent a lot of money to build this underutilized Superior Ave parking lot and Sunset Ridge Park would utilize the parking lot. Please see attached photos of underutilized Superior Ave parking lot.
- The Superior Ave parking lot can be modified to meet the needs of Sunset Ridge Park .
 1. Widening of driveway could accommodate parallel parking spots.
 2. Pedestrian foot bridge over Superior Ave would provide safe access to Sunset Ridge Park from Superior Ave parking lot
 3. Allow for u-turns at PCH and Superior Ave for added access to parking lot.
- City maintenance vehicles could access Sunset Ridge Park by existing driveway between Superior and proposed entrance

Final comment would be to re-consider the use of Sunset Ridge Park to a nature preserve.

- Less upkeep and maintenance, thus saving money over the long term
 - Nicer appearance
 - Preserves what little natural habitats that are left
 - Reduce noise and impending complaints from neighbors
 - Increases property values for neighbors
- } L-6



Saturday January 16th, 2010 12:01pm
Note empty parking lot. Note pedestrians, traffic, i.e. people are out



Sunday January 17th, 2010 around 1:00pm. Note empty parking lot.
Note traffic on PCH, i.e. people are out



Saturday January 23rd, 2010, 1:39 pm Note empty parking lot (1 car is mine!). Note pedestrians, traffic i.e. people are out



Saturday January 30th, 2010 11:33am. Note empty parking lot. Note pedestrians, traffic i.e. people are out



Sunday January 31st, 2010 1:16. Note empty parking lot. Note pedestrians and traffic i.e. people are out



Saturday February 6th, 2010 12:30 Note empty parking lot(that's my car!) Note traffic i.e. people are out



Sunday February 7th, 2010 1pm (one car is mine!) Note empty parking lot. Note pedestrians and traffic i.e. people are out



Sunday February 14th, 2010 1:30pm (1 car is mine) This was the most crowded the parking lot was yet it is still empty.



Monday February 15th, 2010, 1:30pm Presidents Day. Note empty parking lot. Note traffic i.e. people are out.

Letter L **Christopher McEvoy**
No date

Response 1

Please refer to Topical Response 3.

Response 2

The City is proposing signalized access into the park site, on-site parking, and connections to existing bike trails. The opinion of the commenter is noted.

Response 3

In order to operate and function effectively, active sports parks must have on-site parking available. The parking lot located on the northeast corner of West Coast Highway and Superior Avenue was developed in order to provide beach access parking due to the loss of on-street parking in conjunction with the widening of West Coast Highway in 1992. The installation of a pedestrian bridge across Superior Avenue would result in impacts to public views along this portion of Superior Avenue, which is designated as a Coastal View Road by the General Plan Natural Resources Element.

Response 4

Please refer to the response to Comment 1.

Response 5

Please refer to the response to Comment 3. The installation of a pedestrian bridge across Superior Avenue would result in impacts to public views along this portion of Superior Avenue, which is designated as a Coastal View Road by the General Plan Natural Resources Element.

Response 6

Section 3, Project Description, identifies the objectives of the Project set forth by the City of Newport Beach:

- “To implement the goals and policies of the *City of Newport Beach General Plan*, including developing Sunset Ridge Park with active and passive park uses;
- To develop a community park consistent with the City’s General Plan standards, including facilities for picnicking, active sports, and other facilities that serve a larger population;
- To develop an active and passive park to serve the West Newport Beach community;
- To develop a community park that is easily accessible, via arterial roads, to the public and is centrally located in the West Newport Beach area;
- To provide additional parkland in the West Newport Beach area, which currently experiences a parkland deficit; and

- To develop the Project site in conformance with the Deed Restriction, which stipulates that the property purchased from Caltrans be used as a park.”

The site could not be a nature preserve; as noted above the deed restrictions stipulate that the site be a park. If the commenter is referencing the use of the site as a passive park, the development of passive park would not achieve all of the Project objectives, specifically, to create more active parkland in West Newport Beach. The City has identified a citywide park deficiency. As identified in the General Plan, the fastest growing recreational demand in Newport Beach is the need for additional sports fields. The Recreation Element states “There is a future park site identified in this service area, Sunset Ridge Park which is designated as an active park to include ball fields, picnic areas, a playground, parking, and restrooms.” The *City of Newport Beach General Plan* contains goals and policies that include developing Sunset Ridge Park and an active community park within Newport Banning Ranch with active and passive park uses. Therefore, creating a passive park would not be consistent with the General Plan goals and policies established for the West Newport Beach area.

From: Dave Sutherland [mailto:davesutherland4@gmail.com]
Sent: Thursday, February 18, 2010 12:45 PM
To: Brown, Leilani
Subject: DEIR Sunset Ridge Park

Letter M

Dear Ms Brown,

In regarding the DEIR Section 4.3 Traffic and Circulation Pg 4.3-16, and DEIR Section 4.2 with Exhibit 4.2-1 with th Site plan Exhibit 3-9. The DEIR does not address the following:

The need to have this Parking on site
An Alternative location

This is both a question and a Consideration, if the proposed Sunset Ridge Park requires this parking, why has an already existing Parking lot not considered to fulfil this requirement. The Parking lot at the base of Superior Ave is adequate and has room for expansion on land already owned by the City. Looking back in Newport Beach history, the mound of dirt at the top east side of Superior was created to build a walking bridge over Superior.

Why has any of this been discussed in the planning and the DEIR? It seems to me as a tax payer in Newport Beach that this would be a cost effective action. Please also consider this complimentary action as well of the proposed Rest Room facility. (reference number in the DEIR to be determined in a follow up). If this structure was located at the parking lot at the base of Superior, it could serve many more people. Beach goers, bikers, walkers, surfers would all have a facility at a convient location. The local businesses across the PCH including the Jack 'n the Box would most likely endorse this action. If asked, this might also be endorsed by both the Fire and Police Departments as the parking lot and restroom would be in a highly visible location with easy access, not off the road with a gate.

M-1

Reference Exhibit 3-3 and 3-12 refering to the dump site. Has consideration been given to the health consequences of children at the Carden Hall School directly down wind from this site, not to mention the new campus being constructed for Coast College. The entire North wall of inhabitants of Newport Crest would also be affected and there are several senior citizens with health concerns who would be affected.

M-2

Next item is DEIR Pg 3-2 Section 3: The comments provided to the citizens of the proposed location of the Sunset Ridge active park being at the top of the bluff was that Cal trans holds an easement along the PCH. It has been discussed at Cith Hall meetings to aquire this section of the PCH from Cal Trans in order to install a traffic signal to service the parking lot, a traffic signal Cal Trans opposes. if the City takes this section of roar, would not Cal Trans also let go of their easement? if so, why not have the active park at the lower level where it would pose little inpact to Newport Crest?

M-3

Sincerely,
Dave Sutherland
12 Summerwind Ct. Newport Beach

Letter M **Dave Sutherland**
February 18, 2010

Response 1

In order to operate and function effectively, active sports parks must have on-site parking available. The parking lot located on the northeast corner of West Coast Highway and Superior Avenue was developed in order to provide beach access parking due to the loss of on-street parking in conjunction with the widening of West Coast Highway in 1992. The installation of a pedestrian bridge across Superior Avenue would result in impacts to public views along this portion of Superior Avenue, which is designated as a Coastal View Road by the General Plan Natural Resources Element. The opinion of the commenter is noted.

Response 2

The commenter expresses concern that short-term local pollutant concentrations of NOx, PM10, and PM2.5 that could be detrimental to the residents of the Newport Crest community, the students of Carden Hall, and students of the future potential Coast College campus. With respect to NOx, please note that potential exceedance of SCAQMD NOx emissions thresholds would only occur if extensive off-site haul of excavated soil is required. Local concentrations of NOx at the Newport Crest condominiums would be affected only by on-site emissions, and the analysis on page 4.4-31 shows that the NOx emissions would be less than 15 percent of the LST threshold.

With respect to the PM10 and PM2.5 exceedances, the City notes the following:

- (1) The SCAQMD LST lookup table methodology is limited to a maximum site size of five acres; the project site is greater than five acres. The emissions thresholds increase with an increase in site size. Therefore, if the SCAQMD methodology was extended to the project area that is to be graded, on the order of 15 acres, then the project emissions would exceed the threshold by a smaller amount, or might not exceed the thresholds. The SCAQMD suggests that dispersion modeling be conducted for sites larger than five acres; however the topography and grading plan for the park site is too complex for dispersion modeling to yield meaningful results.
- (2) A substantial amount of grading will occur at distances from the Newport Crest community where PM10 and PM2.5 effects to the residents would be minimal.
- (3) Compliance with SCAQMD Rule 403, Fugitive Dust, which is required by law and by the Project Standard Condition 4.4-1 is expected to provide greater emissions reductions than are calculated by the URBEMIS emissions model.

Notwithstanding the above factors, the City understands the concern of the community and has added the following mitigation incorporated into the Final EIR as follows:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.

MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;

- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;
- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.

MM 4.4-3 The following actions shall be implemented as a part of the construction of the Sunset Ridge Park Project:

- a. Watering and visible dust control shall exceed the requirements of SCAQMD Rule 403 as follows: The Contractor shall suspend grading operations when wind gusts exceed 15 miles per hours.
- b. In windy conditions, the dust control measures of SCAQMD Rule 403, Table 2 (Large Operations) shall be applied.
- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.
- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall

investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the investigation. The City contact person shall maintain a log of all complaints and resolutions.

The oil well sites within the boundaries of the Project site have been abandoned and remediated. Any impacted oil field equipment would be removed and soil remediation would occur, as necessary. All potential impacts can be mitigated to a level that is less than significant with the implementation of the Mitigation Program. To supplement the existing analysis in the Draft EIR, the following measures are provided and included in the Final EIR to address potential unknown oil field facilities:

MM 4.9-3 Prior to grading, the contractor shall develop an approved Health and Safety Contingency Plan (HSCP) in the event that unanticipated/unknown environmental contaminants are encountered during construction. The plan shall be developed to protect workers, safeguard the environment, and meet the requirements of the California Code of Regulations (CCR), Title 8, General Industry Safety Orders – Control of Hazardous Substances.

The HSCP should be prepared as a supplement to the Contractor's Site-Specific Health and Safety Plan, which should be prepared to meet the requirements of CCR Title 8, Construction Safety Orders.

Specifically, the HSCP must:

1. Describe the methods, procedures, and processes necessary to identify, evaluate, control, or mitigate all safety and health hazards associated with any soil, groundwater, and/or air contamination that may be encountered during field construction activities.
2. Apply to all site construction workers, on-site subcontractors, site visitors, and other authorized personnel who are involved in construction operations.
3. Be approved by the Public Works Director.

The HSCP shall take effect only if materials affected by environmental contaminants are exposed during construction. This includes undocumented waste materials, contaminated soils, affected groundwater, and related substances that may be classified as hazardous or regulated materials, and/or materials that could endanger worker or public health. If affected materials are encountered, the HSCP shall be implemented to reduce the potential exposure to the environment and workers at the site. All site workers shall be required to perform work in a prescribed manner to reduce the potential that they will endanger themselves, others, or the general public.

MM 4.9-4 During construction, if environmentally affected soil, groundwater, or other materials are encountered on site, the Project Engineer shall be quickly mobilized to evaluate, assess the extent of, and mitigate the affected materials. The following is only applicable if materials affected by environmental

contaminants are exposed during construction. The contractor or City's consultant shall be responsible for implementing all applicable sampling and monitoring of the project. Applicable sampling and monitoring activities can include air monitoring (both for personal protection and SCAQMD Rule 1166 compliance), collecting soil and groundwater samples for analysis, and documenting mitigation activities. Specific applicable sampling and monitoring requirements shall vary, depending upon the nature, concentration, and extent of affected materials encountered.

Response 3

The terms of sale of the property from the State included the acceptance of the scenic easement. This is not related to authorization of Caltrans to relinquish to the City of Newport Beach specified portions of State Highway Routes 1 and 55 that are located within the City limits under specified conditions. This action has not occurred.

Letter N

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

From: Kevin Nelson [mailto:knelson@web-conferencing-central.com]

Sent: Monday, February 22, 2010 3:45 PM

To: Brown, Janet

Cc: Terry Welsh; slgenis@stanfordalumni.org; jtmansfield@ca.rr.com; mezzohiker@msn.com; dkoken@hmausa.com; marktabbert@sbcglobal.net; steveray4surfcity@hotmail.com; jenniferfrutig@aol.com; knelson@web-conferencing-central.com; greenp1@cox.net; jonfox7@yahoo.com; evenkeel4@sbcglobal.net; jimcassidy52@earthlink.net; jamesrquigg@yahoo.com; 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; Ginny Lombardi; Gary Garber; Robb Hamilton; Sharon Boles; Dorothy Kraus; Paul Malkemus; Sami & Ramzy Mankarious; Dave Sutherland

Subject: Sunset Ridge DEIR Comments

TO:

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

Dear Ms Brown,

Please enter these comments into the Draft Environmental Impact Report of the Sunset Ridge Project.

COMMENTS:

BANNING PROPERTY ACCESS AGREEMENT

The DEIR is not a complete statement of the facts and impacts of the Sunset Ridge project due to the fact that there are no financial or agreement details covering the use of Aera Energy property for the Sunset Ridge access road. Since no agreement is part of this document, the project could undergo significant change based on disagreements between the various parties, including local agencies whose decisions may affect the design of the project. Therefore, the DEIR provides an inadequate description of the potential scope of the project.

} N-1

CONTAMINATED SOIL

Given the fact that the area has had an extensive and long term use as an oil field, there is an inadequate description of potential contaminates in the soil that is to be excavated, in the potential effects these contaminates may have on wildlife during and after excavation, in the effects it may have on the critical main arroyo environment that it is placed in such close proximity to, in the effects it may have on the children and staff of Carden Hall that is also in the immediate vicinity, and in the effects it may have on the residents of Newport Crest. A thorough researching of project problems that occurred in other projects involving extensively used oil production sites is required for the public and health experts to understand the potential impacts. It is highly likely on a site of this type that the records are not complete.

} N-2

ALTERNATIVE ACCESS

The DEIR did not fully explore the use of the parking lot, open land, and grass area directly across Superior from the site as an access and parking resource that would potentially make the project more affordable and lessen many of the environmental impacts, especially if designed as a passive park or entrance to a Regional Nature Preserve located on Banning Ranch.

} N-3

AIR POLLUTION AND CLIMATE CHANGE

Taken cumulatively, the many environmental costs of this project in its current form added to the large amount of excavation and construction related pollution it will require makes the project unjustifiable in an age of Global Warming. This worldwide crisis is being precipitated by millions of local project decisions such as this and California regulations are evolving rapidly to address the issue. The city of Newport Beach must take a more responsible role in limiting greenhouse gases by modifying projects such as this to cause as little net greenhouse gas additions as possible. The DEIR does not adequately address the reasons so much soil is being relocated in relation to the benefits derived, especially when lower emission design alternatives exist. In other words, a design in which the site is utilized with its existing land contours, its existing biological and habitat resources, its existing view and location attributes has not been thoroughly considered in the document.

N-4

NOISE POLLUTION

The impact document does not adequately address the issues of light and noise pollution the park will generate on the relatively quiet and dark spaces of adjacent Banning Ranch.

N-5

WILDLIFE DISTURBANCE

The document does not even attempt to analyze the effects of massive construction activities on the various species present on the grasslands through which the soil hauling operation will pass. Even a casual observer will note that hawks and other avian species use these grasslands with great frequency. The grading operations required at both ends of the project could profoundly upset these valuable species, driving them away. This reality is not addressed in the DEIR to any extent and requires further study.

N-6

NATIVE PLANT DESTRUCTION

The DEIR displays a construction route and a road location that passes directly through significant stands of Encelia and Deerweed. The DEIR does not address the probable destruction of these increasingly rare California native plants and the other species they help support.

N-7

ARROYO HABITAT

The DEIR is incomplete in considering the negative effects the placement of such a large amount of soil may have on the main arroyo to the west of the soil dumpsite. The runoff and potential contaminates need further study.

N-8

Thank you,

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

Letter N **Kevin Nelson**
February 22, 2010

Response 1

The City is currently negotiating an access agreement with the Newport Banning Ranch property owner. The City Council will consider approving this agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines.

Response 2

The closest sensitive receptors to the Project site are the Newport Crest Condominium development (located to the north and northeast); Carden Hall (located east of one of the proposed stockpile sites); Hoag Hospital, located to the southeast across Superior Avenue; and residences across West Coast Highway to the southwest. In accordance with South Coast Air Quality Management District (SCAQMD) Rule 403, stockpiles would be stabilized to minimize the fugitive dust emissions. The Mitigation Program set forth in the Final EIR applies to the Project as well as the haul route and stockpile locations, should the City choose the option of use of the Newport Banning Ranch property. The commenter expresses concern that short-term local pollutant concentrations of NO_x, PM₁₀, and PM_{2.5} that could be detrimental to the health of the commenter and other residents. With respect to NO_x, please note that potential exceedance of SCAQMD NO_x emissions thresholds would only occur if extensive off-site haul of excavated soil is required. Local concentrations of NO_x at the Newport Crest condominiums would be affected only by on-site emissions, and the analysis on page 4.4-31 shows that the NO_x emissions would be less than 15 percent of the LST threshold. With respect to the PM₁₀ and PM_{2.5} exceedances, the City notes the following:

- (1) The SCAQMD LST lookup table methodology is limited to a maximum site size of five acres; the project site is greater than five acres. The emissions thresholds increase with an increase in site size. Therefore, if the SCAQMD methodology was extended to the project area that is to be graded, on the order of 15 acres, then the project emissions would exceed the threshold by a smaller amount, or might not exceed the thresholds. The SCAQMD suggests that dispersion modeling be conducted for sites larger than five acres; however the topography and grading plan for the park site is too complex for dispersion modeling to yield meaningful results.
- (2) A substantial amount of grading will occur at distances from the Newport Crest community where PM₁₀ and PM_{2.5} effects to the residents would be minimal.
- (3) Compliance with SCAQMD Rule 403, Fugitive Dust, which is required by law and by the Project Standard Condition 4.4-1 is expected to provide greater emissions reductions than are calculated by the URBEMIS emissions model.

Notwithstanding the above factors, the City understands the concern of the community and has added the following mitigation incorporated into the Final EIR as follows:

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MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;
- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;
- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.

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- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.
- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the investigation. The City contact person shall maintain a log of all complaints and resolutions.

The oil well sites within the boundaries of the Project site have been abandoned and remediated. Any impacted oil field equipment would be removed and soil remediation would occur, as necessary. All potential impacts can be mitigated to a level that is less than significant with the implementation of the Mitigation Program. To supplement the existing analysis in the Draft EIR, the following measures are provided and included in the Final EIR to address potential unknown oil field facilities:

MM 4.9-3 Prior to grading, the contractor shall develop an approved Health and Safety Contingency Plan (HSCP) in the event that unanticipated/unknown environmental contaminants are encountered during construction. The plan shall be developed to protect workers, safeguard the environment, and meet the requirements of the California Code of Regulations (CCR), Title 8, General Industry Safety Orders – Control of Hazardous Substances.

The HSCP should be prepared as a supplement to the Contractor's Site-Specific Health and Safety Plan, which should be prepared to meet the requirements of CCR Title 8, Construction Safety Orders.

Specifically, the HSCP must:

1. Describe the methods, procedures, and processes necessary to identify, evaluate, control, or mitigate all safety and health hazards associated with any soil, groundwater, and/or air contamination that may be encountered during field construction activities.
2. Apply to all site construction workers, on-site subcontractors, site visitors, and other authorized personnel who are involved in construction operations.
3. Be approved by the Public Works Director.

The HSCP shall take effect only if materials affected by environmental contaminants are exposed during construction. This includes undocumented waste materials, contaminated soils, affected groundwater, and related substances that may be classified as hazardous or regulated materials, and/or materials that could endanger worker or public health. If affected materials are encountered, the HSCP shall be implemented to reduce the potential exposure to the environment and workers at the site. All site workers shall be required to perform work in a prescribed manner to reduce the potential that they will endanger themselves, others, or the general public.

MM 4.9-4 During construction, if environmentally affected soil, groundwater, or other materials are encountered on site, the Project Engineer shall be quickly mobilized to evaluate, assess the extent of, and mitigate the affected materials. The following is only applicable if materials affected by environmental contaminants are exposed during construction. The contractor or City's consultant shall be responsible for implementing all applicable sampling and monitoring of the project. Applicable sampling and monitoring activities can include air monitoring (both for personal protection and SCAQMD Rule 1166 compliance), collecting soil and groundwater samples for analysis, and documenting mitigation activities. Specific applicable sampling and monitoring requirements shall vary, depending upon the nature, concentration, and extent of affected materials encountered.

Response 3

In order to operate and function effectively, active sports parks must have on-site parking available. The parking lot at the northeast corner of West Coast Highway and Superior Avenue was developed in order to provide beach access parking due to the loss of on-street parking in conjunction with the widening of West Coast Highway in 1992. The opinion of the commenter is noted.

The City's Public Works Department has identified that access along the Superior Avenue and West Coast Highway frontages would not meet current traffic engineering standards and would therefore be unsafe. While additional studies would most likely further validate the denial of access at this point, the findings that the Traffic Engineer has previously identified are sufficient evidence to support denial of any access at these locations. The following are a few of the City identified issues associated with an access road along Superior Avenue and West Coast Highway:

Superior Avenue

- The measured speeds on Superior Avenue are 46 miles per hour (mph). At this speed, a driver needs 480 feet to decelerate into an access point.
- Given the grades of the slope between Superior Avenue and the Project site, it appears that the only logical location to consider access is at the northeast corner of the property. At this location, the City sight distance requirement of 450 feet cannot be met because of the curvature of the roadway.
- There is an on-street striped bike lane.

West Coast Highway

- The measured speeds on West Coast Highway are 52 mph. At this speed, a driver needs 500 feet to decelerate into an access point. The length of the property frontage for Sunset Ridge Park on Coast Highway is approximately 350 feet. There is insufficient length for deceleration into the property.
- There is an existing lane drop across the entire property frontage on West Coast Highway. Within a short segment of roadway there would be a mix of through traffic in the lane drop area with vehicles attempting to decelerate into a project driveway.

- The existing grade from Coast Highway to the Project site is steep. The maximum driveway grade per City standard is 15 percent. To provide a driveway into the site, the length of the driveway would approach approximately 200 feet.
- There is an existing on-street striped bike lane.
- There are dual right-turn lanes from southbound Superior Avenue onto West Coast Highway. This presents an additional volume of vehicles required to merge with through traffic and with vehicles trying to access the park driveway.

Response 4

The commenter's opinion is noted. The construction emissions of greenhouse gases (GHG) were calculated and then amortized in accordance with SCAQMD recommended methodology. The resulting estimated quantity of annual GHG emissions would be less than the City's significance criterion. It is noted that the City's significance criterion is more conservative than the criteria of most jurisdictions.

There are no new USEPA regulations on GHG; the December 7, 2009 USEPA actions are "Findings" that will likely precede regulations. Contrary to the comment, the Draft EIR calculation does add the GHG emissions from construction to those from operations. Cost-benefit is not an issue for CEQA air quality analysis.

Response 5

Section 4.5, Noise, of the Draft EIR addresses construction-related and operational noise impacts associated with the proposed Project including compatibility with surrounding land uses. The Draft EIR identifies significant unavoidable short-term noise impacts on sensitive receptors; this impact would cease upon the completion of construction activities. Although the ambient noise levels would increase when the park is being used, based on the City's thresholds, this is not considered a significant impact.

Section 4.2, Aesthetics, of the Draft EIR (page 4.2-5) describes the existing setting on the Project site and surrounding area related to light and glare. The Draft EIR acknowledges that the Project site does not currently contain any lighting. However, the site and surrounding area (including the Newport Banning Ranch property) are located in an urban and developed area with existing lighting from street lights, residential and commercial uses, parking lot lighting, and transient lighting from vehicular lights that also contributes to nighttime illumination in the Project area.

No nighttime lighting is proposed with the exception of limited lighting for public safety. Lighting would consist of low-profile bollard security lighting of 50 watts or less that are approximately 36 inches in height along the pedestrian paths and at the perimeter paths for pedestrian safety. Low-profile security lighting fixtures would also be located around the perimeter of the restroom structure. All lighting fixtures would be appropriately shielded to minimize light and glare from spilling on adjacent properties. The lighting fixtures would be similar to lighting fixtures in other City parks such as Castaways Park, San Miguel, and Bonita Creek Sports Park, which have not caused an impact to the surrounding community.

Because the Project site and surrounding area are located in an urban environment with existing light and with incorporation of Project Design Features (PDF 4.2-1) and Standard Conditions (SC 4.2-1 and 4.2-2), impacts to the surrounding land uses would be less than significant.

Response 6

Section 4.6.7 of the Draft EIR addresses the potential impacts of construction activities on wildlife present on the Project site, refer to page 4.6-25. This section states:

Construction of the proposed Project would result in the loss of approximately 5.06 acres of native habitat that provides nesting, foraging, roosting, and denning opportunities for a variety of wildlife species. In addition, implementation of the proposed Project would result in the loss of approximately 20.28 acres of non-native habitats (non-native grassland, ruderal, ornamental, flood control channel, and disturbed) that provide lower-quality wildlife habitat. However, these non-native habitats may provide limited nesting, foraging, roosting, and denning opportunities for some species.

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.

Vegetation on the Project site could support nesting birds. Impacts to migratory nesting birds are prohibited under the MBTA. In addition, common raptor species such as red-tailed hawk have potential to nest on the Project site. Should an active raptor nest (common or special status species) be found on the Project site, the loss of the nest would be considered a violation of California Fish and Game Code Sections 3503, 3503.5, and 3513. The loss of any active nesting bird/raptor nest occurring on the Project site would be considered significant. Impacts on nesting birds/raptors would be reduced to less than significant levels with implementation of Mitigation Measures (MM) 4.6-1 and 4.6-2.

Additionally, the Draft EIR has mitigation measures incorporated in order to further lessen the impacts of the proposed Project on resident wildlife. Refer to mitigation measures (MMs) 4.6-1 through 4.6-6 on pages 4.6-31 through 4.6-35.

Response 7

Section 4.6, Biological Resources, pages 4.6-27 and 4.6-28, have been revised and incorporated into the Final EIR as follows:

Implementation of the proposed Project would impact approximately 25.34 acres of native and non-native vegetation types and other areas. The impact areas for the proposed Project are shown in Exhibit 4.6-4, Project Impacts, and impact acreages are provided in Table 4.6-4, Vegetation Types and Other Areas Impacted by the Proposed Project. In summary, a total of 0.67 acre of coastal sage scrub (i.e., areas mapped as southern coastal bluff scrub [0.14 acre] and Encelia scrub [0.53 acre] and 0.06 acre of riparian vegetation (i.e., the area mapped as willow scrub) types would

be removed through construction impacts. Impacts on sage scrub vegetation types are significant due to the ongoing loss of this vegetation type in Southern California and the potential for this habitat to support special status species. Impacts on riparian vegetation types would also be considered significant due to the limited distribution of these vegetation types in California. Implementation of MM 4.6-4 and MM 4.6-5 would reduce these impacts to a less than significant level. In addition, the City would be required to follow the construction minimization measures listed in MM 4.6-3.

The proposed Project would impact approximately 0.21 acre of Encelia scrub/ornamental, 3.64 acres of disturbed Encelia scrub, 6.03 acres of non-native grassland, 7.75 acres of ruderal vegetation, 3.13 acres of ornamental vegetation, and 0.49 acre of flood control channel. The proposed Project would also impact 2.88 acres of disturbed areas. The Encelia scrub/ornamental and disturbed Encelia scrub are not considered special status because of the frequent mowing for fuel modification and weed abatement purposes, their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete V-ditch under the shrubs, presence of trash, and/or proximity to high foot/bicycle and vehicle traffic. In addition, these areas are not expected to support gnatcatchers during the nesting season. The non-native grassland, ruderal, ornamental, and flood control channel areas generally have low biological value because they are composed of unvegetated areas or are vegetated with non-native species and subject to significant disturbance. These areas generally provide limited habitat for native plant and wildlife species although they may occasionally be used by native species. Therefore, impacts on all these areas would not be considered significant, and no mitigation would be required.

The disturbed Encelia scrub is dominated by bush sunflower and deerweed (*Lotus scoparius*).

Response 8

The Final EIR addresses the potential effects associated with the use of the two potential stockpile sites on the Newport Banning Ranch property.

From: Patricia Barnes [mailto:mezzohiker@msn.com]
Sent: Monday, February 22, 2010 1:31 AM
To: Brown, Janet
Subject: RE: Sunset Ridge Park DEIR

Letter O1

February 20, 2010

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 the Sunset Ridge Park Project

Dear Ms. Brown,

I am writing as a concerned citizen of the County of Orange in regard to the recently released Draft Environmental Impact Report (DEIR) for the Sunset Ridge Park Project. The DEIR is fraught with inadequacy, and hence the submission of the following comments has, as a result, been prompted. I respectfully request that the points made are considered prior to the preparation of the final Environmental Impact Report for the Project.

First of all, within Section 1.3 of the Project Summary of the DEIR for Sunset Ridge Park Project, there is reference to an access easement extending from West coast Highway through the Newport Banning Ranch property which would provide "vehicle ingress and egress." It is also stated that "use of this adjacent property for the park access road would require an access easement from the Newport Banning Ranch property owner." Furthermore, there are references made to a proposed widening of "a portion of the northern side of West Coast Highway from Superior Avenue to a point west of the proposed access road and a proposed "signal on West Coast Highway at the proposed access road" which would require "a dedication from the Newport Banning property owner."

Within the NOP of the Draft Environmental Impact Report for the Newport Banning Ranch Project issued by the City of Newport Beach in March of 2009, the proposed park access road for Sunset Ridge Park is referred to a "South Bluff Road" for the Newport Banning Ranch Project. Apparently it is one of the roads comprising a system called "Bluff Road" that is being depicted as the corps of "backbone roads" for the Newport Banning Ranch Project-a proposed development of up to 1375 residential dwelling units, 75,000 square feet of commercial space, and 75 overnight resort accommodations on a project site of approximately 401 acres. The revelation of this common road system, along with other information gleaned from an analysis and comparison of the Newport Banning Ranch NOP and the Sunset Ridge Park Project DEIR demonstrate that the Sunset Ridge Park Project and the Newport Banning Ranch Project are actually one project, not two. It is even stated on Page 18 within the "Development Phasing/Project Implementation" section of the Newport Banning Ranch NOP: "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 the internal roadway access and infrastructure.**" Thus, because the Sunset Ridge Park and the Newport Banning Ranch are clearly considered components of one "Project," the properties should be subject to a single environmental review as opposed to being considered two separate projects with two separate EIRS. The Sunset Ridge Park Project DEIR is obviously entirely inadequate in addressing the environmental impact that its construction will pose to the implicated Banning Ranch property.

O1-1

The Sunset Ridge Park Project DEIR also is deficient in addressing the environmental impact of the exportation of graded soil from the City (Sunset Ridge Park Project) property to three stockpile locations on the Banning Ranch property that are located in close proximity to or at least partly within swales that are tributary to what is referred to by the Southern California Regional Water Quality Control Board, Santa Ana as "riparian remnants." Storm water runoff emanating from the stockpiles could conceivably transport sediment and other pollutants into a slough comprising the western boundary of Banning Ranch. The final EIR should include the rationale under which these stockpile locations were selected and why they could not be moved to various other locations that were both available and distant from the drainage area.

O1-2

The Sunset Ridge Park Project DEIR also fails to account for the need of an entrance road to the park which 1) is located on the Banning Ranch property, 2) is characterized with a potential capacity of 34,000 cars per day, and 3) would involve the placement of a stoplight on Pacific Coast Highway. This park only has an estimated maximum vehicle usage of approximately 150 cars per day. Clearly there are no alternative entrances or alternative road sites which are adequately evaluated within the DEIR, nor are there any indications that the City of Newport Beach has ever resolutely considered any alternative entrances or road sites. Moreover, the placement of a stoplight on Pacific Coast Highway would obviously impede traffic flow on Pacific Coast Highway, contribute to the immense traffic issues that already exist in the area, possibly pose an unnecessary risk in terms of safety, and would promote the expulsion of greenhouse gases emitted by unnecessarily stopped vehicles. None of these potential results is addressed within the DEIR.

O1-3

It is obvious by the points made above that the DEIR is entirely inadequate in its capacity to inform the public of the environmental costs potentially incurred by the construction of the Sunset Ridge Park project.

O1-4

Thank you for your consideration of these comments.

Patricia Barnes
10736 Lynn Circle
Cypress, CA 90630

Letter O1 **Patricia Barnes**
February 22, 2010

Response 1

Use of the adjacent Newport Banning Ranch property for the park access road would require an access easement from the Newport Banning Ranch property owner. The City is in the process of finalizing the access agreement with the Newport Banning Ranch property owner. The City Council will consider the agreement following its consideration of certification of the Sunset Ridge Park Final EIR consistent with CEQA and the CEQA Guidelines. The access agreement is intended to be independent and does not presuppose development by the Newport Banning Ranch applicant. Please also refer to Topical Responses 1 and 2.

Response 2

The commenter references three stockpile locations. However, there are only two stockpile locations. The potential environmental impacts are addressed in the Draft EIR. The hydrologic conditions would not change by the placement of the fill. The general Best Management Practices (BMPs) presented in the Draft EIR would be adequate to address any potential erosion during the revegetation of the stockpile areas. The area by the City Utilities Yard (stockpile no. 1) was chosen since it was previously used a construction staging area for another City project in the mid-1990s. A storm drain system was added in this area and would be modified slightly to address the BMP issues. A small storm drain pipe may be added at stockpile site no. 2, if necessary, to maintain the existing drainage patterns.

Response 3

With respect to traffic and circulation issues, please refer to the methodology and analysis of traffic generation and traffic signal warrants in Section 4.3 of the Draft EIR. Section 4.4, Air Quality and Climate Change, addresses greenhouse gas emissions associated with the proposed Project. Please also refer to Topical Response 3.

Response 4

The opinion of the commenter is noted.

From: Patricia Barnes [mailto:mezzohiker@msn.com]
Sent: Monday, February 22, 2010 4:00 PM
To: Brown, Janet
Subject: FW: Sunset Ridge Park DEIR

Letter O2

February 20, 2010

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 the Sunset Ridge Park Project

Dear Ms. Brown,

I am writing as a concerned citizen of the County of Orange in regard to the recently released Draft Environmental Impact Report (DEIR) for the Sunset Ridge Park Project. The DEIR is fraught with inadequacy, and hence the submission of the following comments has, as a result, been prompted. I respectfully request that the points made are considered prior to the preparation of the final Environmental Impact Report for the Project.

First of all, within Section 1.3 of the Project Summary of the DEIR for Sunset Ridge Park Project, there is reference to an access easement extending from West coast Highway through the Newport Banning Ranch property which would provide "vehicle ingress and egress." It is also stated that "use of this adjacent property for the park access road would require an access easement from the Newport Banning Ranch property owner." Furthermore, there are references made to a proposed widening of "a portion of the northern side of West Coast Highway from Superior Avenue to a point west of the proposed access road and a proposed "signal on West Coast Highway at the proposed access road" which would require "a dedication from the Newport Banning property owner."

Within the NOP of the Draft Environmental Impact Report for the Newport Banning Ranch Project issued by the City of Newport Beach in March of 2009, the proposed park access road for Sunset Ridge Park is referred to a "South Bluff Road" for the Newport Banning Ranch Project. Apparently it is one of the roads comprising a system called "Bluff Road" that is being depicted as the corps of "backbone roads" for the Newport Banning Ranch Project-a proposed development of up to 1375 residential dwelling units, 75,000 square feet of commercial space, and 75 overnight resort accommodations on a project site of approximately 401 acres. The revelation of this common road system, along with other information gleaned from an analysis and comparison of the Newport Banning Ranch NOP and the Sunset Ridge Park Project DEIR demonstrate that the Sunset Ridge Park Project and the Newport Banning Ranch Project are actually one project, not two. It is even stated on Page 18 within the "Development Phasing/Project Implementation" section of the Newport Banning Ranch NOP: "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 the internal roadway access and infrastructure.**" Thus, because the Sunset Ridge Park and the Newport Banning Ranch are clearly considered components of one "Project," the properties should be subject to a single environmental review as opposed to being considered two separate projects with two separate EIRS. The Sunset Ridge Park Project DEIR is obviously entirely inadequate in addressing the environmental impact that its construction will pose to the implicated Banning Ranch property.

O2-1

The Sunset Ridge Park Project DEIR also is deficient in addressing the environmental impact of the exportation of graded soil from the City (Sunset Ridge Park Project) property to three stockpile locations on the Banning Ranch property that are located in close proximity to or at least partly within swales that are tributary to what is referred to by the Southern California Regional Water Quality Control Board, Santa Ana as "riparian remnants." Storm water runoff emanating from the stockpiles could conceivably transport sediment and other pollutants into a slough comprising the western boundary of Banning Ranch. The final EIR should include the rationale under which these stockpile locations were selected and why they could not be moved to various other locations that were both available and distant from the drainage area.

The Sunset Ridge Park Project DEIR also fails to account for the need of an entrance road to the park which 1) is located on the Banning Ranch property, 2) is characterized with a potential capacity of 34,000 cars per day, and 3) would involve the placement of a stoplight on Pacific Coast Highway. This park only has an estimated maximum vehicle usage of approximately 150 cars per day. Clearly there are no alternative entrances or alternative road sites which are adequately evaluated within the DEIR, nor are there any indications that the City of Newport Beach has ever resolutely considered any alternative entrances or road sites. Moreover, the placement of a stoplight on Pacific Coast Highway would obviously impede traffic flow on Pacific Coast Highway, contribute to the immense traffic issues that already exist in the area, possibly pose an unnecessary risk in terms of safety, and would promote the expulsion of greenhouse gases emitted by unnecessarily stopped vehicles. None of these potential results is addressed within the DEIR.

It is obvious by the points made above that the DEIR is entirely inadequate in its capacity to inform the public of the environmental costs potentially incurred by the construction of the Sunset Ridge Park project.

Thank you for your consideration of these comments.

Patricia Barnes
10736 Lynn Circle
Cypress, CA 90630

O2-1
cont.

Letter O2 **Patricia Barnes**
February 22, 2010

Response 1

Please refer to the responses to Letter O1.

From: Paul & Cathy Malkemus [mailto:pcmalkemus@gmail.com]
Sent: Monday, February 22, 2010 1:40 PM
To: Brown, Janet
Subject: Sunset Ridge Park

Letter P

I would like to take this opportunity to express concern over the proposed traffic signal proposed for the entrance into Sunset Ridge Park. It would appear that through some extended correspondence with CalTrans officials – they would not support requests from the City to install a signal at the proposed intersection. While the City may eventually “take over” that section of Coast Highway and could potentially “do as they wish”, it would seem that the City would be making a huge mistake if they were to make any decisions overriding those expressed by CalTrans. Those officials have already expressed concerns regarding both safety and traffic flow. There could be further legal and liability issues if the City were to take this type of action.

P-1

Paul Malkemus
7 Aries Court
Newport Beach
California 92663

Letter P **Paul Malkemus**
February 22, 2010

Response 1

As addressed in the Draft EIR and in consultation with Caltrans, the City is proposing a signal at the future West Coast Highway and park access road intersection. Please refer to Topical Response 3.

Response 2

Coast Highway is a State highway. It is the intent of the City to continue coordination of improvements to Coast Highway with Caltrans.

From: Steve Ray [mailto:steveray2001@hotmail.com]
Sent: Monday, February 22, 2010 4:54 PM
To: Brown, Janet
Subject: Sunset Ridge DEIR Comments

Letter Q

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

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

Ms. Brown:

Thank you for the opportunity to comment on the DEIR for the proposed Sunset Ridge Park project. I offer these comments on behalf of the Banning Ranch Conservancy, of which I serve as Executive Director, and on behalf of myself as an individual.

Let me begin by applauding the City of Newport Beach for acquisition of the Sunset Ridge property from CalTrans and for its intent to provide it as permanent open space and park for residents. These are the same goals of our Conservancy - to acquire the entire Banning Ranch property adjacent to Sunset Ridge and to conserve it as a permanent open space coastal nature preserve and park. In fact, it is this adjacency that is at the heart of my comments.

First, I will submit that, in my opinion, there are many deficiencies in the DEIR related to facts, or lack thereof, to omissions of analysis relative to items mandated by CEQA, to flawed or unsupported conclusions and to issues of adequacy, or lack thereof. In short, the DEIR is insufficient and inadequate to inform and enable the adjudicators to reach supportable decisions. However, others have addressed and continue to comment on the specifics of these issues. I will concentrate on the issue that renders the Sunset Ridge Park DEIR and comments on it moot.

The Sunset Ridge Park DEIR is not a stand-alone project. The project applicant, the City of Newport Beach, has decided to include elements of the upcoming Newport Banning Ranch (NBR) project - specifically a signalized intersection on Coast Highway, the access road into the property, parking, and provision of fill dirt to NBR - in the Sunset Ridge Park project. The City has not only received the application for the NBR project, but it is in the process of preparing the DEIR for the NBR project. CEQA elements required for the NBR project - traffic, biological resources, air and soil contamination and others - are being analyzed, even if inadequately, in the Sunset Ridge Park DEIR. These items not only inextricably link what are presented as two separate projects, but de facto conjoins them as one.

Sunset Ridge Park, as proposed, and Newport Banning Ranch are one project. For purposes of CEQA, as established in the Act and relevant case law (ie. *Las Virgenes Homeowners*), Sunset Ridge Park and Newport Banning Ranch must be considered one project and must be processed under one DEIR. Taking a piecemeal approach or segmentation into two DEIR's is contrary to the intent to fully disclose and analyze impacts that are common to or caused by the entire project and to accumulative or growth-inducing impacts of the project.

Examples of elements that conjoin Sunset Ridge Park and Newport Banning Ranch as a single project for CEQA purposes include, but are not limited to, the following:

1. The signalized intersection at Coast Highway in the Sunset Ridge Park proposal exactly overlays and is designed the same as the signalized intersection proposed for Newport Banning Ranch, resulting in the same traffic flow and design issues. It appears that the City has decided

Q-1

Q-2

Q-3

Q-4

to prepare the way for NBR by processing this 4-lane divided intersection, the need for which is questionable for Sunset Ridge Park purposes. Why would a small city park need such a large signalized intersection? } Q-4 cont.

2. The proposed Sunset Ridge Park access road from Coast Highway exactly overlays the access road proposed for NBR. The comments for number 1 above also apply to this element. In addition, why does this long road have to be the access for Sunset Ridge Park? Other alternatives have been either ignored altogether or minimized with casual, insubstantial analysis in the DEIR. Further, avoidance of impacting the biological resources caused by the access road is, basically, ignored and mitigation is minimal, at best. } Q-5

3. Alternatives that would negate any potential "need" for the signalized intersection and access road have been ignored. What about parking on the City-owned parking lot across the street from Sunset Ridge? How about making Sunset Ridge a passive park, eliminating the ball field and soccer fields, thus reducing the need for group parking for games (and also reducing impacts on surrounding residents)? Is it possible to relocate the sports fields to a portion of the NBR or school properties more suited for them? Consideration of and planning for these types of alternatives is absent from the Sunset Ridge Park proposal but could be included or accounted for in the DEIR that is appropriate for both portions of the conjoined Sunset Ridge / NBR project. } Q-6

4. The potentially contaminated dirt being excavated as a result of grading on Sunset Ridge is being used to provide fill in the NBR section of the project. Grading dirt around on the same project is common; translocating it from "one" project site to "another" project site is less common but not new. Doing either without adequate environmental review and analysis is not acceptable. For the applicant to claim that both sites (removal area and dumping area) are the same project site in this case ignores that the fill dirt provides a benefit to NBR for purposes of needed fill and cover for purposes of environmental review of a "separate" project. } Q-7

5. The applicant counters its assertion that Sunset Ridge and NBR are separate projects by de facto cover of the NBR portion of required CEQA environmental review. In addition, that the City and its taxpayers are providing public financial support to conduct environmental review and to actually build portions of the NBR project - the signalized intersection, the access road and provision and hauling of fill dirt - links the two and forms two parts of the same project. } Q-8

6. The applicant is using the same consultant to prepare the proposed DEIR's for Sunset Ridge Park and Newport Banning Ranch. While this practice is arguable as being efficient and cost effective, it is countered when the same studies, "facts" and analyses are applied to "two" separate projects. } Q-9

In conclusion, the Sunset Ridge Park DEIR should be declared void and combined as one with the Newport Banning Ranch DEIR. I don't believe any other conclusion is defensible. Thank you. } Q-10

Sincerely,

Steve Ray/s/
Steve Ray, Executive Director
Banning Ranch Conservancy
P.O. Box 16071
Newport Beach, CA 92659-6071
310.961.7610
steveray2001@hotmail.com

Letter Q **Steve Ray**
February 22, 2010

Response 1

Section 6.0, Alternatives to the Proposed Project, of the Draft EIR, acknowledges that the *City of Newport Beach General Plan's* Land Use Element prioritizes the retention of Newport Banning Ranch for open space. As described in the General Plan, the open space acquisition option would include consolidation of oil operations; restoration of wetlands; the provision of nature education facilities, 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 Road extending from West Coast Highway to a connection with an east/west arterial roadway. With respect to the park, Land Use Policy 6.5.2 of the City's General Plan states:

"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".

The General Plan identifies that if the Newport Banning Ranch property is not acquired for open space, the property could be developed as a residential village (RV) 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 (sf) 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 Primary Road is assumed for both the OS and RV designations of the Newport Banning Ranch property consistent with the *City of Newport Beach General Plan's* Circulation Element Master Plan of Streets and Highways. The City's General Plan also identifies the Sunset Ridge site for active and passive park uses and does not preclude the development of this site if/when the Newport Banning Ranch property is retained for open space.

Response 2

The opinion of the commenter is noted.

Response 3

The commenter's opinion that the proposed Sunset Ridge Park project and proposed Newport Banning Ranch project are one project is noted. Neither project must be approved and constructed for the other project to be approved and constructed. An EIR for the proposed Newport Banning Ranch development project is currently being drafted and will evaluate that development's project-specific impacts and contribution to cumulative impacts. Based on information provided to the City by the Newport Banning Ranch applicant, site remediation would commence in 2014 which is subsequent to the anticipated completion of the Sunset Ridge Park Project. Please also refer to Topical Response 2.

Response 4

Please refer to Topical Responses 1 and 3.

Response 5

Please refer to Topical Response 2.

Response 6

The comment is noted. In order to operate and function effectively, active sports parks must have on-site parking available. The parking lot on the northeast corner of West Coast Highway and Superior Avenue was developed in order to provide beach access parking due to the loss of on-street parking in conjunction with the widening of West Coast Highway in 1992.

Please refer to Section 6.0, Alternatives to the Proposed Project, which includes the analysis of a passive park alternative as well as the use of a portion of the Newport Banning Ranch property for a park.

Response 7

The commenter is referred to the Draft EIR which assesses the potential impacts of using two locations on the Newport Banning Ranch property as optional sites for soil deposit. The opinion of the commenter is noted.

Response 8

Please refer to the response to Comment 3.

Response 9

The comment is noted.

Response 10

The opinion of the commenter is noted.

Letter R

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

January 12, 2010

Dear Ms. Brown,

I am writing to express my support for Sunset Ridge Park.

My family has lived in Newport Beach since 1951. Our family business has been located on 31st Street since 1954. My wife and I have been blessed to live in Newport the 35 years that we have been married. During this time we have the opportunity to enjoy many parts of the park and recreation system over these years. These have included baseball, tennis, football, sailing and soccer.

In many ways my family has returned this great favor to the city though being members of committees and well as my wife teaching at Newport Harbor HS for the past 15 years.

I am the Field Manager for Newport AYSO Region 97 which serves 1800 children in our community, most of whom live in West Newport Beach. My job is to communicate with all of the coaches to make sure they respect the field their teams use.

For years now our team families have been faced with a recreational field shortage in the west side of town. In fact, the only west side fields available to our youth for sporting activities are Bob Henry Park, Mariners Park, and Peninsula Park. These three fields cannot support the 3000 or more children of our community (These would be all of the field type sports such as field who are actively involved in the sports of soccer, baseball, field hockey, football, and lacrosse.) In fact, many of our children are traveling to fields in east side Costa Mesa and Corona Del Mar to participate in practices and games. You can only imagine the hardship this travel places on families with multiple children who try to accommodate the schedules of many volunteer coaches that are trying to keep our children active so they become model citizens of our community.

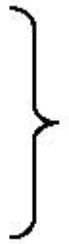
I very much understand when neighbors of Sunset Ridge Park voice their concern over issues of noise and traffic. The new part will serve a great deal of Newport Residence. The playground will be great for the younger children and the butterfly area will take advantage of the wonderful vista.

This park is not only for our children and grandchildren, but also for us so we can take a moment to appreciate why most of us endure the stress of work on a daily basis. Our community needs this park. Any nuisance it may bring to its neighbors can be abated with smart planning and open communication.

R-1

The city staff has done a great job in creating a park that will accommodate the needs of the local residence. The park will be used by many residents. The park is designed to accommodate so many areas of participation.

Thank you to all who have worked so hard to bring this concept to the table. I trust that when it is built those who make use of it will have stories to tell about a game or an ocean view for years to come.



R-1
cont.

Ted Barry

Letter R **Ted Barry**
January 12, 2010

Response 1

The commenter's support for the Project is noted.

From: Terry Welsh [mailto:terrymwelsh@hotmail.com]
Sent: Sunday, February 21, 2010 10:27 PM
To: Brown, Janet
Subject: RE: Sunset Ridge Park DEIR

Letter S

Janet, here are a few more comments on the Sunset Ridge Park dEIR.

Thank you,

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

Vegetation

As wildlife habitat is a central issue any plan for the Sunset Ridge/Banning Ranch area, the draft EIR for the Sunset Ridge Park plan should contain a complete accounting of all clearing of vegetation that has occurred on both Sunset Ridge Park, as well as the adjacent Banning Ranch in the last 20 years. Such a list should be complete and exhaustive and provide a detailed description of not only the clearing and justification for the clearing, but also a copy of the permit, approval or authority for every clearing.

In determining the extent of wildlife habitat, consideration should be given to cleared habitat, especially so if such clearing was performed without proof of a permit, approval or authority.

S-1

ESHA buffers

The plan refers to having at least 50 buffers between ESHA and development, and in some cases less than 50 ft. Yet the Coastal Commission has stated that 50 foot buffers would be a minimum, and in some cases buffers greater than 50 ft would be appropriate for development on Banning Ranch.

The dEIR should consider an alternative with buffers more in keeping with the examples such as Bolsa Chica.

S-2

Letter S **Terry Welsh**
February 21, 2010

Response 1

With respect to the City's property, Newport Beach purchased the property from the State in 2006. Prior to the City's acquisition of the property, Caltrans performed weed abatement on the property. The commenter would need to contact Caltrans for maintenance records for the property prior to the City's purchase. With respect to the Newport Banning Ranch property, the property has been in active oil operations since the 1940s.

Response 2

The proposed Project is a community park with large open playing fields and minimal structural improvements. The Project site does not contain high value habitat resources. However, areas containing coastal bluff scrub are being protected as part of the Project design. Areas around the protected coastal bluff scrub would also provide sufficient buffers with no structural development. The Project would also include the use of native vegetation as part of the landscape design in designated areas that not being used for active recreation purposes. The Coastal Land Use Plan for the City of Newport Beach does not identify Environmentally Sensitive Habitat Areas (ESHAs); such a determination is made by the California Coastal Commission. The Project site is not identified on the CLUP as an Environmental Study Area (ESA).

Letter T

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

From: Waldemar R. Moosmann [mailto:moosmann@roadrunner.com]

Sent: Monday, February 22, 2010 7:38 PM

To: Brown, Janet

Subject: Emailing: Sunset Ridge Response to DEIR.docx

Ms. Brown,

I have written a letter to you Dec. 8, 2009 with reference to the Draft Environmental Impact Report (DEIR) for the Sunset Ridge Park Project. I haven't received an answer or acknowledgement that you received it.

It is therefore, that I will send you the letter as an attachment herewith.

I hope that in this way, you will receive, consider and respond to this communication.

Thank you for your attention to this matter.

Waldemar R. Moosmann

} T-1

Waldemar R. Moosmann
20 Ima Loa Court
Newport Beach, CA. 92663
Ph./Fax: (949) 548-6323
e-mail: moosmann@roadrunner.com

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

December 8, 2009

REF: Draft Environmental Impact Report (DEIR)
For Sunset Ridge Park Project

Ms. Brown:

PDF 4.5-1 The project includes landscaped berms between active parks uses and the Newport Crest attenuation.

- 1) Does this mean that excavated, polluted dirt is deposited along the existing wall?
- 2) How much space will there be between berms and the existing wall , that belongs to Newport Crest?
- 3) Does the berm encroach on the Newport Crest property? (Space between property line and actual wall. (set back)
- 4) The berms are not mitigating any adverse conditions, such as noise, dust, polluted air from parking lot and toilet facilities.
Berms are only effective on level land. In this case, it will only enhance the air flow upward and into the residences above. The existing wall will not!

Page 4.4-32: Correctly states that Newport Crest is at a higher elevation than the project and the first paragraph of Section 4.4-3 and page 4.4-11 states that "In general, the dominant land/sea breezes-winds are on shore during the day and reverse to off shore at night."

That is not totally true, as that only happens when the water mass (the ocean) gets warmer than the land, or we have Santa Ana wind conditions.

Berms, or walls are used to reduce noise and dust along highways or streets bordering on residential property of the same level. Newport Crest is elevated and exposed in its full height.

The noise, dust, heat from a parking lot and pollution from toilets are blown by the sea breeze to the berm. The berm deflects the sea breeze loaded with all the pollutants , upward and into the Newport Crest residences, which the wall does not do.

The berms are a health hazard and must be omitted.

It is not stated how the parking lots will be surfaced. If it is just a gravel lot, there will be a lot of dust. If it is asphalt, it will create a lot of heat. Both are nuisances which will continue to be present, long after the construction.

There were several letters sent to you concerning the pollutants during construction. I fully concur!

This is not acceptable, particularly for people with existing pulmonary and other health conditions.

PDF 4.4-6: Approximately 130 to 140 trees shall be planted where there are no existing trees. It is a given! There are no existing trees. Have you ever seen a sports park with trees.

That needs to be clarified. Will that obstruct the views. Where will these trees be planted, on the berm, around the sports field? This too is an element that must be omitted.

There should not be an active sports park and I recommend the alternative. 1.5-2 C: Passive Parks and consider the health problems the project in question disregards and cannot mitigate.

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

Waldemar Moosmann.

Letter T **Waldemar R. Moosmann**
February 22, 2010

Response 1

Please refer to the responses to Letter P47.

Letter U

January 19, 2010

**RECEIVED BY
PLANNING DEPARTMENT**

FEB 02 2010

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

CITY OF NEWPORT BEACH

Dear Ms. Brown,

We recently learned of the City of Newport Beach's plan to create the park called Sunset Ridge at Superior and PCH for our local community to use and enjoy. This is wonderful news for our residents, especially our youth. Having been involved and volunteering for more than 10 years with our local sports programs such as; AYSO, Pacific Coast Girls Softball, Newport-Mesa Soccer Club and our children's school sports, this park has been a long time coming.

Within those organizations it has been discussed at almost every board meeting that the shortage of fields, especially fields with lights, put our youth programs at a great disadvantage compared to other communities. Families with multiple children who are playing recreational sports and having to commute to fields outside our neighborhood actually decreases the amount of children participating because the parents just can't get their kids to practices and games. I am sure that the City and the Sunset Ridge neighboring residents can come up with a solution that will benefit our community as a whole and make sure that this park is available for all to share.

Children involved in sports are not only physically fit and healthy but they are also more focused on school and success outside of their sport, not to mention more involved within their own community. With the addition of this park the City of Newport Beach is making our children's health and future a priority and that is certainly better for our community as a whole.

Thank you so very much for making Sunset Ridge Park a reality. Our family will enjoy the time we spend there exercising, cheering, playing and generally just being together.

Sincerely,
Susie & Doug Gastineau

U-1

Letter U **Susie and Doug Gastineau**
January 19, 2010

Response 1

The commenters' support for the Project is noted.

Letter V

February 20, 2010

Planning Department
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658-8915

Attention: Ms. Janet Johnson Brown

RE: Sunset Ridge Draft EIR

Thank you for the opportunity to comment on the Sunset Ridge Draft EIR. My wife and I have spent several hours reviewing the information in the Environmental Impact Report (EIR). Although we disagree with many of the provisions in the document, as long time residents of both Newport Beach and Costa Mesa, we understand the need for additional park space in the City of Newport Beach and adjacent communities.

Our objections to the proposed park are in respect to the nature of the park and the traffic congestion and safety concerns created by the placement of a traffic signal and 4-lane entryway at Pacific Coast Highway. Our comments are as follows:

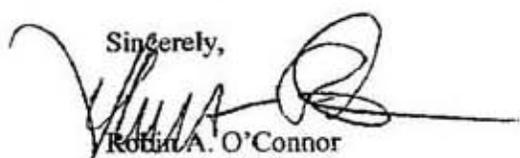
- 1) The proposed park should be a passive park, without sports fields to allow use by more members of the general public. If a passive park is constructed, there would be less need for parking on site with a corresponding reduced environmental impact.
- 2) The proposed traffic signal at PCH will increase congestion and have a significant impact on motorists and nearby residents. (Both of us use PCH on an almost daily basis).
- 3) The entrance to the park should be limited to the required need. Even with an active park containing sports fields, the number of car visits could not exceed 150-200/day. Why would a large road access be required if it's really unnecessary? Reducing the footprint of the roadway to two lanes total would limit environmental damage while still allowing the required access for the park.

} V-1
 } V-2
 } V-3

We have an opportunity. We can avoid "paving paradise" or contributing to unnecessary degradation of our environment for no net benefit to the community. We strongly advocate that a best outcome is considered -- that a passive park be placed on Sunset Ridge for the enjoyment of the greatest number of residents and visitors and that we limit any degradation to our valuable natural resources.

} V-4

Thank You.

Sincerely,

 Robin A. O'Connor
 & Patrick T. Copps

1049 Regatta Run
Costa Mesa, CA 92627

Letter V **Robin A. O'Connor and Patrick T. Cops**
February 20, 2010

Response 1

The commenters' support for a passive park on the site is noted.

Response 2

As addressed in the Draft EIR, the City is proposing a signal at the future West Coast Highway and park access road intersection. Please refer to Topical Response 3.

Response 3

Please refer to Topical Responses 1 and 2.

Response 4

The commenter's support for a passive park on the site is noted.



REO Nationwide, Inc.

(888) 700-0868

RECEIVED BY
PLANNING DEPARTMENT

JAN 22 2010

The City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

Attn: Janet Brown
Re: Proposed Sports Activity Park

CITY OF NEWPORT BEACH

Dear Janet Brown;

The idea of a Sports Activity Park is fabulous! Thank you for your work on the project.

Would you please allow me to point out a few concerns that might be manageable more productively up front? Alternatively, the potential for trouble after the fact could prove difficult to assuage. I live in Villa Balboa, and have lived here for over 20 years so I know the area well. I am also a runner and am physically on the grounds where the park will be several days a week and have been for many years.

1. Access to the park appears to include an entrance on Superior Avenue. That street is steep and on a curve, and I have seen two fatalities there since I have lived here in Villa Balboa across the street. It is a dangerous and busy area with fast moving cars on a downhill slope. If anyone chooses to cut corners, as people will, and someone stops at the curb to drop off a child when in a hurry for example, they are most certainly going to risk being rear ended by a car moving at great speed. Anyone on board is likely to be injured or even killed. } W-1
2. There is a huge demand for beach parking in this area. Please note that any parking lot associated with the park will be scavenged by those seeking access to the beach. There is very little access by car to the beach in this part of Newport Beach. } W-2
3. There is a firmly entrenched homeless problem adjacent to this intersection now. With the economy under pressure, this is not likely to improve anytime soon with proximity to Jack in the Box bathrooms, and our mild weather. This segment of our community, for they do "live" here.. would love to have access to a bathroom like ones in the proposed park. Will the restrooms in the park become transient frequented making them potentially scary for children and their concerned parents? Even unsafe? People who are desperate can be somewhat unpredictable at best. } W-3
4. How will the park be effectively closed at night? How will the park be monitored to mitigate these and any other resultant situations that are incubated once the park is operational? } W-4

I trust you and those who are working on this project are familiar with some of the things that can materialize in a newly built park. From someone who knows the area well, please accept my input as constructive. It is my hope that the community will not end up trying to contain these unintended situations once the park is built.

Best,

Carol Jean Gehlke
CEO/Founder, REO Nationwide Inc.

377 E. Coast Highway, Suite 250, Newport Beach, CA 92660
tel: (888) 700-0868 ■ e-mail: info@reonationwide.com ■ <http://www.reonationwide.com>

Altera Real Estate Services ■ DRE No. 00982849

"When experience counts!"

Letter W **Carol Jean Gehlke**
January 22, 2010

Response 1

No vehicular access to the site from Superior Avenue is proposed.

Response 2

Section 3.6 (page 3-9) has been clarified and incorporated into the Final EIR as follows:

Because of the park site's proximity to the beach, parking would be metered ~~and limited~~ to two hours intervals during peak time periods (summer months) annually between May 15 and September 15 to ensure adequate spaces for park uses. Parking rates would be consistent with the existing Superior Parking Lot located at the northeastern corner of West Coast Highway at Superior Avenue. Between September 16 and May 14, the City proposes no time restrictions on parking; however, parking fees would apply; paid parking would ensure that adequate parking spaces would be available for park uses. Annual and Master City Parking Passes would be allowed. However, if the City determines that pass holders are not adhering to the two-hour parking time limit during peak time periods, passes could be restricted or prohibited. To restrict overnight parking, vehicles within the lot prior to the parking lot opening the following morning ~~would~~may be towed.

Response 3

Although the commenter does not raise an environmental issue, the City of Newport Beach and the City's Park Rangers are responsible for the monitoring of public parks and park facilities in the City. No overnight parking or use of the park is proposed. While the City does not lock public restrooms at its other park facilities, the City has the right to close restrooms at the time of park closure should it deem this action necessary and appropriate.

Response 4

Please refer to the response to Comment 3.

Letter X

LAW OFFICES OF JOHN RAPILLO
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January 14, 2010

RECEIVED BY
PLANNING DEPARTMENT

JAN 19 2010

Janet Johnson Brown, Associate Planner
CITY OF NEWPORT BEACH PLANNING DEPARTMENT
3300 Newport Blvd.
P.O. Box 1768
Newport Beach, CA 92658-8915

CITY OF NEWPORT BEACH

RE: Sunset Ridge Park

Dear Ms. Brown,

I am currently a resident on Lido Isle in Newport Beach. I've resided in Newport Beach since 1978.

I am very much in support of the Sunset Ridge Park Sports Complex. There is a paucity of sports fields for Newport Beach youth. The Sunset Ridge Park Complex would be a welcome addition to our community and would validate the city's concern for the many children in need of open space and sports fields.

Please pass along my heart-felt gratitude to those who are making this project a reality.

X-1

Sincerely,


JOHN RAPILLO
JR.jc

Letter X **John Rapillo**
January 14, 2010

Response 1

The commenter's support for the Project is noted.

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

From: Brian Burnett [mailto:techcowboy@ca.rr.com]

Sent: Monday, February 22, 2010 10:54 AM

To: Brown, Janet

Subject: Sunset Ridge DEIR Comments

Letter Y

Dear Janet Brown,

The best use of this park is clearly a nature park. That is the only way to ensure the wildlife and wildlife habitat of this area is protected. Plus, it is the only way to protect wildlife and wildlife habitat for the highly sensitive surrounding areas.

} Y-1

One more thing, the huge entrance road is unnecessary and will further hurt wildlife and wildlife habitat.

} Y-2

Thank you,

Brian Burnett

Letter Y **Brian Burnett**
February 22, 2010

Response 1

The commenter's opinion is noted. The site could not be a nature preserve/park; the terms of the purchase of the property from Caltrans stipulate that the site be used as a park consistent with the Open Space-Active zoning (active recreational uses). If the commenter is referencing the use of the site as a passive park, the development of passive park would not achieve all of the Project objectives, specifically, to create more active parkland in West Newport Beach. The City has identified a citywide park deficiency. As identified in the General Plan, the fastest growing recreational demand in Newport Beach is the need for additional sports fields. The Recreation Element states "There is a future park site identified in this service area, Sunset Ridge Park which is designated as an active park to include ball fields, picnic areas, a playground, parking, and restrooms." The *City of Newport Beach General Plan* contains goals and policies that include developing Sunset Ridge Park and an active community park within Newport Banning Ranch with active and passive park uses. Therefore, creating a passive park would not be consistent with the General Plan goals and policies established for the West Newport Beach area.

Response 2

The commenter's opposition to the road is noted. Please refer to Topical Responses 1 and 2.

SECTION 4.0 CLARIFICATIONS AND REVISIONS

This section includes recommended clarifications and revisions to the EIR. This section is organized by respective sections of the EIR. Deleted text is shown as ~~strikeout~~ and new text is underlined.

EXECUTIVE SUMMARY

Section 1.3, Project Summary (page 1-2) is hereby revised and incorporated into the Final EIR as follows:

The parking lot would provide 75 parking spaces and include a designated drop-off area. In addition, ~~up to 22 parallel parking spaces~~ along the park access road near the parking lot (for a total of 97 parking spaces) ~~would be provided~~ may be provided ~~along the park access road near the parking lot.~~

PROJECT DESCRIPTION

Section 3.6, page 3-9, has been clarified and incorporated into the Final EIR as follows:

Because of the park site's proximity to the beach, parking would be metered ~~and limited~~ to two hours intervals during peak time periods (summer months) annually between May 15 and September 15 to ensure adequate spaces for park uses. Parking rates would be consistent with the existing Superior Parking Lot located at the northeastern corner of West Coast Highway at Superior Avenue. Between September 16 and May 14, the City proposes no time restrictions on parking; however, parking fees would apply; paid parking would ensure that adequate parking spaces would be available for park uses. Annual and Master City Parking Passes would be allowed. However, if the City determines that pass holders are not adhering to the two-hour parking time limit during peak time periods, passes could be restricted or prohibited. To restrict overnight parking, vehicles within the lot prior to the parking lot opening the following morning ~~would~~ may be towed.

LAND USE AND RELATED PLANNING PROGRAMS

Page 4.1-14 has been clarified and incorporated into the Final EIR as follows:

The following threshold is addressed as a part of the assessment of biological resources in Section 4.6, Biological Resources, of this EIR: Tables 4.1-2, 4.1-3, 4.1-4, also address the Project's consistency with the Natural Communities Conservation Plan.

- Conflict with any applicable habitat conservation plan or natural community conservation plan.

Page 4.1-14 is hereby clarified and incorporated into the Final EIR as follows:

Currently, those residents with condominium units facing the Project site view an undeveloped property. With the implementation of the proposed Project, residents with existing views of the site would view park uses rather than an undeveloped parcel. While the proposed park would be contiguous to the existing residential development, a landscaped buffer would be provided on the park between the residences and the active park uses. The buffer would vary in height from

approximately 10 feet to 18 feet above the active park area. The height of the landscaped buffer is planned to be 60 to 64 feet above mean sea level [msl] with an average height of 60 to 61 feet above msl and would vary in width from approximately 60 feet to 80 feet. All active park uses would be sited south of the buffer. Park uses would range in distance from approximately 105 feet (pedestrian walkway) to 133 feet (north soccer field) to 156 feet (baseball field) from the existing residences. At its closest point, the access road into the park would be approximately 82 feet from the nearest condominium unit; the parking lot would be approximately 134 feet from the nearest unit. No pedestrian access would be provided into or out of the park from the residential development.

AIR QUALITY AND CLIMATE CHANGE

Page 4.4-27 has been revised and incorporated into the Final EIR as follow:

As described above, long-term emissions of nonattainment pollutants would be less than six percent of the SCAQMD thresholds. These quantities are not of a magnitude to be cumulatively considerable. Construction emissions of NOx could exceed the SCAQMD regional mass emissions threshold during the three-month mass grading period, which could make a considerable contribution to regional ozone concentrations. Therefore, the Project could have a significant and unavoidable short-term cumulative regional air quality impact. With respect to local impacts, cumulative construction particulate impacts are considered when projects may be within a few hundred yards of each other. There are no known projects within one-half mile of the Project site where major construction would occur concurrently with the proposed Project, including the proposed Newport Banning Ranch Project. The Sunset Ridge Park Project is proposed for construction in January 2011 through March 2012. Should the Newport Banning Ranch Project be approved, the applicant proposes to commence remediation activities in 2014. Therefore, cumulative local air quality impacts would be less than significant.

The following mitigation measures have hereby been incorporated into the Final EIR as follows:

MM 4.4-1 The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.

MM 4.4-2 For all Project construction:

- a. Use electricity from power poles rather than temporary diesel or gasoline power generators;
- b. Ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications;
- c. Prohibit all diesel trucks from idling in excess of five minutes, both on- and off-site

If it is determined that soil export hauling will result in more than 540 off-site VMT per day, the following shall be required. (Note: VMT per day is determined by multiplying the round trip distance from the park site to the spoils site by the number of truck trips per day.)

- d. The construction contractors shall assure that at least 50 percent of the off-site haul trips are made with trucks with engines that meet or exceed Tier 3 standards.

The construction contractor shall schedule off-site haul activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable, that is, peak hour hauls on the off-site arterial system shall occur only if necessary to avoid extending the length of the mass grading phase of construction.

MM 4.4-3 The following actions shall be implemented as a part of the construction of the Sunset Ridge Park Project:

- a. Watering and visible dust control shall exceed the requirements of SCAQMD Rule 403 as follows: The Contractor shall suspend grading operations when wind gusts exceed 15 miles per hours.
- b. In windy conditions, the dust control measures of SCAQMD Rule 403, Table 2 (Large Operations) shall be applied.
- c. If windy conditions are forecast for a weekend, holiday, or other day when site work is not planned, the Contractor shall take measures, such as additional watering or the application of chemical suppressants, to stabilize disturbed areas and stockpiles prior to the non-work days.
- d. During grading and earthmoving, the Contractor shall re-apply water as necessary to assure that visible emissions do not extend to the Newport Crest residences.
- e. The Contractor shall develop a grading plan that assures that on-site emissions of PM10 will not exceed 40 pounds per day and on-site emissions of PM2.5 will not exceed 11 pounds per day.
- f. The Contractor shall develop a grading plan that limits the grading within 200 feet of the Newport Crest residences to four hours per day.

MM 4.4-4 The City shall appoint a person as a contact for complaints relative to construction impacts to the adjacent neighborhoods. A contact telephone number and email address shall be posted on signage at the construction site and shall be provided by mail to all residents within 500 feet of the Project site. Upon receipt of a complaint, the City contact person shall investigate the complaint and shall develop corrective action, if needed, with the Contractor. The City contact person shall respond to the complainant within two working days to describe the results of the investigation. The City contact person shall maintain a log of all complaints and resolutions.

BIOLOGICAL RESOURCES

Section 4.6, page 4.6-7, has been clarified and incorporated into the Final EIR as follows:

Amphibians

... No amphibian species were observed during the surveys. 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. The riparian vegetation types (i.e., disturbed mule fat scrub/goldenbush scrub and willow scrub) on the Project site also have a low potential for amphibian species to occur. Amphibian species that may occur occasionally on the Project site include the western toad (*Bufo boreas*), Pacific treefrog (*Pseudacris [Hyla] regilla*), and California treefrog (*Pseudacris [Hyla] cadaverina*). ~~Therefore, no amphibian species are expected to occur on the Project site.~~

Pages 4.6-27 and 4.6-28 are revised and incorporated into the Final EIR as follows:

Implementation of the proposed Project would impact approximately 25.34 acres of native and non-native vegetation types and other areas. The impact areas for the proposed Project are shown in Exhibit 4.6-4, Project Impacts, and impact acreages are provided in Table 4.6-4, Vegetation Types and Other Areas Impacted by the Proposed Project. In summary, a total of 0.67 ~~0.44~~ acre of coastal sage scrub (i.e., ~~areas mapped as southern coastal bluff scrub [0.14 acre] and Encelia scrub [0.53 acre]~~) and 0.06 acre of riparian vegetation (i.e., the area mapped as willow scrub) types would be removed through construction impacts. Impacts on sage scrub vegetation types are significant due to the ongoing loss of this vegetation type in Southern California and the potential for this habitat to support special status species. Impacts on riparian vegetation types would also be considered significant due to the limited distribution of these vegetation types in California. Implementation of MM 4.6-4 and MM 4.6-5 would reduce these impacts to a less than significant level. In addition, the City would be required to follow the construction minimization measures listed in MM 4.6-3.

The proposed Project would impact approximately ~~0.26 acre of Encelia scrub,~~ 0.21 acre of Encelia scrub/ornamental, 3.64 acres of disturbed Encelia scrub, 6.03 acres of non-native grassland, 7.75 acres of ruderal vegetation, 3.13 acres of ornamental vegetation, and 0.49 acre of flood control channel. The proposed Project would also impact 2.88 acres of disturbed areas. The Encelia scrub/ornamental and disturbed Encelia scrub are not considered special status because of the frequent mowing for fuel modification and weed abatement purposes, their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete v-ditch under the shrubs, presence of trash, and/or proximity to high foot/bicycle and vehicle traffic. ~~is regularly mowed for fuel modification and weed abatement purposes and contains a high percentage of non-native weeds. In addition, two small areas of scrub are not considered special status because of their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete v-ditch under the shrubs, presence of trash, and proximity to high foot/bicycle, and vehicle traffic. In addition, Therefore, these areas are not considered special status as they are not expected to support gnatcatchers during the nesting season. The non-native grassland, ruderal, ornamental, and flood control channel areas generally have low biological value because they are composed of unvegetated areas or are vegetated with non-native species and subject to significant disturbance. These areas generally provide limited habitat for native plant and wildlife species although~~

they may occasionally be used by native species. Therefore, impacts on all these areas would not be considered significant, and no mitigation would be required.

Exhibit 4.6-2, Special Status Biological Resources, has been revised to show the location of California boxthorn and incorporated into the Final EIR.

CULTURAL AND PALEONTOLOGICAL RESOURCES

Page 4.7-7 has been revised and incorporated into the Final EIR as follows:

Mr. Patrick Maxon, RPA visited the Project site on February 27, 2009, to evaluate existing conditions. BonTerra Consulting completed an archaeological test excavation in June 2009. CA-ORA-1600, CA-ORA-1601H, and CA-ORA-1602H were subjected to test excavations; CA-ORA-1610H was further studied through historic research and on the ground survey. A brief description of each site is provided, as well as a determination of eligibility for the NRHP. As previously addressed, most resources deemed eligible for the NRHP would be considered eligible for the CRHR. Final determinations are made by the SHPO. With respect to the proposed stockpile sites and temporary haul route on the Newport Banning Ranch property, the property has been subject to prior investigation and testing. As a part of the currently proposed City of Newport Beach Banning Ranch development project, BonTerra Consulting completed an archaeological test excavation of 11 archaeological sites present on the Banning Ranch property in June 2009. Three of the 11 sites were CA-ORA-1601, CA-ORA-1602, and CA-ORA-1610. CA-ORA-1601 and CA-ORA-1602 were subjected to test excavations during the study and CA-ORA-1610 was further studied through historic research and on the ground survey. No sites were identified within the boundaries of the stockpile area or haul route.

GEOLOGY AND SOILS

Exhibits 4.8-1 and 4.8-4 have been modified and are incorporated into the Final EIR.

Section 4.8, page 4.8-5, second paragraph, has hereby been revised and incorporated into the Final EIR as follows:

On-site soils that are free of organic material, debris, cobbles, boulders, or rock that are six inches or larger are suitable to be used as general fill.

Reference to the relevant policies contained within the California Coastal Act have been added to page 4.8-2, paragraph 2 as follows:

California Coastal Act

Section 30253 of the California Coastal Act contains policies to minimize the adverse impacts of new development. Relevant elements of this section to geology and geological issues for proposed Project planning are addressed in subsections (a) and (b) as follows:

(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.

The following text has been added to page 4.8-8 and is incorporated into the Final EIR as follows:

The City of Newport Beach General Plan (CNB 2006a) also identifies an area in the vicinity of the proposed access road as potentially susceptible to seismically induced landslides. However, it appears that proposed grading will remediate this area during Project construction. Further geotechnical study and exploration would be performed when the Project grading plan is available for this area.

HAZARDS AND HAZARDOUS MATERIALS

The following measures are provided and included in the Final EIR to address potential unknown oil field facilities:

MM 4.9-3 Prior to grading, the contractor shall develop an approved Health and Safety Contingency Plan (HSCP) in the event that unanticipated/unknown environmental contaminants are encountered during construction. The plan shall be developed to protect workers, safeguard the environment, and meet the requirements of the California Code of Regulations (CCR), Title 8, General Industry Safety Orders – Control of Hazardous Substances.

The HSCP should be prepared as a supplement to the Contractor's Site-Specific Health and Safety Plan, which should be prepared to meet the requirements of CCR Title 8, Construction Safety Orders.

Specifically, the HSCP must:

1. Describe the methods, procedures, and processes necessary to identify, evaluate, control, or mitigate all safety and health hazards associated with any soil, groundwater, and/or air contamination that may be encountered during field construction activities.
2. Apply to all site construction workers, on-site subcontractors, site visitors, and other authorized personnel who are involved in construction operations.
3. Be approved by the Public Works Director.

The HSCP shall take effect only if materials affected by environmental contaminants are exposed during construction. This includes undocumented waste materials, contaminated soils, affected groundwater, and related substances that may be classified as hazardous or regulated materials, and/or materials that could endanger worker or public health. If affected materials are encountered, the HSCP shall be implemented to reduce the potential exposure to the environment and workers at the site. All site workers shall be required to perform work in a prescribed manner to reduce the potential that they will endanger themselves, others, or the general public.

MM 4.9-4 During construction, if environmentally affected soil, groundwater, or other materials are encountered on site, the Project Engineer shall be quickly mobilized to evaluate, assess the extent of, and mitigate the affected materials. The following is only applicable if materials affected by environmental contaminants are exposed during construction. The contractor or City's consultant shall be responsible for implementing all applicable sampling and monitoring of the project. Applicable sampling and monitoring activities can include air monitoring (both for personal protection and SCAQMD Rule 1166 compliance), collecting soil and groundwater samples for analysis, and documenting mitigation activities. Specific applicable sampling and monitoring requirements shall vary, depending upon the nature, concentration, and extent of affected materials encountered.

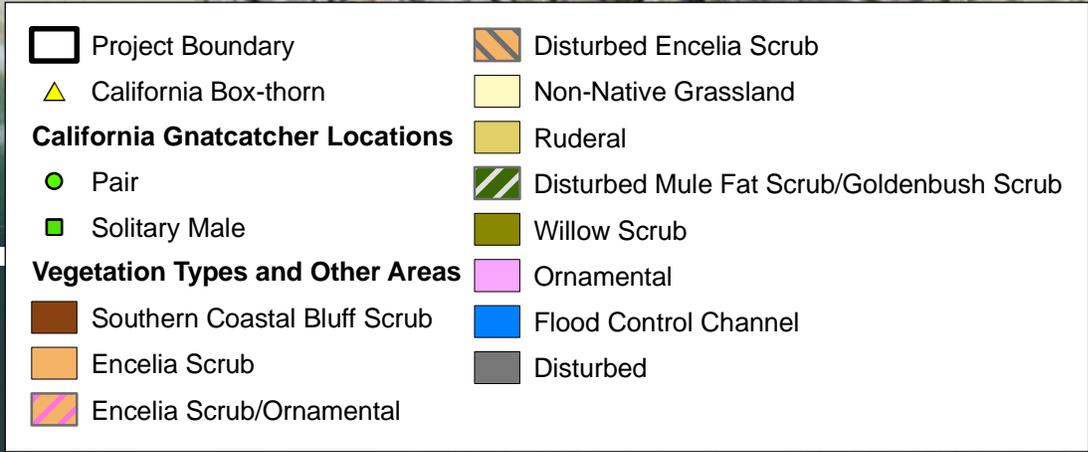
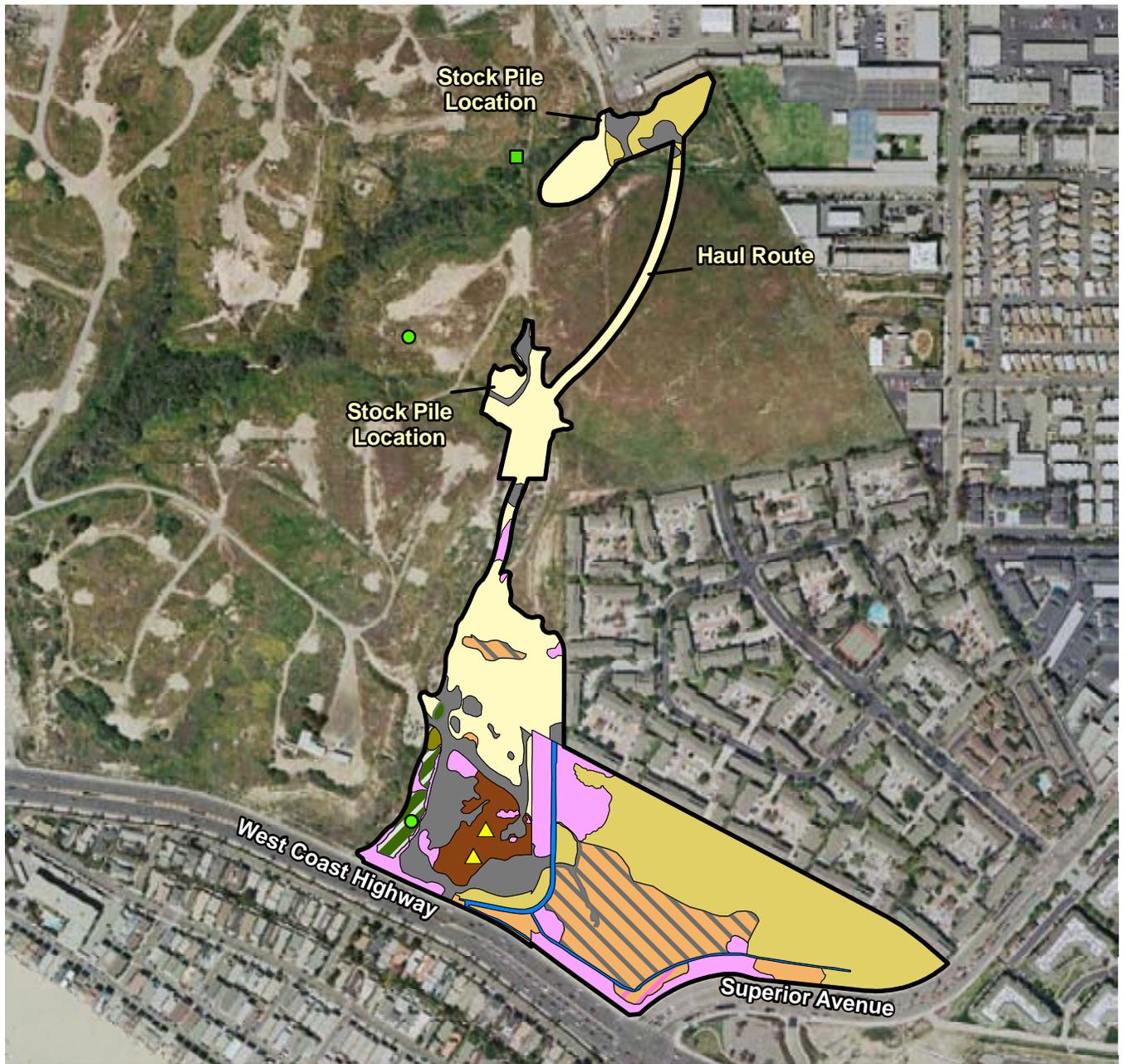
HYDROLOGY AND WATER QUALITY

The following text has been added to Section 4.10, page 4.10-12, and incorporated into the Final EIR as follows:

Seepage was encountered in all borings at the site and observed approximately 5 to 15 feet below the ground surface elevation of the lower (southwestern) portion of the Project site, where a layer of sand and clay converge. Possible sources of seepage include the residential development north of the site (Newport Crest Condominiums) or shallow precipitation on site.

The following text has been added to Section 4.10, page 4.10-11, and incorporated into the Final EIR as follows:

Proposed amendments to the 2006 303(d) list of impaired water bodies are included in the Final 2008 California 303(d)/305(b) Integrated Report completed by the Santa Ana RWQCB. This report was forwarded to the SWQCB in April 2009 for approval. This report proposes the addition of the Semeniuk Slough (referenced in the subject report as the Newport Slough) to the 303(d) list for enterococcus, fecal coliform, and total coliform (Santa Ana RWQCB 2008). The Integrated Report sets TMDL development for 2021. Santa Ana River Reaches 3 and 6, both upstream of the Project site, have also been proposed for listing due to impairment by copper and cadmium, respectively. TMDLS for these reaches will be developed by 2021 and 2022.

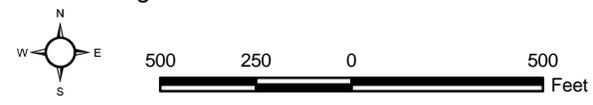


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Special Status Biological Resources

Exhibit 4.6-2

Sunset Ridge Park EIR





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Site Topography

Sunset Ridge Park EIR

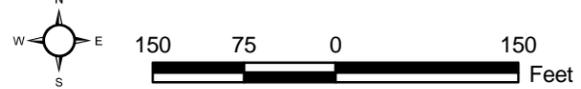


Exhibit 4.8-1



R:\Projects\Newport\016\Graphics\EIR\ex4.8-1_site_topo.pdf



D:\Projects\Newport\016\MXDraw_proposed_grading.mxd

Proposed Project Grading Plan

Sunset Ridge Park EIR

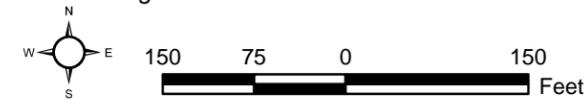
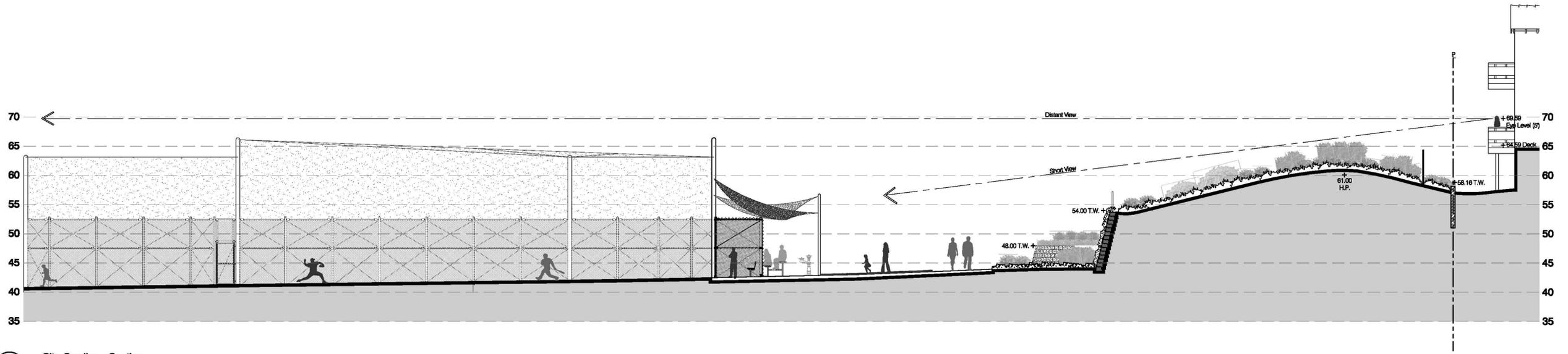


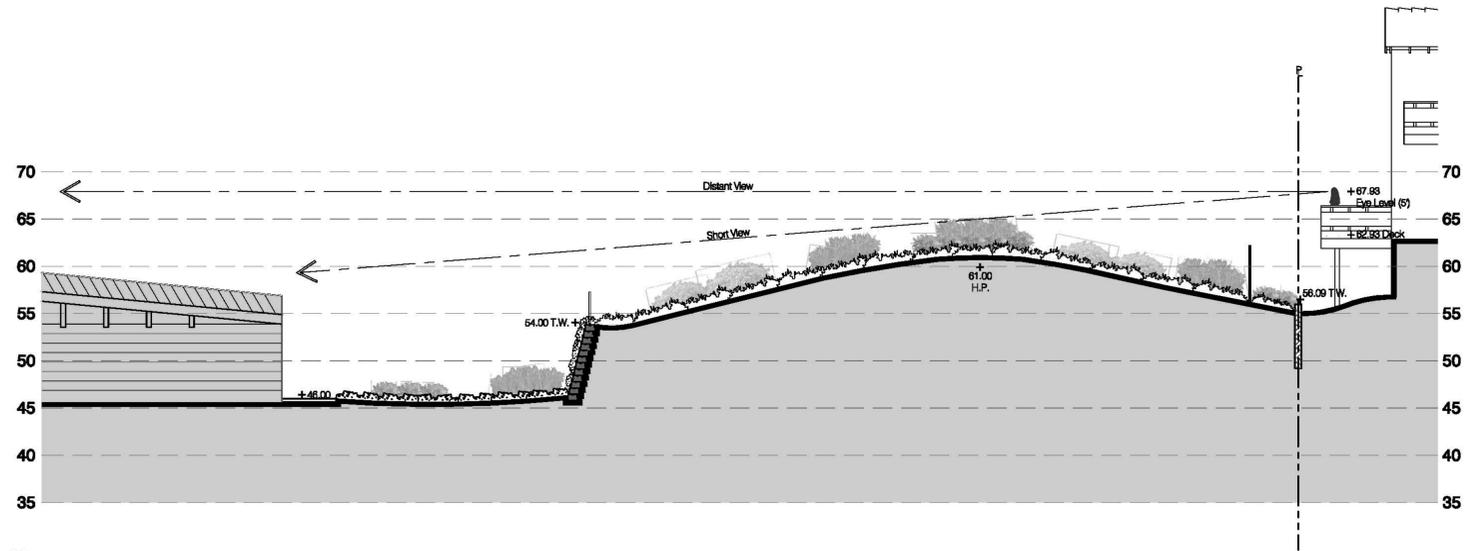
Exhibit 4.8-4

Bonterra
CONSULTING

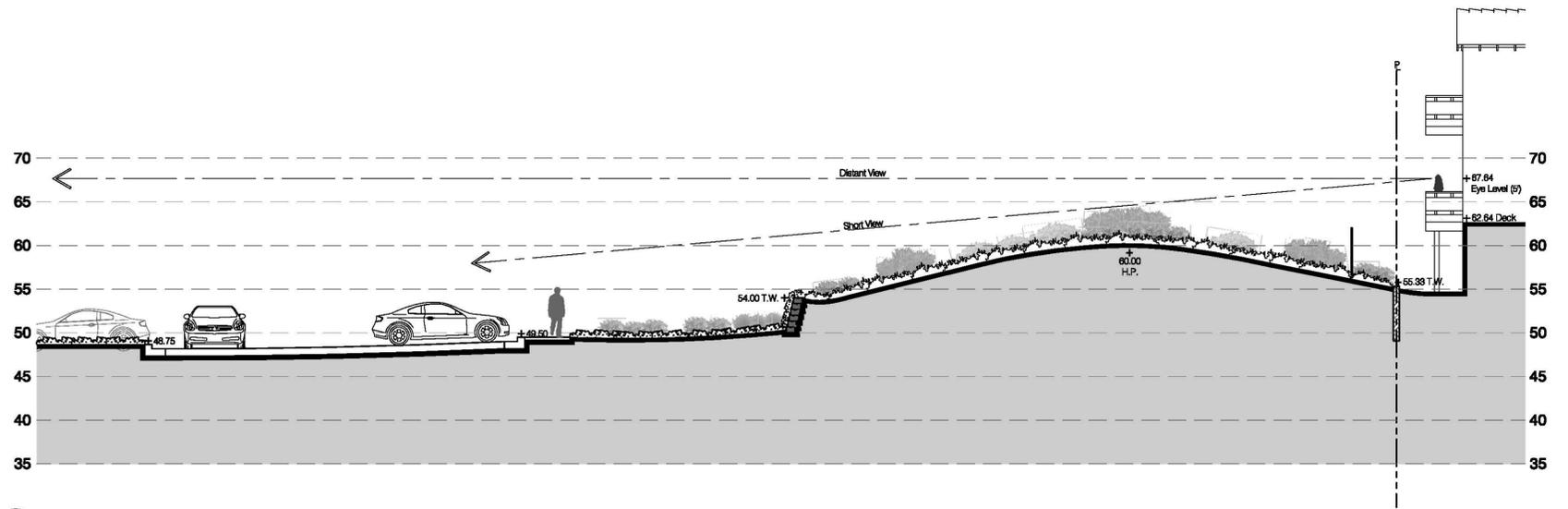
(REV: JED 030410) R:\Projects\Newport\016\Graphics\EIR\Ex4.8-4_proposed_grading.pdf



A Site Grading - Section
Scale: 1/8"=1'-0"



B Site Grading - Section
Scale: 1/8"=1'-0"



C Site Grading - Section
Scale: 1/8"=1'-0"

SiteSections - Option 'B'

Sunset Ridge Park
Conceptual Design
Newport Beach, California

Prepared for:
The City of Newport Beach

20 July 2009