

To: Debby Linn
Contract Planner
City of Newport Beach Planning Department
3300 Newport Blvd.
Newport Beach, CA 92658-8915

20 April 2009

From Environment Quality Affairs Citizens Advisory Committee (EQAC)
Subject: Comments on NOP for Newport Banning Ranch

Dear Ms. Linn:

The Environmental Quality Affairs Citizens Advisory Committee (“EQAC”) of the City of Newport Beach (“City”) thanks you for the opportunity to comment on the Notice of Preparation (“NOP”) for the Newport Banning Ranch Project (“Project”) and the scope and content of the Program Environmental Impact Report (“EIR”) that the City plans to prepare. EQAC’s comments are outlined below and relate to a number of areas, including, but not limited to, aesthetics, biological resources, cultural resources, geology, hazards, hydrology, land use, noise, and transportation.

First and foremost, the EIR needs to consider the General Plan’s clear preference that the entire Banning Ranch be preserved as permanent open space, along with the implementing strategy of actively pursuing the acquisition of the site as permanent open space. In addition, EQAC specifically requests that, where the EIR refers to the General Plan and its discussion of Banning Ranch, the EIR should cite to and quote the General Plan specifically.

Project Site. According to the City’s General Plan, Banning Ranch encompasses approximately 518 acres of primarily undeveloped land with some historic oil extraction infrastructure, including oil wells, pipelines, and buildings (General Plan, pp. 3-67 – 3-68). The General Plan states that “the area should be regarded as relatively high-quality wildlife habitat due to its size, habitat diversity, and continuity with the adjacent Semeniuk Slough and federally restored wetlands” (General Plan, p. 3-68). Banning Ranch provides wildlife with a “significantly large, diverse area for foraging, shelter, and movement” (General Plan, p. 3-68). The site contains about 69 acres with a habitat value rank of “1” with a high biological resource value, 96 acres with a rank of “2,” and 118 acres with a rank of “3.” In addition, “Banning Ranch exhibits distinctive topography that is a physical and visual resource for the community” (General Plan, p. 3-71).

Land Use. For these and other reasons, the General Plan “prioritizes the acquisition of Banning Ranch as an open space amenity for the community and region. Oil operations would be consolidated, wetlands restored, nature education and interpretative facilities provided, and an active park developed containing playfields and other facilities to serve residents of adjoining neighborhoods” (p. 3-71). To further this policy, the General Plan contains a strategy to “support active pursuit of the acquisition of Banning Ranch as permanent open space, which may be accomplished through the issuance of state bonds,

environmental mitigation fees, private fundraising, developer dedication, and similar techniques” (Strategy LU 6.3.2). If acquisition for open space is not successful, then the site may be developed as a high-quality residential community with supporting uses that provide revenue to restore and protect wetlands and important habitats (Goal LU 6.4).

Accordingly, the EIR must address the General Plan’s policy prioritizing the acquisition of Banning Ranch as an open space amenity for the community and region (Policy LU 3.4). Given the General Plan’s clear preference that the entire site be preserved as permanent open space, the EIR must discuss this preference..

Aesthetics. As stated in the General Plan, “Banning Ranch exhibits distinctive topography that is a physical and visual resource for the community,” and the site provides “an important visual backdrop from West Coast Highway” (p. 3-71). EQAC further understands that the undeveloped nature of the site is considered an asset by adjoining communities including Newport Shores, Newport Crest, and Lido Sands as well as residents, commuters and passers-by along West Coast Highway and parts of the Cities of Costa Mesa and Huntington Beach. Accordingly, the EIR must consider whether the Project will have a substantial adverse effect on scenic vistas, whether it will damage scenic resources, and whether it will substantially degrade the existing visual character or quality of the site and its surroundings.

Biological Resources. As discussed above, the General Plan states that “the area should be regarded as relatively high-quality wildlife habitat due to its size, habitat diversity, and continuity with the adjacent Semeniuk Slough and federally restored wetlands” (General Plan, p. 3-68). In addition, the City has identified Banning Ranch as an Environmentally Sensitive Habitat Area that contains one or more sensitive plant communities and many species of wildlife (General Plan, p. 10-8). The Natural Resources Element of the General Plan call for the protection of the sensitive and rare resources that occur on Banning Ranch; and, if future development is permitted, requires that an assessment be prepared delineating sensitive and rare habitat and wildlife corridors. The Natural Resources Element further requires “that development be concentrated to protect biological resources and coastal bluffs, and structures designed to not be intrusive on the surrounding landscape. Require the restoration or mitigation of any sensitive or rare habitat areas that are affected by future development” (General Plan, p. 10-27). Given the significant biological resources present at Banning Ranch, the EIR must consider whether the project would (1) have a substantial adverse effect on protected species, (2) have a substantial adverse effect on riparian habitats or other sensitive natural communities, (3) have a substantial adverse effect on federally protected wetlands, and (4) interfere substantially with the movement of any native or migratory fish or wildlife species or with established wildlife corridors.

Cultural Resources. The General Plan recognizes that Banning Ranch contains significant fossils and known paleontological deposits, including at least 14 documented sites of high significance (General Plan, p. 10-15). The EIR should consider whether the Project would cause a substantial adverse change in the significance of historical and

archaeological resources, whether it would directly or indirectly destroy unique paleontological resources, or disturb human remains.

Geology and Soils. Banning Ranch contains significant coastal bluffs, some of which are highly erodible and have experienced sliding over the years (General Plan, p. 3-71). The site is also located adjacent to the Newport-Inglewood Fault (NOP, p. 5). We understand the Project also calls for the restoration of some coastal bluffs (NOP, p. 18). The EIR will need to consider whether the Project would expose people or structures to potential adverse effects involving an earthquake fault and landslides, and whether the Project would result in substantial soil erosion or potentially result in landslides.

Hazards. Oil extraction activities at Banning Ranch date back at least 75 years (General Plan, p. 3-68). The Project contemplates that existing oil wells within the proposed development and open space areas would be abandoned with those areas remediated (NOP, p. 11). In addition, oil production would be allowed to continue within about 20 acres of the Project site within two specific consolidation sites (NOP, p. 15). Given the historic oil production at the site and the expected continuation of oil production, the EIR will need to consider (1) whether the existing oil infrastructure would create hazards to the public or the environment, and (2) whether the continued operation of oil wells will create any significant hazard to the public or the environment through reasonably foreseeable accident conditions.

Hydrology and Water Quality. Drainage from upland areas in and adjoining the City of Costa Mesa have formed a number of arroyos with riparian habitats at Banning Ranch (General Plan, p. 3-71). We also understand that some stormwater drains pass through or under the Project site. The EIR will need to consider whether the Project would substantially alter the existing drainage pattern of the area, including the alteration of streams, and whether it would create or contribute runoff water that would exceed the capacity or existing or planned stormwater drainage systems.

Noise. The Project proposes 1375 dwelling units, 75,000 square feet of commercial use, 75 hotel rooms, and passive and active park uses, all of which will contribute to increased noise levels in a currently undeveloped area. We understand that increased noise levels are of particular concern to the nearby Newport Shores, Newport Crest and Lido Sands communities. Therefore, the EIR will need to consider whether the Project would (1) result in exposure of persons to noise levels in excess of established standards, and (2) result in a substantial permanent or temporary increase in ambient noise levels in the Project vicinity.

Traffic. The Project proposes an intersection into the Project site from West Coast Highway, the possible widening of West Coast Highway, the construction of Bluff Road from a southern terminus at West Coast Highway to a northern terminus at 19th Street, and the extension of 15th, 16th and 17th Streets. The EIR must consider whether these planned road improvements and extensions would (1) cause a substantial increase in traffic, (2) exceed established levels of service (either individually or cumulatively), (3) result in inadequate emergency access, or (4) result in inadequate parking capacity.

Cumulative Impacts. The EIR must consider all of these issues on a individual project-level basis. In addition, the EIR must consider the cumulative impacts of the project, especially noise, traffic and land use. The City will soon be considering an EIR for the proposed Sunset Ridge project, located immediately to the south east of the Project site. Because of their proximity both in time and location and their potential to significantly affect the neighboring communities, the environmental effects of both Banning Ranch and Sunset Ridge (and any other projects) must be considered together. Under the California Environmental Quality Act, “[t]he full environmental impact of a proposed ... action cannot be gauged in a vacuum.” *Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397, 408. Thus, “[t]he requirement for a cumulative impact analysis must be interpreted so as to afford the fullest possible protection of the environment within the reasonable scope of the statutory and regulatory language.” *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421, 431-432. Therefore, “[i]t is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them.” *Id.* at 431.

Alternatives. An EIR must describe a reasonable range of alternatives to the project that could feasibly attain most of the objectives of the project while avoiding or substantially lessening any of the significant effects of the project. 14 Cal. Code Regs., § 15126.6. The NOP discusses an open space alternative, a no action/no development alternative, and a circulation alternative. In order to provide a reasonable range of alternatives for the public to consider, the EIR should include a “reduced footprint” alternative that would consist of development but at a reduced level lower than the proposed 1375 dwelling units.

We hope you find these comments helpful. Please contact the EQAC Committee should you have any questions.