



== CITY OF ==
NEWPORT BEACH
City Council Staff Report

Agenda Item No. _____
July 23, 2012

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Community Development Department
Brenda Wisneski, AICP, Deputy Director
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PREPARED BY: Patrick J. Alford, Planning Manager

APPROVED: 

TITLE: Newport Banning Ranch - A proposed 401-acre planned community generally located north of West Coast Highway, south of 19th Street, and east of the Santa Ana River (PA2008-114)

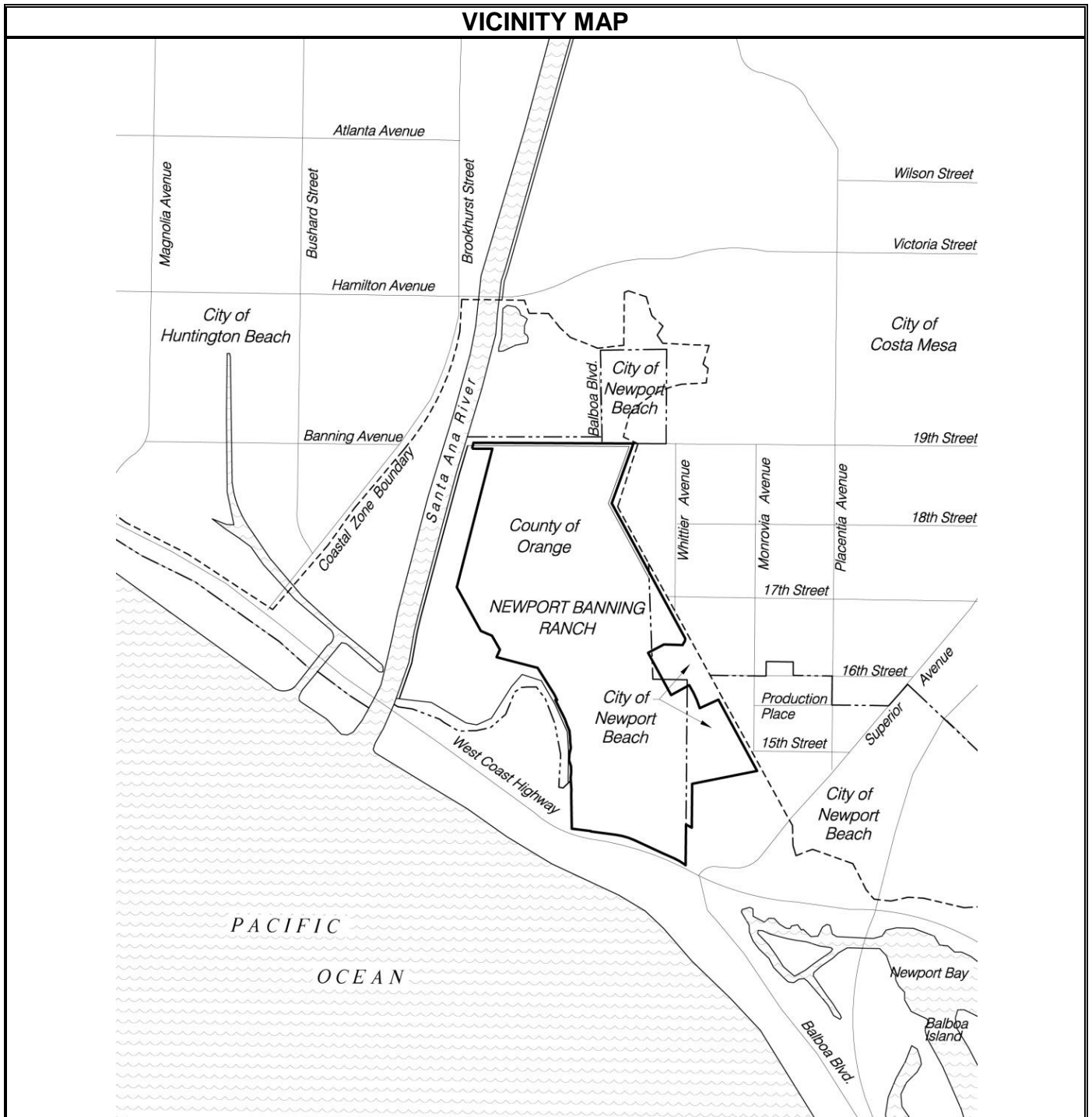
ABSTRACT:

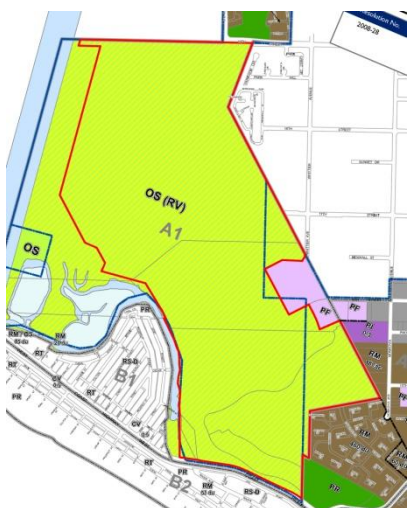
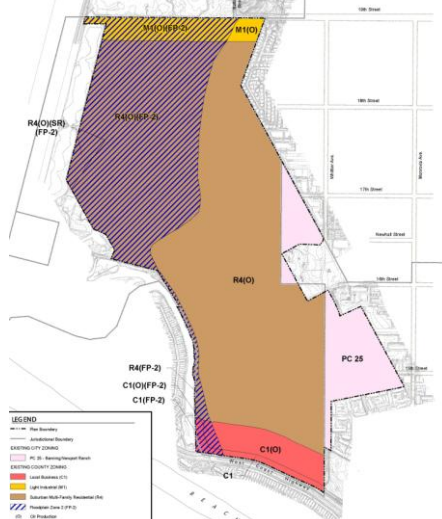
City Council consideration is requested on an application filed by Newport Banning Ranch, LLC, seeking approval of a Development Agreement; General Plan Amendment to the Circulation Element; Code Amendment; a Pre-annexation Zone Change; Planned Community Development Plan; Master Development Plan; Tentative Tract Map; Affordable Housing Implementation Plan; and Traffic Phasing Ordinance Traffic Study for a proposed planned community on a 401.1 gross-acre project site for development of 1,375 residential dwelling units, a 75-room resort inn and ancillary resort uses, 75,000 square feet of commercial uses, approximately 51.4 gross acres of parklands, and approximately 252.3 gross acres of permanent open space.

RECOMMENDATION:

- 1) Conduct public hearing; and
- 2) Adopt Resolution No. 2012-___ (Attachment CC 1) certifying Environmental Impact Report No. ER2009-002 (SCH No. 2009031061) and adopting Findings and Facts in Support of Findings; and
- 3) Adopt Resolution No. 2012-___ (Attachment CC 2) approving General Plan Amendment No. GP2008-008 and adopting a Statement of Overriding Considerations; and
- 4) Introduce Ordinance No. 2012-___ (Attachment No. CC 3) approving Code Amendment No. CA2008-004 and Planned Community Development Plan Amendment No. PC2008-002 and pass to second reading for adoption on August 14, 2012; and

- 5) Adopt Resolution No. 2012-___ (Attachment CC 4) approving Master Development Plan No. MP2008-001, Tentative Tract Map No. NT2008-003, Affordable Housing Implementation Plan No. AH2008-001, Traffic Study No. TS2008-002, and the Newport Banning Ranch Mitigation Monitoring and Reporting Program; and
- 6) Introduce Ordinance No. 2012-___ (Attachment No. CC 5) approving Development Agreement No.2008-003 and pass to second reading for adoption on August 14, 2012.



EXISTING GENERAL PLAN		EXISTING ZONING	
			
LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Open Space/Residential Village (OS (RV))	Planned Community (PC-25); County Zoning Suburban Multi-family Residential (R-4), Local Business Commercial (C-1), Light Industrial (M-1) with Oil Production (O), Sign Restriction (SR), and Floodplain Zone (FP-2) Overlays	Open space, oil production
NORTH	Multi-unit Residential (RM), Parks and Recreation (PR); Costa Mesa General Plan Public/Institutional	Planned Community (PC-16), Costa Mesa Zoning Institutional and Recreational	Open space, multi-unit residential
SOUTH	Single-Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single-unit residential detached
EAST	Parks and Recreation (PR), Multi-Unit Residential (RM), General Industrial (IG), Private Institutions (PI), and Public Facilities (PF); Costa Mesa General Plan Light Industry and Medium Density Residential	Parks and Recreation (PR), Planned Community (PC-14), Multi-Unit Residential (RM), Industrial (IG), Private Institutions (PI), Public Facilities (PF); Costa Mesa Zoning General Industrial and Multiple Family Residential	Single-unit detached residential, light industrial, educational facilities, multi-unit residential and vacant
WEST	Open Space (OS) and Single-Unit Residential Detached (RS-D)	Open Space (OS) and Single-Unit Residential (R-1)	Open space and single-unit residential detached

FUNDING REQUIREMENTS:

There is no budgetary impact related to this item. However, approval would lead to the future payment of a public benefit fee in the amount of \$30,909 per residential dwelling unit developed (see Development Agreement section of this report for additional details). Also, a fiscal impact analysis concluded that based on the revenue and cost projections, the proposed project would have a net fiscal benefit of nearly \$2.0 million per year at full build-out (see Fiscal Impact section of this report for additional details).

DISCUSSION:

Project Setting

The project site consists of approximately 401.1 acres. Approximately 40 acres are located within the incorporated boundary of the City and the remainder is located within unincorporated Orange County, in the City's adopted Sphere of Influence, as approved by the Local Agency Formation Commission of Orange County (LAFCO). The project site is currently a producing oilfield with approximately 489 oil well sites and buildings and oil facility infrastructure, including oil processing facilities, pipelines, storage tanks, utility poles, and machinery.

Project Description

The project is a proposed planned community to include 1,375 residential dwelling units, a 75-room resort inn and ancillary resort uses, 75,000 square feet of commercial uses, approximately 51.4 gross acres of parklands, and approximately 252.3 gross acres of permanent open space.

Background

General Plan Basis for the Project

The General Plan was adopted by the City Council on July 25, 2006, and the land use plan was approved by the voters on November 6, 2006. Land Use Element Policy LU 6.3.1 establishes the primary use of the Banning Ranch property as open space, including significant active community parklands that serve adjoining residential neighborhoods, if the site is acquired through public funding. Policy LU 6.3.2 calls for the City to "support active pursuit of the acquisition of Banning Ranch as permanent open space."

Policy LU 6.4.1 states that if the Banning Ranch property is not acquired for open space within a time period and pursuant to terms agreed to by the City and property owner, the site may be developed as a residential village. Policy LU 6.4.1 also provides that the property owner may pursue entitlement and permits for a residential village during the time allowed for acquisition as open space.

On January 12, 2008, the City Council adopted as a priority to "conduct an appraisal of the Banning Ranch property and assess funding available for the purchase of the property for open space." On February 12, 2008, the Banning Ranch Appraisal and Acquisition Ad Hoc Committee was appointed. On December 23, 2008, an appraisal report was completed that

estimated the acquisition costs for the property to be between \$138,000,000 and \$158,000,000. The report also concluded that State or private funding was unlikely at that time; although, some funding from Measure M may be possible.

On January 27, 2009, the Council authorized the City to request Measure M funding and the request was submitted to the Orange County Transportation Authority (OCTA) on April 15, 2009. On June 15, 2009, OCTA responded that a "prioritization process" was under preparation.

On August 11, 2009, the Council acted to continue the exploration of open space acquisition possibilities and monitor funding opportunities. The Council also directed staff to move forward with review of the Newport Banning Ranch application.

On March 30, 2010, OCTA Environmental Oversight Committee removed Banning Ranch from list of potential acquisitions for the first round of funding.

Environmental Review

On March 16, 2009, the Notice of Preparation ("NOP") of the environmental impact report (EIR) was mailed to public agencies, organizations and persons likely to be interested in the potential impacts of the project.

On April 2, 2009, the City held two public scoping meetings, one for government agencies and one for the general public, to present the project and to solicit input from interested individuals regarding environmental issues that should be addressed in the EIR.

On September 9, 2011, the Draft EIR was circulated for public and agency review and comments. The 60-day public review and comment period closed on November 8, 2011.

On September 19, 2011 and October 17, 2011, the Environmental Quality Affairs Committee of the City of Newport Beach held meetings to review and comment on the Draft EIR.

Planning Commission Review

On November 3, 2011, the Planning Commission of the City of Newport Beach held a study session on the Draft EIR process.

The Planning Commission conducted a total of four study sessions on the environmental impact report (EIR) and the project between January 19, 2012 and March 8, 2012:

- 01/19/12 Subdivision Design & Circulation
- 02/09/12 Open Space, Parks, & Trails
- 02/23/12 Land Use, Development Regulations & Architectural Guidelines
- 03/08/12 Draft Environmental Impact Report

The Planning Commission conducted a public hearing, devoted to the EIR on March 22, 2012 and public hearings on the project on April 19, 2012 and June 21, 2012. The Planning

Commission voted (6-0) to recommend that the City Council certify the Final EIR and approve the project with a Statement of Overriding Considerations.

Analysis

This report will provide an analysis of the Final EIR and the various components of the project and will focus of the issues raised and addressed during the Planning Commission study sessions and public hearings.

Final Environmental Impact Report

As the lead agency, the City is required to review and consider the Final EIR prior to any decision to approve, revise, or deny the proposed project. The EIR provides an impact analysis for those environmental impact categories where it was determined that the proposed project could result in “potentially significant impacts.” Most of the potentially significant environmental impacts were determined to have either “no impact” or “No Significant Impact” through the implementation of the Mitigation Program comprised of Project Design Features (PDFs), Standard Conditions (SCs), and Mitigation Measures (MMs). However, the impact analysis did identify significant and unavoidable impacts; impacts that remain significant after including all feasible mitigation measures are considered:

- Land Use and Related Planning Programs. There would be land use incompatibility with respect to long-term noise and night illumination predominately from North Community Park on those Newport Crest residences immediately contiguous to the project site.
- Aesthetic and Visual Resources. The proposed project would introduce nighttime lighting into a currently unlit area.
- Transportation and Traffic. The proposed project would have impacts on intersections in the City of Costa Mesa.
- Air Quality. Without mitigation, regional (mass) emissions of oxides of nitrogen (NO_x) are forecasted to exceed applicable thresholds in some construction years. Long-term operational emissions of criteria pollutants would not exceed the South Coast Air Quality Management District (SCAQMD) mass emissions thresholds from initial occupancy through 2020. However, as project development continues beyond 2020, emissions of volatile organic compounds (VOCs) and carbon monoxide (CO) would exceed the significance thresholds, principally due to vehicle operations. Therefore, the impacts remain significant and unavoidable.
- Greenhouse Gas Emissions. The proposed project would emit quantities of green house gases (GHGs) that would exceed the City’s 6,000 million metric tons of carbon dioxide equivalent (MTCO_{2e}) per year significance threshold. The proposed project would make a cumulatively considerable contribution to the global GHG inventory affecting global climate change.

- Noise. The increased traffic volumes on 17th Street west of Monrovia Avenue in Costa Mesa would expose sensitive receptors (i.e., residential dwellings, hotels, hospitals, day care centers, and educational facilities) to noise levels that would exceed City of Costa Mesa significance thresholds.

Because the Final EIR identified significant environmental impacts that cannot be mitigated to a less than significant level through the adoption of mitigation measures or project alternatives, the Council will need to decide if there are overriding considerations, including project benefits, that outweigh the unavoidable impacts and adopt a Statement of Overriding Considerations stating the reasons that support this action. The proposed Statement of Overriding Considerations is discussed later in this report.

The Commission received a considerable amount of oral and written public testimony on the adequacy of the EIR. Although not required by law to respond to comments received after the public review period, responses to environmental issues raised in written comments and public hearing testimony have been provided as Attachment CC 7. The thoroughness of the responses will also ensure the public record is complete and assist the Council in evaluating the multiple issues claimed.

Following receipt of all written and verbal testimony, the Commission concluded that no new information was presented that changed the original conclusions of the EIR and determined that the CEQA threshold for the need to re-circulate the EIR had not been met.

General Plan Amendment

An amendment to the Circulation Element of the General Plan is required as a part of the proposed project to delete the segment of 15th Street west of Bluff Road, which would provide a second arterial through the project site connecting to West Coast Highway. This amendment would involve revising Figure CE1 (The Master Plan of Streets and Highways) and Figure CE3 (Recommended Intersection Improvements) to remove depictions of this roadway segment.

The Final EIR traffic analysis indicates that a second roadway connection through the project site, as shown on the City's Circulation Element, is not needed to accommodate the projected traffic demand accessing West Coast Highway. Furthermore, the development of the second roadway connection to West Coast Highway would likely result in significant impacts to the landform and biological resources, located on the Southern Bluffs. Elimination of this roadway segment would be consistent with the landform and biological resource protection policies of the General Plan.

Circulation Element CE Policy 3.1.3 requires that the City's Master Plan of Streets and Highways to be consistent with the Orange County Master Plan of Arterial Highways (MPAH). An amendment to the Orange County MPAH is proposed to ensure consistency between the two plans.

Code Amendment and Planned Community Development Plan

The proposed code amendment would rezone the portion of the project site currently within the incorporated boundary of the City from Planned Community (PC-25) to Planned Community (PC-57) and prezone those portions of the project site located within the City's Sphere of Influence from County zoning to PC-57. The Planned Community Development Plan would establish the allowable land uses, general development regulations, and implementation and administrative procedures, which would serve as zoning for the project site.

The proposed Newport Banning Ranch Planned Development Plan (NBR-PC) will serve as the zoning for PC-57. The NBR-PC (Exhibit A of Attachment CC 3) would establish the allowable land uses, general development regulations, and implementation and administrative procedures.

Discussion at the Planning Commission regarding the NBR-PC focused on clarifying the proposed land use regulations, particularly those relating to bars, Resort Inn accessory uses, and oil facility consolidation. The Commission also tightened provisions relating to the transfer of residential units between land use districts.

The Commission also concluded that the 5-acre South Community Park was not suitable as a public park due to its location, sensitive habitat, topography, and lot configuration. The Commission recommended that it not be dedicated to the City as part of the Community Park.

The Commission also recommended establishing a time period to develop the Resort Inn that would have to elapse before residential units could be proposed on the Resort Inn site. The Commission included a provision in the NBR-PC requiring that no Site Development Review be submitted for a residential development on Lot 228 in the Resort Colony earlier than three years from the effective date the Development Agreement.

Master Development Plan

The proposed Master Development Plan (NBR-MDP) provides plans and preliminary layouts for streets and lots, pedestrian and vehicular access ways, open space, parks, and other site features proposed for the project site. The NBR-MDP (Exhibit D of Attachment CC 4) includes detailed design criteria for each land use component to guide the review of subsequent development approvals, such as architectural guidelines and plans for landscaping, landform alteration, trails, roadways and infrastructure, and water management.

The Commission recommended that the NBR-MDP allow for a potential trail connecting the Newport Crest Community with the project's park and trail system. A conceptual plan was prepared showing this connection in the form of a path that would begin at the terminus of Ticonderoga Street, pass through Central Community Park, and connect with the trail system at Bluff Road. The Commission included this plan in the NBR-MDP with a statement that the connection would require the approval of the Newport Crest Homeowner's Association.

Tentative Tract Map

The proposed Tentative Tract Map (Exhibit E of Attachment CC 4) is the implementing subdivision map for the project. The Tentative Tract Map describes the subdivision of the project site into lots for public dedication or conveyance, fee and condominium lots for residential development and conveyance to home-buyers, and/or for financing and conveyance to builders which may also be further subdivided for the development of conventional fee lots, planned developments, and/or condominiums. The Tentative Tract Map also describes the plan for grading and bluff restoration, roadways, infrastructure, and other public improvements to serve the subdivision.

The Commission discussion of the Tentative Tract Map focused on the conditions of approval relating to the timing of public improvements. The Commission wanted to make sure that the system of roads, parks, and trails would be properly timed with each phase of the development.

TPO Traffic Study

The Traffic Phasing Ordinance (TPO) requires that a traffic study be prepared and findings be made prior to issuance of building permits if a proposed project will generate in excess of 300 average daily trips (ADT). The TPO traffic study found that one intersection in the City and eight intersections in the City of Costa Mesa would exceed the Level of Service (LOS) "D" standard. The traffic study also identified improvements that would mitigate the impacts to these intersections.

Affordable Housing Implementation Plan

The Inclusionary Housing Ordinance requires residential subdivision projects with 51 or more units to prepare an Affordable Housing Implementation Plan (AHIP). An AHIP specifies how the development would meet the City's affordable housing goal of an average of 15 percent of all new housing units developed over the five-year Housing Element planning period be affordable to very low, low, or moderate income households.

The Newport Banning Ranch AHIP (Exhibit G of Attachment CC 4) proposes the construction of a minimum of 50 percent of the required affordable housing on the project site. The remaining affordable housing obligation would be met through the payment of in-lieu fees; the construction of off-site affordable housing including the rehabilitation of existing off-site housing that would contribute to meeting the City's Regional Housing Needs Assessment (RHNA) requirements; land dedication; or a combination thereof.

The Commission expressed concern that an AHIP provision that requires the applicant to post a bond as security for the provision of the required affordable housing amounted to a de facto in-lieu fee that could be paid to avoid the project's affordable housing obligation. Therefore, the Commission recommended that the security bond provision be removed from the AHIP.

Development Agreement

A development agreement is required because the proposed project requires a Zoning Code amendment that includes the development of more than fifty (50) residential units. The proposed development agreement (Exhibit A of Attachment CC 5) between the applicant and the City describes the development rights and public benefits to be provided by the applicant. The agreement would vest the proposed project's development approvals to allow build-out of the project site under the development standards and requirements in place at the time of project approval. The term of the agreement would be 25 years.

The agreement includes two key public benefits. The first is payment of a public benefit fee in the amount of \$30,909 per residential dwelling unit developed on site as part of the proposed project. The second public benefit is the dedication and full-improvement of the North Community Park and the Central Community Park. These parks total 18 net acres, which is in excess of the Quimby Act requirement.

The agreement also contains provisions regarding construction of North Bluff Road between 17th Street and 19th Street. The applicant would offer to dedicate the right-of-way for that segment with first final tract map(s) for that area of the project and deliver it to the City in a rough-graded condition prior to the issuance of the 800th residential dwelling certificate of occupancy. Furthermore, the improvements for that segment would be constructed with the final phase of the project, which the City may choose to construct or have them constructed by the applicant. Should the City choose to construct that segment, the applicant would be required to pay a fair share traffic fee based on the estimated cost of the work.

Statement of Overriding Considerations

The Commission considered the public benefits of the project and recommended that the Council adopt a Statement of Overriding Considerations. These public benefits are summarized below and described in detail in the Statement of Overriding Considerations (Exhibit A of Attachment CC 2):

- Open Space. The long-term protection of over 50 percent of the project site as natural open space and habitat consistent with the City's General Plan.
- New Public and Coastal access. A site, privately-owned and closed to public use currently, will provide new public and coastal access through new roadways, open space and trails, public parkland, and 475 new public parking spaces in the coastal zone.
- Comprehensive Oilfield Abandonment. The comprehensive oilfield abandonment and remediation of the site would be conducted at no cost to the public and would allow for habitat restoration activities.
- Area-wide Water Quality Benefits. The project includes water quality basins that are proposed to be sized to treat off-site urban run-on from areas of the cities of Costa Mesa and Newport Beach developed with commercial, industrial, and residential uses.

- Public Benefit Fee. In addition to any other fee or charge to which the project would be required to pay, the project would pay to the City a public benefit fee of approximately \$30,909 for each residential unit constructed on the property.
- Net Positive Fiscal Impact. It is estimated that the project would have a net fiscal benefit of nearly \$2 million per year if all of the proposed land uses are fully developed.
- Housing. The project would provide a variety of housing opportunities within the City consistent with the City's General Plan.
- Fire Station Improvements. The project would contribute up to \$700,000 towards the redevelopment of Newport Beach Fire Station No. 2.
- Sustainable Design. The project is designed to be a sustainable and green community that provides energy efficiency and resource conservation to reduce the project's greenhouse gas emissions.
- Circulation Improvements. The project, through an agreement with the City of Costa Mesa, will fund intersection improvements for intersections in that City. Although outside of the City of Newport Beach, these traffic improvements will provide benefits to City of Newport Beach residents who use these streets.

Fiscal Impacts

Pursuant to City Council Policy D-2, a fiscal impact analysis (Attachment CC 6) of the proposed annexation on City finances and related City services and facilities was prepared. The fiscal analysis uses the Newport Beach Fiscal Impact Model to help calculate revenue and cost impacts of the proposed project. The fiscal impact model calculates public service impacts for specific land uses that support the residential population, the employment base and the visitor population in the City. It also calculates the public revenues that each type of land use typically generates for the City, including property taxes, sales taxes and other taxes as well as a variety of user charges and fees.

The fiscal impact analysis concludes that based on the revenue and cost projections, the proposed project would have a net fiscal benefit of nearly \$2.0 million per year at full build-out. Although, the City would have a somewhat lower benefit overall due to increased maintenance costs for the community park and for Bluff Road. Thus, the regular tax and fee income generated by the project for the City would be sufficient to cover the operations and maintenance costs associated with providing the full range of City services to the project.

The Commission questioned the likelihood that the Resort Inn and the entire 75,000 square feet of commercial uses would be developed. However, the model used in the analysis indicates that even if no lodging, retail commercial, or service commercial uses were developed, the project would still have a net fiscal benefit of nearly \$1.4 million.

ENVIRONMENTAL REVIEW:

A Final Environmental Impact Report (EIR) SCH No. 2009031061 was prepared to evaluate the environmental impacts resulting from the proposed project. The Final EIR has been prepared in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended (Public Resources Code Section 21000 et seq.), and the State CEQA Guidelines for Implementation of CEQA (California Code of Regulations, Title 14, Section 15000 et seq.), and City Council Policy K-3.

NOTICING:

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 1000 feet of the property (300 feet is required by the Zoning Code) and posted at the site a minimum of 10 days in advance of the hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Submitted by:



Brenda Wisneski, AICP, Deputy Director

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| Attachments: | CC 1 | Resolution for certification of the Final EIR
Exhibits A-1 to A-6 - Final EIR (under separate cover)
Exhibit B - Findings and Facts in Support of Findings and Statement of
Overriding Considerations. |
| | CC 2 | Resolution for the approval of the General Plan Amendment |
| | CC 3 | Ordinance approving the Code Amendment and Planned Community
Development Plan
Exhibit A – Newport Banning Ranch Planned Community Development
Plan (under separate cover) and Revisions and Errata
Exhibit B – Amended Zoning Map
Exhibit C – Legal Description |
| | CC 4 | Resolution approving the Master Development Plan, Tentative Tract Map,
Affordable Housing Implementation Plan, and Traffic Study
Exhibit A – Tentative Tract Map Findings
Exhibit B – Traffic Study Findings
Exhibit C – Affordable Housing Implementation Plan Findings
Exhibit D - Newport Banning Ranch Master Development Plan (under
separate cover) and Revisions and Errata
Exhibit E – Tentative Tract Map
Exhibit F – Tentative Tract Map Conditions of Approval
Exhibit G – Affordable Housing Implementation Plan |
| | CC 5 | Ordinance approving the Development Agreement
Exhibit A – Development Agreement |
| | CC 6 | Fiscal Impact Analysis |
| | CC 7 | Responses to Public Comments Received After EIR Comment Period |
| | CC 8 | Correspondence received as of July 17, 2012 |