

Alford, Patrick

From: Jim Mansfield [jtmansfield@ca.rr.com]
Sent: Tuesday, November 08, 2011 9:04 AM
To: Alford, Patrick
Subject: Comments on the Newport Banning Ranch DEIR

November 8, 2011

Patrick J. Alford, Planning Manager

City of Newport Beach, Community Development Department

3300 Newport Boulevard

P.O. Box 1768

Newport Beach, CA 92658-8915

Re: Comments on the Newport Banning Ranch DEIR, section 4.14

Dear Mr. Alford:

I hereby object to approval of the Newport Banning Ranch DEIR in its present form. The comments below and all references contained therein are hereby incorporated into the official record of proceedings of this DEIR.

The following are my comments on Section 4.14 of the Newport Banning Ranch DEIR, organized by sub-section.

Section 4.14.1 – Fire

Page 4.14-1 states: "That portion of the Project site located in the City's Sphere of Influence would be served by the Fire

Department following annexation." However, Section 4.14 does not indicate what Fire agency would serve the Project prior to annexation or in the event that the portion of the Project located in the City's Sphere of Influence was never annexed?"

Page 4.14-2 - The majority of the Project site is designated LRA High, and small portions of the site are designated LRA Moderate or are not designated at all. However, Section 4.14 does not indicate which specific portions of the Project are LRA High or what effect this classification has on the design of buildings and residences within the Project. How would the Fire Department access those portions of Banning Ranch for which no roads are planned?

Page 4.14-3 refers to the "Fire Force One report", which is included in the DEIR as Appendix K. This report deals with the future location of Firestation #2, which would serve the Development. Appendix K indicates that potential future sites for the Fire Station include sites 2A and 2B – either of which would apparently be located on Banning Ranch property. However, no mention is made of these alternatives within Section 4.14.

Section 4.14 makes no mention of the extremely high density of the Urban Colony (40 units/acre) and the special requirements that these large, high-density units would place on the Fire Department. Please indicate how the Fire Department would deal with these large, high-density, multi-use units.

Page 4.14-3 states that “The City of Newport Beach has individual automatic aid agreements with the Cities of Costa Mesa and Huntington Beach, and the OCFA. Together, all fire agencies provide personnel to any emergency. The closest emergency response unit is dispatched to the emergency, regardless of jurisdictional boundary for any fire or large emergency response with multiple units.” Is the Newport Beach Fire Department the “closest emergency response unit” for all portions of Banning Ranch? Under what conditions would the OCFA or Costa Mesa Fire Department be required to respond? What is the estimated impact on these non-Newport fire organizations?

Page 4.14-6 states that “The Project site lies within a Special Fire Protection Area, as defined in the Newport Beach Fire

Code (i.e., Section 9.04.030, as adopted). A Special Fire Protection Area (SFPA) is defined as: Any geographical area designated by the Fire Chief where structures directly abut wildland space or a fuel modification zone on one or more sides. ... These areas are subject to a greater risk of wildland conflagration due to vegetation, topography, weather, density, access, and other relevant factors.” Additionally, PDF 4.14-1 states that “The Master Development Plan requires that the Project be designed to provide fire-resistant construction for all structures adjoining natural open space, including utilizing fire-resistant building materials and sprinklers.” Specifically, which structures are considered ‘adjoining natural open space’? Does this include all structures on Banning Ranch? Please state the specific codes – over and above building codes for non-SFPA areas – that must be met to meet the “fire-resistant” requirement.

Page 4.14-8 states that “The Project’s Fire and Life Safety Program establishes a 120-foot-wide minimum fuel management area that consists of Zone A, which is a minimum of 20 feet wide; Zone B, which is a minimum of 50 feet

wide; and Zone C, which is a minimum of 50 feet wide.” However, this minimum fuel management zone is supposed to be 170 feet, as clearly pointed out in Appendix K. Please explain how you expect a 120-foot fuel management area to be approved?

It is stated on page 4.14-10 that “...a temporary fire station would be required on the Project site to serve those areas of the site that cannot be served by existing Station Number 2....” Please identify the planned location for this temporary fire station.

Page 4.14-12, Table 4.14-2 states that existing Newport Fire Station #2 cannot serve Urban Colony site 12b, and can only partially serve site areas 10a and 10b. Please indicate exactly which fire stations will serve these developments.

Page 4.14-12 states that “The closest Costa Mesa fire station to the Project site is Station Number 3 located at 1865 Park Avenue.” and that – additionally – the “...use of fire and emergency medical services provided through the City’s mutual aid agreement with adjacent jurisdictions...” may be needed. Please provide further analysis and modeling to indicate how often Costa Mesa Station #3’s assistance will be needed.

Page 4.14-13 – It is stated that “Existing and forecasted funding [for a new or temporary Fire Station] will be

available to replace the fire station within a reasonable time. Please be specific as to what time period is “reasonable time” and explain why it can be reasonably expected that this funding will become available.

Section 4.14.2 – Police

It is stated on page 4.14-13 that “Upon annexation, the Project would be served by the Newport Beach Police Department (Police Department).” Until annexation – or in the event that annexation did not take place, how would Police Protection be provided for the Project?

It is stated on page 4.14-13 that “Because all but 40 acres of the Project site are in unincorporated Orange County, a majority of the Newport Banning Ranch property is served by the North Operations Division of the Orange County Sheriff’s Department and the Costa Mesa Police Department.” Please indicate when, relative to final approval of the project, Newport Beach would take over policing of the property. Is there any potential for delay (e.g. delays in incorporating the property into the City) that would require the Sheriff or Costa Mesa to police the property after approval of the Development?

It states on page 4.14-14 that “The Newport Beach Police Department has mutual aid agreements with the Cities of Costa Mesa, Fountain Valley, and Huntington Beach, and the Orange County Sheriff’s Department to provide organized interagency assistance and cooperation during local police incidents.” Based on current inter-city experience, what impact

can be expected on the Police Departments of Costa Mesa, Fountain Valley, and Huntington Beach, and the Orange County Sheriff's Department due to the development? What, especially, will be the impact on the Costa Mesa Police Department due to the opening of 16th, 17th, and 19th Streets to through traffic?

Because of the large amount of open space adjacent to the development, what special police provisions are planned to insure that (1) open space flora and fauna are not adversely impacted by people living in or visiting the development residences, (2) that people living in or visiting the development residences are not adversely impacted by ranging wildlife (e.g. coyotes), (3) potential criminals don't take advantage of the open space to prey on the development (e.g. theft and vandalism)?

Section 4.14.3 – Schools

On page 4.14-20 it is stated that "The methodology used in this analysis assumes that the number of new students generated from the proposed Project is directly related to the type and amount of the proposed Project's residential construction within the boundaries of the school district." Yet page 4.14-19 points out, under Interdistrict Transfers, that "...parents may elect to enroll their children in public school districts whose boundaries encompass the parent's place of work rather than the parent's place of residence."

As a result, the analysis of the number of students generated by the development (on pages 4.14-22 and 4.14-23) seems flawed. Please expand the impact analysis to include the impact of the commercial workforce (from outside the development area and the school district) that will come in to service the 50,000 sq feet of commercial property and the Resort Hotel, and recalculate the number of students.

Page 4.14-20 states that "Existing NMUSD schools located closest to the Project site are Newport, Newport Heights, Pomona, Rea, Victoria, and Whittier Elementary Schools; Ensign Middle School; and Newport Harbor High School." However, from exhibit 4.14-3 it is extremely clear that of the six primary schools listed, the only schools actually close to the Project site are Pomona, Victoria, and Whittier. All of these schools (per Table 4.14-4) are very near – or over – student capacity.

Page 4.14-22 states that "The student generation rates were developed by the School District's demographic consulting firm, DecisionInsite, based on Project information provided by the Applicant." However, the content of the "Project information provided by the Applicant" is not provided in the DEIR; hence, it is impossible to determine if the data is unbiased. Also, did the information provided to DecisionInsite include potential options for affordable housing in the Urban Colony portion of the Project? Further, it can be concluded that the data did not include owners or employers of the commercial property or hotel because it is further stated that "It is anticipated that only residential uses would generate school impacts." This is an invalid conclusion because of the NMUSD policy on Interdistrict Transfer; hence, owners and employers of the commercial property and hotel should be included in the Student calculation.

Page 4.14.23 claims that Newport Elementary School could not take the Project's students, but that "Other elementary schools are also located in the vicinity of the Project site. Based on current enrollment figures, additional classroom facilities would be required and could be provided at any of the elementary schools to accommodate students associated with the proposed Project." The schools most likely to be impacted are Victoria, Whittier, and Pomona schools. However, there is no information provided in the DEIR as to how, on a school-by-school basis, these additional classroom facilities could be provided.

Page 4.14-24 states that "Compliance with mandated fee programs identified in SC 4.14-6 and SC 4.14-7 would preclude significant impacts to the NMUSD." This broad, sweeping statement fails to show that there would be no significant impacts to the NMUSD, and – in fact – doesn't even define "significant." Certainly from the fee and tax statutes called out in the DEIR, student estimates, and known building costs for classrooms, the actual monetary "impact" to the NMUSD can – and should – be estimated; and the estimate should be included in the EIR.

Section 4.14.4 Library Services

No comments

Section 4.14.5 Solid Waste

Section 4.14.5 Solid Waste fails to identify solid waste associated with the Project construction – either actual construction materials or contaminated soils removed in the process of construction. The section only identifies waste generated during the “oilfield remediation and oil well closure process. Please add actual construction materials or contaminated soils removed in the process of construction to the identified solid waste generated by the Project.

Section 4.14.6 Mitigation Programs

MM 4.14-1 on page 4.14-30 states that: “Certificates of occupancy shall not be issued by the City of Newport Beach for any residential dwelling unit, the resort inn, or any commercial structure in Site Planning Area 10a (northerly block only), Site Planning Area 10b (northerly block only), and Site Planning Area 12b until Fire Station Number 2 is rebuilt at the existing City Hall site at 23300 Newport Boulevard or at another location that the Newport Beach Fire Department has determined is sufficient to provide fire response within the Fire Department’s established response time standards. Further, MM 4.14-3 on page 4.14-31 provides for the establishment of a temporary fire station on the Banning Ranch, in the event that “... a replacement station for Fire Station 2 not be operational prior to the development of any combustible structures...” It is further stated that “The temporary fire station site shall be within the Project limits of disturbance approved as a part of the Project such that no new environmental effects would occur.”

However, the DEIR does not indicate where, on Banning Ranch, the temporary fire structure would be sited. Because this situation is a very real possibility, any and all alternate sites should be identified in the DEIR, and it should be shown how each of these sites meets the requirement that it is within the “Project limits of disturbance.”

Section 4.14.7 Level of Significance after Mitigation

No comments

Tables

Table 4.14-9 (page 4.14-32) states that the Project will: “...recycle and reuse materials on site during oilfield

cleanup and remediation to the extent practical.” However, it places no such requirement on the Development’s construction phase. If such a requirement is spelled out in the “Project’s Green and Sustainable Program”, it should be explicitly called out in Table 4.14-9. If not, the subject of ‘recycle and reuse of materials’ should be covered in this section.

Contrary to the Consistency Analysis statement for LU Policy 3.2 in Table 4.14-10 (page 4.14-33), the EIR has not demonstrated that the proposed land uses can be adequately served because Transportation and Circulation depend heavily on major roadway changes in the City of Costa Mesa over which neither the project developer or the City of Newport Beach have any control. Please indicate how the Development will deal with possible contingencies such as:

- 17th and 19th Street not being widened to handle additional traffic;
- It not being possible to construct the section of North Bluff Road from 17th Street to 19th Street.

Table 4.14-10 (page 4.14-33) states that “Existing NMUSD schools that are expected to serve the Project include Newport Elementary School” This is contrary to statements made on pages 4.14-20 and 4.14-23. Children are normally expected to attend their closest school. As Newport Elementary School is not the closest school to the home sites, and given that Newport Elementary School has neither the current capacity (per Table 4.14-4) or the land to expand, this appears to be a bad expectation. Table 4.14-10 should be corrected to accurately reflect the school or schools where Development children will most probably attend.

According to Table 4.14-11 on page 4.14-35: “...land divisions, ...outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller

than the average size of surrounding parcels.” Contrary to the contention in this table that “The Project is consistent with this section...”, it is not. According to Costa Mesa City Councilman Beaver, speaking at the 20 October 2011 Banning Ranch Joint Study Session: “[The] Urban Colony is at 40 units/acre. [He would]...be happy if it were more reflective of ...Costa Mesa proposed [nearby] developments ...at 13-25 units/acre.” (Reference video at the following location: http://costamesa.granicus.com/MediaPlayer.php?view_id=4&clip_id=1790.) Please comment on this obvious inconsistency and on how the Development will meet the requirement to be consistent with surrounding housing densities – both current and planned – in both cities of Newport Beach and Costa Mesa.

Very truly yours,

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