

MINUTES OF THE AGENCY SCOPING MEETING  
RE: NEWPORT BANNING RANCH PROJECT

THURSDAY, APRIL 2, 2009

3:15 P.M.

MARY E. PIERCE, CSR 6143

09-122

CITY REPRESENTATIVES AND CONSULTANTS

SHARON WOOD, Assistant City Manager  
DANA PRIVITT, BonTerra Consulting  
DEBBY LINN, LINN & ASSOCIATES  
MIKE ERICKSON, RBF  
SERINE CIANDELLA, KIMLEY-HORN AND ASSOCIATES, INC.

PROJECT APPLICANT REPRESENTATIVES

MIKE MOHLER, NEWPORT BANNING RANCH  
CHRIS YELICH, NEWPORT BANNING RANCH  
GEORGE BASYE, NEWPORT BANNING RANCH  
RUDY HOLSTEIN, NEWPORT BANNING RANCH  
MARICE WHITE, SCHUBERT FLINT  
PAUL EDWARDS, FORMA  
JOHN OLIVIER, FUSCOE ENGINEERING

SPEAKERS

ED BRANNON, STATE OF CALIFORNIA, DIVISION OF OIL & GAS  
CHRIS UZO-DIRIBE, COUNTY OF ORANGE  
PAUL FROST, STATE OF CALIFORNIA, DIVISION OF OIL & GAS  
ERIC CHAVEZ, NATIONAL MARINE FISHERIES SERVICES  
MICHELLE MA, COASTLINE COMMUNITY COLLEGE

NEWPORT BEACH, CALIFORNIA; THURSDAY, APRIL 2, 2009

3:15 P.M.

MS. WOOD: Good afternoon. Thanks for coming. My name is Sharon Wood. I'm Assistant City Manager in Newport Beach. You are at the scoping session for the environmental impact report for the Newport Banning Ranch project, and as you may know, this is really the last piece of vacant, developable land in Newport Beach or our sphere of influence, so this is a really important project for us. So we look forward to your input and participation in what's going to be a pretty complicated project.

And we again thank you for coming today, and I'll do some quick team introductions. The City's contract planner is Debby Linn of Linn & Associates. Our contract traffic engineer, who is working as a City staff person, is Mike Erickson of RBF. Serine Ciandella of Kimley-Horn will be doing the traffic study itself. Dana Privitt from Bonterra Consulting is heading up the environmental consultant team.

And then on the project applicant side, we have Mike Mohler and George Basye and Chris Yelich from Newport Banning Ranch. Marice White from -- I've all the sudden

forgotten the name of your company.

MS. WHITE: Schubert Flint.

MS. WOOD: Thank you.

Paul Edwards from FORMA, and John Olivier from Fuscoe Engineering.

I'm sorry.

MR. HOLSTEIN: And Rudy Holstein with Newport Banning Ranch.

MS. WOOD: There's almost more of us than there are of you, but I'm sure that won't be the case for the public this evening.

So I'm now going to ask Dana Privitt to take it away.

MS. PRIVITT: Thank you, Sharon.

As Sharon said, the purpose of today's meeting is to really get your input on the overall scope for the environmental impact report. We're not at a point where we're talking about the merits of the project or to be able to provide you with results of the analysis at this point. We're really kind of at the very beginning.

If you didn't get any of the handouts that are in the lobby, there are speaker cards, there's sign-in sheets and some handouts with some information about the project.

So today we're just going to keep this very informal and provide you with just kind of an overview of the project and what we're intending to address in the EIR and kind of the overall moving forward schedule for this project.

As you may know, site is about 401 acres. Of that, about 40 of those acres are within the incorporated boundaries of the City. The remainder of the site is in unincorporated Orange County but entirely within the City's sphere of influence. So the City will be the lead agency for all of the environmental documentation and processing of the project through the City.

The entire site is within the coastal zone as established by the California Coastal Act. The site is generally bound by Talbert Nature Preserve, which is in Costa Mesa, and residential development within Newport Beach, to the south by West Coast Highway, and south of the highway is additional residential development and the ocean.

To the east is really a mix of uses, including residential, light industrial, office and some educational uses, both within the City of Costa Mesa and the City of Newport Beach. And to the west, predominantly the Santa Ana River, the Army Corps of Engineers restored wetlands.

And then further to the west of the river is the City of Huntington Beach.

As is shown on the map that's furthest to my right, shows kind of the existing topography and the oil uses on the site. It's an active oil field, has been since the mid 1940s. There's approximately 500 producing and potentially producing and abandoned oil wells on the site, as well as related oil facilities, including an infrastructure including pipelines, storage tanks, power poles, different kinds of machinery, improved and unimproved roads, et cetera.

The City operates 16 of those wells and an oil processing facility. Their facilities are accessed from Coast Highway. And West Newport Oil Company, who's the current operator of the site, has approximately 90 producing and potentially producing wells on the site at this particular time.

The City has a relatively unique General Plan designation for this site. When the City adopted their General Plan Update in 2006, they actually adopted a dual General Plan land use designation for this site.

The primary designation -- well, it's designated open space, residential village. The primary use is considered open space, the alternative use being

residential, residential village.

And in order for the site to be retained as open space requires that the property be acquired through public funding. So to forward that potential effort, in 2008 the City Council's directive was to look into what the potential cost for a party to acquire the property and how much that would be.

That report was completed in December of 2008, came up with a range of values in terms of acquisition as individual parcels or as an entire parcel. That information is on the City's web site.

If the site is not developed, and so on a parallel tract the applicant is pursuing the alternative use, which would be to develop the site with uses that are consistent with the Residential Village General Plan designation, which allows for 1,375 residential dwelling units, 75,000 square feet of retail uses, 75 resort units and requires that a minimum of 50 percent of the site be retained in open space with parklands and also does assume roadway improvements through the site.

So the project that the applicant is proposing at this time is consistent with the City's General Plan alternative uses for the site. Of that, as shown in your handouts and as shown in these exhibits, 1,375 residential

dwelling units are proposed. About 68 acres are proposed as the primary residential areas for about 569 of those dwelling units at varying densities and varying types of products.

Up to -- I'm not sure if my pointer will work, but up in this area here, which is the Mixed Use Residential District, which is about 18 acres, this being 17th Street. So to the north and south of 17th Street, the applicant is proposing that there be -- that that be the primary area for the residential, 75,000 square feet of retail uses, as well as high density residential up to about 806 units, and this would also include the proposed location for some of the affordable housing for the project site, which is being proposed as part of the project.

Further down in the southern area is the proposed Visitors Serving Resort District. It's about five acres of the site, and it's proposed for about 75 resort units, as well as related amenities such as banquet and conference facilities, potential spas, those kinds of uses.

Then throughout the site are various locations that are shown in primarily -- some of it being in the dark green. In terms of Park Districts, about 45 acres of the site are proposed for park uses, community park about 25 acres. Then there is a bluff park, which is somewhat of



a linear park that goes around 19 acres, and one acre up in this area as an interpretive park area. This site has vernal pools, and this is an area that is proposed for preservation.

And then of the 401 units, approximately 243 acres are proposed to be retained in open space, and of that all but 20 would be used in the upland and lowland areas, lighter green areas, for open space, wetland restoration, habitat conservation and restoration, as well as water detention and cleansing, and it would allow for trails and viewpoints through this area.

And within the lower area, which is about 131 acres of the open space area, about 75 acres of that area is being proposed by the applicant for -- as a third party mitigation banking area. This would be an area that would not be restored as part of the project, but could in the future be used by non-project-related projects if they need to provide for habitat mitigation. So it's kind of a future area that could be used for mitigation for non-project-related impacts.

Additionally, about 20 acres of the site would be -- of the open space would be oil production facility where oil activities would be consolidated per -- up in this general area, connected down to existing oil operations.

This is where the City's operations are.

As we talked about, and I'm sure you know, that it's an existing facility, but as part of the project, any existing oil wells that are in areas that are proposed for development or proposed in open space areas would be abandoned and those areas remediated. There would be no active oil wells in areas where there would be development and no active oil wells outside of the two areas that I identified.

In those two areas, oil activities would continue to be allowed uses, and upon their future cessation, they would be remediated, as well, and become part of the open space acreage for the project.

The applicant is proposing that all the open space be reserved in perpetuity through an irrevocable offer or offers of dedication, deed restrictions or conservation easements over the entire open space area and that these areas be dedicated to either a public agency or a qualified nonprofit organization.

With respect to circulation, there is no public access to the project site right now. The primary access would be from West Coast Highway into the project site. This may require some widening of Coast Highway on the north side of the roadway from Superior to west of the project

entrance. Bluff Road, which would be the primary general north-south roadway through the project site, is proposed to go north-south through the site from Coast Highway up to 19th Street.

The City's Circulation Element and Orange County's Master Plan of Arterial Highways depicts a roadway through the site, and the City's Circulation Element shows it as a primary arterial. Connections are proposed from Bluff Road to 15th Street, 16th Street, 17th and up to 19th Street. The 19th Street bridge is not a part of the project.

15th Street would need to be extended across private property to Monrovia, 16th Street would be extended from its existing terminus at the City's utility yard, and 17th Street would be extended onto the site from its existing terminus at the project site.

As well, the City's General Plan and Master Plan of Arterial Highways showed another road connection through the project site down to Coast Highway, shown as a future primary arterial.

The applicant is proposing to reserve the right-of-way for the future construction of this roadway, which is shown on the City's General Plan Coast Highway up to 15th Street. The applicant is proposing instead that that connection go from Coast Highway or reserving

right-of-way for future building of a road from Coast Highway instead of from -- to 16th Street instead of 15th Street. This may require an amendment to the City's Circulation Element, and it may require amendment to the County Master Plan of Arterial Highways.

Additionally, roadway -- non-vehicular trails are proposed through the site, as well as a pedestrian bridge that would go across Coast Highway and land in an existing West Newport Park.

There are probably, not surprising anyone, a lot of discretionary actions associated with this project. These include, obviously, preparation, and actions that the applicant is requesting to be considered as part of the EIR would be the Circulation Element amendment, if required, a zone change to a designation of Planned Community.

A portion of the site right now that is within the boundaries of the City are within an existing Planned Community designation, so as part of that, this site would go out of that existing Planned Community 25 designation.

The remainder of the site right now has County general -- has County zoning designations on it. So in entirety, it would have one City designation of Planned Community.

There is also a request for an amendment to

Municipal Code to increase heights to 50 feet within the Resort District and Residential District and to 65 feet within the Mixed-use Residential District, which is the area shown here.

Additionally, the applicant has prepared and is requesting approval of a Planned Community Development Plan, which includes all of the land use designations, proposed land use restrictions, community regulations, site development regulations, design guidelines, as well as a master site plan that we expect will include habitat restoration plans, fuel management, on a master level grading plans, road improvements, utilities, water quality and landscaping plans, et cetera.

The project also requires a transportation Traffic Phasing Ordinance as part of the City's requirements for projects of this kind, a pre-annexation development agreement, that applicant is also requesting a vested map, and the project requires approval of the Affordable Housing Implementation Plan. That's the City.

Should the project move forward through the City, there's obviously a lot of other approvals that are required. The project needs to go through the Coastal Commission, would require a Coastal Development Permit. Things that affect Cal Trans require encroachment permits

and potentially additional permits with respect to biological resources.

Permits and agreements would be required from Department of Fish and Game, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service. There's, obviously, actions that will be required related to the remediation of the site, as well.

With the exception of agricultural resources, the EIR will be looking at all of the issues that you will find on a CEQA checklist, from aesthetics to we will be doing air quality and climate change technical studies.

Surveys are being conducted right now with respect to biological resources. We'll be addressing prehistoric and historic archeological resources. There will be consultation with the Native American tribal representatives as required by SB 18. Paleontological surveys, geotechnical, hydrology, water quality, technical reports are being prepared.

We'll be looking at land use in terms of compatibility, policies of the City, policies of the Coastal Act. Noise studies will be done with respect to construction and long term use of the site.

Obviously, we'll be looking at all requirements for public services and utilities, including recreational

facilities. And, of course, last but not least, we will be doing a traffic study.

The EIR will be looking at various alternatives, not all of which have been determined, but some of which we know in compliance with CEQA that we will be looking at from no development of site, which would be retention of the site in oil production. We'll be looking at the no project alternative, which is the really open space alternative that I mentioned before, which allows for the site to be retained in open space, proposes but does not provide funding for restoration of wetlands and other habitats, proposes community parks, consolidation of oil resources and facilities and proposes roadways through the project site.

We will also be looking at another circulation alternative, which instead of the north-south Bluff Road extending to 19th Street, which would have a terminus of the road at 17th Street. So there would be an offer of a roadway dedication for the remainder, but it would terminate at 17th Street. And then there would be a right-of-way dedication for the remainder should the City or another party choose to construct that in the future. We also expect and will probably be looking at design or reduced development alternatives.

So where we are right now is the Notice of Preparation is out for public review. The review period started on the 17th, ends on April 17th, provides agencies, as well as the public, with opportunities to comment on what the scope of the environmental document should be.

We're holding an agency scoping meeting here today. Glad you were able to come. We're holding a public scoping meeting at 7:00 o'clock tonight.

The City envisions that the draft EIR will be available for public review in late fall of this year, at which point then we will be doing responses to comments and with an expectation to start hearings in the spring of next year, at which point if the City chooses to certify the EIR and to select a project, then, as I mentioned before, there are subsequent approvals that would require before it could even come back to the City for any kind of action in terms of the required annexation, requires a coastal development permit from the Coastal Commission.

So with that, we would like to give you an opportunity to make any comments you might have, if you have any questions that we might be able to answer today. As I indicated, we're just in the process of getting started preparing technical reports. Several of you we've met with, but certainly don't have technical conclusions at this



point in time.

Thank you.

So if anyone has questions, if you want to come up, you can. If you want to talk loud enough so that it could be recorded, that would be fine, as well. If no one has questions, you can have a cookie. Take the afternoon off.

MR. BRANNON: Ed Brannon with the State of California, Division of Oil and Gas. Interested in your plans for dealing with the active wells you're going to plug and abandon, the idle wells you're going to plug and abandon and the wells that probably are -- possibly are not plugged to current standards that you'll be plugging and abandoning.

What is your plan as far as that situation goes?

MS. PRIVITT: Do you want to address that?

I think that for purposes of the EIR, obviously we're going to have to look at the potential environmental impacts related to abandoning and/or reabandoning wells. We'll have to look at any kind of residual effects in terms of any soil remediation.

The applicant is in the process of preparing some of that information. We know that some of the wells have been abandoned. Some of them will have to be reabandoned based on new requirements. We're really at

that initial point in the stage of the project, but certainly it will be a part of the overall plan for processing the project.

And if the applicant has additional information that they want to provide today, otherwise, you know, as we proceed there will be more information available about that issue.

Chris.

MS. UZO-DIRIBE: Is there any conflict --

MS. PRIVITT: Could you state your name for the record so people other than me know who you are?

MS. UZO-DIRIBE: My name is Chris Uzo-Diribe with the County of Orange.

MS. PRIVITT: We'll get it for you.

MS. UZO-DIRIBE: Is there any conflict between the land use designation of the County and the City's land use designation? Because much of this site is within the County.

MS. PRIVITT: In terms of the General Plan, there is a General Plan designation over the entire site in terms of a City General Plan designation. So the entire site right now is designated, and the City as lead agency has a designation for it which is the Open Space/Recreation Residential Village designation, the difference being that

part -- the majority of the site right now has zoning designations that are County designations.

In terms of the General Plan, the whole site is designated by the City right now.

MS. UZO-DIRIBE: So the EIR is going to address what, both the City and the County designations?

MS. PRIVITT: Well, as the lead agency, the primary focus will be looking at the compatibility with the City's designations since the entire site is either within the City or its sphere, but obviously, we're going to need to look at --

MS. UZO-DIRIBE: The County.

MS. PRIVITT: -- the County, as well.

MR. FROST: Paul Frost with the Division of Oil and Gas.

I'm concerned about the out-of-service pipelines that are in the open space areas and not in the residential areas. I understand the development for the residential and the resort areas will have to be remediated and the wells plugged and abandoned to current standards, but I'm concerned about the selling off of the open space land and the removal of the out-of-service pipelines and facilities on that land prior to any sale.

Would Newport Banning Ranch be responsible for

removal and remediation of the sites or the purchaser of the property or --

MS. PRIVITT: Well, the assumption as we know it is that all areas that are within open space and/or proposed for development, those areas would be remediated.

MR. MOHLER: That's correct.

MR. YELICH: That's correct.

MS. PRIVITT: So that will --

MR. MOHLER: If I may, the nuance that Dana was talking about earlier was that within the 75-acre area I think you're focusing on it would still be clean, but the vegetation work would be subject to third-party mitigation. Everything but that 75 acres would be either mitigated or kept intact. It would be clean of all oil according to standards, including the 75 acres. At this point in time, the plan does not contemplate the developer doing the environmental vegetation work in that 75 acres. Instead we invited in third-party mitigation participants to fund that. But separate that from the oil cleanup. Oil cleanup would still occur in that area.

MR. FROST: I'm not concerned about spills and contamination. I'm concerned about how to service lines and facilities that exist on that northern parcel that is going to be deemed open space. The Division could face

liabilities if the operator/developer doesn't come forward and remediate that property, remove facilities.

MR. YELICH: Right now the project proposes to properly clean those areas up and remove the infrastructure.

MR. BRANNON: Ed Brannon, Division of Oil and Gas again.

Including the well plugging -- see, the key we're concerned about here also is if you get this into a restoration situation and the wells are not plugged and abandoned to current standards, when you get into a, say, restored area and you have to move in a rig and do something like that, things get real dicey.

So we're concerned about all this being done up front.

MR. YELICH: That's what's contemplated, and I'd be happy to spend some time at the exhibit with you after the meeting and answer any questions, but that's part of the plan.

MS. PRIVITT: And I apologize if that wasn't clear, but the intent is that from the positions of oil and oil-related facilities, there would be a consolidation in this area and in this area with the roadway. Everything else would be required for all facilities to be abandoned or reabandoned and there be remediation of all of those

areas.

The 75 acres that Mike Mohler mentioned, while there would be remediation to your standards, that would be an area that would not have habitat restoration work being done for, so -- but the underlying would require remediation prior to that as part of the application.

MR. BRANNON: Ed Brannon, Division of Oil and Gas.

And we could then look to the Banning Ranch folks then as a responsible party when we're interacting at some point in time as we go through this process then; is that correct?

MR. YELICH: I'd like to spend some time -- I think the answer is yes, but I'd like to spend some time trying to explain how this will unfold, and I think I can answer most of your questions.

MR. BRANNON: Thank you very much.

MS. PRIVITT: Yes.

MR. CHAVEZ: Eric Chavez, National Marine Fisheries Service.

I think I understand, but just to verify, with any development plan, the open space and the third-party mitigation area, that would be included within any of the alternatives you're talking about?

MS. PRIVITT: That has not been determined. At this point in time it's

the proposal for the proposed project, but we're still in the process of really flushing out what all the alternatives would be.

So the answer is neither yes nor no. It has not yet been determined the extent to which those other factors would be part of those alternatives. MR. CHAVEZ: Okay.

MS. PRIVITT: Yes.

MS. MA: Michelle Ma, public relations, Coastline Community College.

Is there low income residential included in this project, this proposal?

MS. PRIVITT: There is affordable housing.

MS. MA: And do you know what percentage that is?

MR. MOHLER: 15.

MS. PRIVITT: 15 percent.

MS. MA: How is that defined? Is it defined by the County or City, like income levels?

MS. PRIVITT: I'm going to let Sharon answer that question.

MS. WOOD: Well, we haven't determined yet exactly what income level would be served within that 15 percent. That's what the affordable housing implementation plan would be.

MS. MA: Okay.

MS. WOOD: But the requirement under our housing element is for that 15 percent to serve very low, low and moderate.

MS. MA: Is that concentrated into that one portion of the development, or is it mixed throughout all these --

MS. WOOD: We don't know that yet.

MS. MA: Not yet. Thanks.

MS. PRIVITT: If there's no more questions, I appreciate you all coming. Outside there's some comment cards, as well as some that you can fold and mail back in. As I indicated, the review period for the Notice of Preparation is the 17th. We'll stay around if you have more questions, and I very much appreciate you all coming today.

(Whereupon the meeting was adjourned  
at 3:50 p.m.)



STATE OF CALIFORNIA     )  
                          ) ss.  
COUNTY OF ORANGE     )

I, MARY E. PIERCE, Certified Shorthand Reporter 6143 for  
the State of California, certify:

That I attended the foregoing hearing and that all  
comments made at the time of the proceedings were recorded  
stenographically by me and that the foregoing transcript  
is a true record of the proceedings and all comments made  
at the time thereof.

I hereby certify that I am not interested in the event

of the action.

IN WITNESS WHEREOF, I have subscribed my name this 22nd  
day of April, 2009.

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Certified Shorthand Reporter  
in and for the State of California