

September 9, 2008

Kathleen Mallory
Project Planner
City of Oxnard, Planning Division
214 S. C Street
Oxnard, CA 93030

Subject: Ormond Beach Specific Plan Recirculated Draft Environmental Impact Report (DEIR)

Thank you for providing the Ventura Local Agency Formation Commission (LAFCO) with the opportunity to comment on the subject DEIR. As a CEQA responsible agency, we are charged with ensuring that environmental documents prepared by lead agencies address the issues that relate to our scope of authority. Please note that these comments are solely those of the LAFCO staff; the DEIR has not been reviewed by the Commission.

The DEIR lists LAFCO as a public agency whose approval is required in conjunction with the development of the proposed project. Indeed, to annex the unincorporated portions of the proposed specific plan areas to the City, LAFCO must first take action to approve an application for several changes of organization, collectively referred to as a reorganization. More specifically, the necessary reorganization action would need to include annexation of the project area, the simultaneous detachment of the same area from the Ventura County Resource Conservation District and the Ventura County Fire Protection District, and annexation to the Calleguas Municipal Water District. As such, the DEIR project description should include specific reference to the approval of the above described reorganization action by LAFCO.

The Ventura LAFCO offers the following comments:

Project Description

Specific plans are required to be consistent with general plans. In order for the proposed specific plans to be consistent with the City's General Plan, maps and text in the General Plan must be amended. However, the DEIR does not adequately explain the extent of these revisions, which is necessary in order for the specific plans to be evaluated for consistency. A clear understanding of these proposed revisions is necessary, as several policies in the LAFCO Commissioner's Handbook (which can be found at www.ventura.lafco.ca.us), as well as state law, require

LAFCO to consider consistency with the General Plan when making a determination (Commissioner's Handbook Policies 1.4.3(e), 2.5.1.1, and Gov. Code 56668(g)). Without this information and ability to evaluate it, LAFCO may be unable to make a determination. The project description should contain exhibits of all maps in their current and proposed revised form. It should also specify what specific portions of the General Plan are proposed to be amended.

Geology and Soils

Impact GEO 6 and Mitigation GEO 5 - The majority of the southern subarea is located in a tsunami hazard zone. The DEIR concludes that the potential safety and property impacts associated with this hazard can be mitigated through awareness of existing evacuation plans. However, it is unclear how property damage to buildings, roads, and infrastructure can be avoided/mitigated with an evacuation plan. It appears that public and private property damage from a tsunami is an unavoidable and potentially significant impact.

The DEIR should discuss the potential damage and impacts to buildings and structures, as well as to roads and other infrastructure. In addition, the potential need for additional emergency response services, including fire, police/sheriff, and medical should be evaluated.

Though the DEIR discusses the rise of sea level resulting from global warming and acknowledges that such a rise would have implications on the study area regarding tsunamis (pages 3.2-16 and 17), no analysis of these implications is provided. A rise in sea level resulting from global warming would likely exacerbate the tsunami hazard, potentially extending the risk into the residential development in the northern subarea. These potential impacts should be identified and evaluated. In fact, Development Policy C.12. in the City's General Plan Safety Element states:

In view of the potential rise in the sea level, the City should confer with appropriate state and federal agencies and seek information and advice concerning the probability, impacts, and mitigation measures to minimize beach erosion and inundation of coastal development and shall evaluate specific mitigation measures in EIRs for new development in coastal areas.

Land Use

- *Impact Land 5 – Consistency with Housing Element* – When acting on a proposal for a change of organization, LAFCO considers its effect on affordable housing and regional housing needs (LAFCO Commissioner's Handbook Policy 1.4.3.1(f) and Government Code Section 56668(l)). The City has not prepared an updated Housing Element and is currently not in compliance with state Housing Element law. Until the Housing Element is updated and certified by the State Department of Housing and Community Development, it appears premature to state that the project is compliant with the Housing Element and with the City's RHNA obligations.

Because the City has not updated its Housing Element, it has not identified how it intends to accommodate its RHNA obligations for the current planning period. This site is already within the City's sphere of influence and the General Plan currently designates the site for residential development. It appears to meet the criteria to be included as an adequate site to help meet the RHNA obligation. Before a project is approved, the City may wish to consider this site as one to help the City achieve its current regional housing needs.

It should be noted that Section C.4.o. of the Land Use Element states of the Ormond Beach planning area that 20% of the units "shall be either low or low moderate income dwellings." This requirement appears not to be discussed in the DEIR (perhaps the removal of this requirement is part of the general plan text amendment, however, without a more thorough description of the proposed amendments, it is unknown to the reader).

- *Impact Land 6 – Consistency with LAFCO Policy* – The project identifies various LAFCO policies and concludes that the project is generally consistent with those policies. However, this conclusion appears to be unsubstantiated. For instance, though the DEIR cites Policy 3.1.6, which states that LAFCO will not favor a reorganization if a local school district certifies that it does not have the capacity to accommodate the project, no evaluation of consistency with it is provided, only a reference to Section 3.9. However, Section 3.9 states that the local districts do not have capacity. As a result, the project appears to be inconsistent with this policy. Similarly, the DEIR references a number of policies relevant to the conversion of agriculture land in Section 3.8, but provides little or no evaluation to determine consistency (see discussion in the following section). If LAFCO's policies are to be evaluated, all applicable policies should be included and evaluated before consistency with them can be determined.
- According to the DEIR, the project may have a significant impact if it conflicts with a habitat or natural community conservation plan (page 3.7-20) (a similar threshold of significance is listed in the Biological section). The area located south of an easterly extension of McWane Boulevard has been identified by the California Coastal Conservancy's Southern California Wetlands Recovery Project as land which is to be acquired in order to fulfill the Project's Ormond Beach Wetlands Restoration Plan. The southern specific plan proposes to develop about 120 acres of these lands and, therefore, conflicts with this plan. The DEIR should discuss the impacts that the development will have on the ability to fulfill this restoration plan and the potential consequences of its going unfulfilled. The analysis should include potential increases in the value of this property if the specific plan is approved, as this has a direct bearing on the feasibility of acquiring the land.

Agricultural Resources

Though the DEIR iterates various LAFCO policies regarding agricultural resources, it omits other relevant policies, such as those contained in Commissioner's Handbook

Section 2.1.2.1. In addition, little or no analysis of the project's consistency with these policies is provided. It should be noted that if the CEQA document does not address LAFCO's policies, LAFCO will require this information from the City before any application for reorganization can be accepted as complete for filing purposes. For instance,

- Policies 2.1.2.1.i. and iv. require that the effects of the proposal on the economic integrity of the agricultural industry in the County be evaluated. No such analysis is provided.
- The LAFCO policies cited in the DEIR include Policies 3.1.5.1.iii., and 3.1.5.2 which requires an evaluation to determine if sufficient vacant lands or land that can be redeveloped currently exist within the City's jurisdiction that are planned or developable with a similar general type of use. No such evaluation is provided. Due to the fact that the proposal includes amending the general plan in order to accommodate the project, the evaluation of vacant or redevelopment lands should include lands for which the general plan can also be amended to accommodate the project.

Public Facilities and Services

Staff from the Oxnard Union High School District recently reaffirmed that the District has no plans and that there is no demand for a high school in or near the project site. It is unclear why the project continues to include a high school site, which would be expected to remain vacant indefinitely. LAFCO Policy 3.1.5 provides for approval of a reorganization which is likely to result in the conversion of prime agricultural land to other uses only if the Commission finds that the proposal will lead to planned, orderly and efficient development (emphasis added) Alternatively, the project should be described and evaluated with the number of units that would occur without the high school, approximately 1,545.

The DEIR acknowledges that the local school districts do not have the capacity to accommodate the number of students expected as a result of the project and that the payment of developer fees mitigates this impact. It is important to note that though the payment of developer fees may be considered to be mitigation for school impacts under CEQA, Commissioners Handbook Policy 3.1.6 states that LAFCO will not favor any change of organization or reorganization proposal where any affected school district certifies that there is not sufficient existing school capacity, or will not be sufficient school capacity at the time of development, to serve the territory involved. This policy applies regardless of whether mitigation fees have been paid.

Alternatives

This section of the DEIR is largely inconsistent with the provisions of CEQA and thus, deprives responsible agencies and the public of meaningful review and comment. New alternatives should be developed and evaluated consistent with the

provisions of CEQA. Such revisions are likely to necessitate the recirculation of the document.

Two independent sets of project alternatives are required

The DEIR evaluates two separate and distinct projects: the South Shore Specific Plan located in the northern subarea and the South Ormond Beach Specific Plan located in the southern subarea. Throughout the DEIR, each plan is considered to be, and evaluated as, an independent and separate project. However, the independence of each project is not reflected in the Alternatives, where each alternative applies to both specific plans as if they are a single project. As a result, the alternatives do not necessarily address the impacts of each specific plan. For instance, Alternative 1 applies to both plans but affects only the northern plan and has no impact on the southern subarea. This alternative should not apply to the southern specific plan. Because each project is an individual project that will be acted upon independently, and each will result in impacts that are independent of the other, a range of alternatives that are specific to *each individual project* must be provided.

The lack of independent alternatives severely limits the discretion of decision makers. Their choices are unnecessarily limited to only those combinations identified in each alternative. It precludes the decision makers from considering and adopting different combinations of alternatives that would lessen impacts of each specific plan.

Alternatives do not comply with CEQA

CEQA requires that a range of feasible alternatives be identified which attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project (CEQA Guidelines 15126.6(a), (b), and (c)). None of the alternatives do so. Only Alternative 3, the “no project” alternative, comes close to compliance with CEQA.

- Alternative 1 – This alternative would locate a high school site east of Olds Road, effectively increasing the size of the northern Specific Plan by about 60 acres. The title of this alternative (Property Owners’ Request with High School East of Olds Road) suggests that it was included not to address potentially significant impacts as required by CEQA, but at the request of the property owner. This alternative does nothing to minimize or eliminate significant impacts. In fact, it exacerbates significant impacts. In addition, the Oxnard High School District has indicated that it has no plans to develop a high school at this site. Furthermore, the high school is located outside of the City’s sphere of influence. In order for the high school to receive public services from the City, the City’s sphere of influence would have to be amended and the site annexed to the City. The DEIR does not adequately evaluate the impacts of such actions.

This alternative exacerbates potentially significant impacts rather than reducing or eliminating them, and is likely infeasible since the District has no plans to build a high school. In addition, LAFCO policies (Section 4.1.4) discourage sphere of influence amendments to accommodate schools without extensive planning and analysis. This alternative is thus inconsistent with CEQA and should be removed from consideration.

- Alternative 2 – Pursuant to CEQA, alternatives are supposed to be identified that “avoid or substantially lessen” significant impacts. This alternative does nothing to reduce or avoid impacts. The DEIR even states, “Thus, Alternative 2 would worsen all of the significant impacts of the project.” This alternative is clearly inconsistent with CEQA.

In addition, the City’s General Plan requires that this area be developed with a Specific Plan that meets all of the policies and goals identified in the General Plan. It is unreasonable and speculative to conclude that a different specific plan would not provide assurances of open space and “pedestrian-oriented design, energy-efficient development, and City gateway entrance landscaping and signage”, as is claimed in the DEIR.

- Alternative 3 – Under this no project alternative, the site would remain as is. The statement that this alternative may lead to growth pressures outside the CURB which might result in adverse effects elsewhere is speculative. It is also speculative to state that impacts associated with the continued agricultural operations may increase as compared to the baseline. The application of fertilizers and related activities are part of the lawful agricultural operations, and therefore, are part of the baseline, not activities that exceed it. The baseline is used to determine impacts of the proposed project, not those of the lawfully existing agricultural operations for which no entitlements have been proposed. Should additional changes to these agricultural operations one day be pursued, those changes will be subject to environmental review. Speculation about them does not appear to be relevant in the analysis of the proposed specific plans.
- Alternative 4 – This alternative is essentially the same as Alternative 3. The only difference is that Alternative 4 designates the southern subarea as Resource Protection, whereas Alternative 3 keeps it agriculture. Both are identical in addressing potential impacts from the proposed project by precluding urban development. In addition, the Resource Protection designation would not preclude the existing agricultural operations. Therefore, Alternative 4 is effectively identical to Alternative 3.

Also, the sale of land within the southern subarea to the Coastal Conservancy or Nature Conservancy can occur at any time regardless of whether it is annexed or not.

- Alternative 5 – There are several unsubstantiated assumptions with this alternative which call into question whether it is truly an environmentally superior

alternative. For instance, this alternative claims to preserve about 60 acres of farmland, however, successful farming operations may be unlikely on a narrow section of agricultural land bounded on three sides by residential development. In addition, no reduction in the approximately 4.5 million square feet of industrial development in the southern subarea is proposed. Instead, this alternative would limit the uses within the subarea to “harbor industrial”, presumably to serve the Port of Hueneme. It is not clear how such a restriction can be enforced or what constitutes a “harbor industrial” use (the City has no such General Plan designation or zoning). How can it be guaranteed that only “harbor industrial” uses will occur? What is the basis for the statement that that such uses are less intense, i.e. employ fewer people, have fewer customers, and make/receive fewer deliveries than uses that would be allowed in other industrial developments? Is there a demand for nearly 4.5 million square feet of harbor industrial uses, especially given that the closest port is located 2 miles away and has limited, if any, opportunity to expand? If there is insufficient demand for harbor industrial uses, what other uses would be allowed? What are the potential impacts to the City of Port Hueneme in terms of traffic, services, and infrastructure should nearly 4.5 million square feet of harbor industrial development occur? It is not clear how, or even if, this alternative reduces or eliminates significant impacts. It may, in fact, create additional significant impacts.

The alternatives that are presented seem to have been chosen and evaluated to persuade the reader to conclude that the project, or one very similar (Alternative 5), is the environmentally superior project. Alternatives must be identified that alleviate or eliminate potentially significant impacts while obtaining most of the general objectives of the project. None of these alternatives does so. By including alternatives that are either infeasible and/or will do nothing to decrease significant impacts, the DEIR limits the ability of decision makers and responsible agencies to address significant environmental impacts and it undermines the provisions of CEQA.

A range of alternatives must be considered that are specific to each independent specific plan. These alternatives must be feasible and shown to reduce or eliminate significant impacts. Without such alternatives, the DEIR is fundamentally deficient.

LAFCO staff suggests that the following alternatives be included:

Northern Subarea

- Alternative 1: No project – remains as agriculture, no annexation
- Alternative 2: Modified project – project modified to include higher densities and mixed uses. Development concentrated to the western side of the project area to preserve agriculture to the east. The remaining agriculture area should be configured so it is not “sandwiched” by urban development and can be used for viable agricultural activities.

- Alternative 3: Reduced project – similar to current alternative 5, the number of units would be reduced, however, development would be concentrated to the west and/or north so it abuts existing urban development. The remaining agriculture area should be configured so it is not “sandwiched” by urban development and can be used for viable agricultural activities.
- Alternative 4: Increased density/mixed use and reduction in the scope of project.
- Alternative 5: Combination with Alternative 3 below.

Southern Subarea

- Alternative 1: No project – remains as agriculture, no annexation
- Alternative 2: Reduced project – Area south of McWane Boulevard remains undeveloped in consideration of wetlands restoration plan.
- Alternative 3: Both specific plans are modified. Area south of McWane remains undeveloped. The easterly extension of McWane is eliminated. The lake in the north specific plan is relocated to the area immediately north of the eliminated McWane to buffer development from undeveloped area to the south of McWane and provides drainage retention/treatment for both specific plans. Some light industrial uses incorporated into northern specific plan area to replace lake. High school removed to allow for additional industrial development and/or park space / agricultural buffer in north specific plan.

This alternative (as well as other combinations) would accommodate residential development and allow for a substantial amount of industrial development. In addition, it would preserve a considerable amount of agricultural land and accommodate the future restoration of the Ormond Beach wetlands.

Thank you for the opportunity to review the DEIR. Please feel free to contact me should you have any questions.

Sincerely,



Kai Luoma, AICP
Senior Analyst

Cc: Supervisor Kathy Long, District 3
Supervisor Linda Parks, District 2
Chris Stephens, County of Ventura Resource Management Agency
Kari Finley, County of Ventura Resource Management Agency
Cy Johnson, Calleguas Municipal Water District
Judy Cofer, Oxnard Harbor District
Peter Brand, California Coastal Conservancy