

COMMENTS

RESPONSES



APR 21 2004

PLANNING, BUILDING &
CODE ENFORCEMENT

April 20, 2004

VIA FAX & MAIL

Mr. Joel Rojas, Director of Planning and Code Enforcement
City of Rancho Palos Verdes
30940 Hawthorne Boulevard
Rancho Palos Verdes, CA 90275

RE: DRAFT EIR - NCCP SUBAREA PLAN

Dear Mr. Rojas:

Thank you for the opportunity to review the Draft Environmental Impact Report for the NCCP Subarea Plan (2/20/04). We have reviewed the Draft EIR in detail and offer the attached comments. We look forward to our continuing dialogue with the City on the adoption of a plan that truly protects the natural environment, while permitting reasonable economic development and growth.

Sincerely,

A handwritten signature in black ink that reads 'GARY S. WEBER'. The signature is written in a cursive, somewhat stylized font. Below the signature, the name 'Gary S. Weber' is printed in a small, sans-serif font.

CC: Jim York (YIPA)
Scott Sommer (Miller-Starr)

<i>COMMENTS</i>	<i>RESPONSES</i>
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NCCP SUBAREA PLAN
DRAFT EIR COMMENTS
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YORK LONG POINT ASSOCIATES  
APRIL 2004

Page 1-4, second paragraph: This narrative refers to the fact that comments made during the public review of the Draft Subarea Plan "will be addressed once the Subarea Plan is finalized". We are concerned that previous comments regarding the permitted uses within the Reserve and Neutral Lands have not been properly evaluated in this Draft EIR. For example, remedial grading has not been identified as a compatible activity in the proposed Reserve or Neutral Lands (Section 3.4.5.1), however, we anticipate that implementation of the Point View project will require remedial grading within the proposed Reserve area. If not addressed in this EIR, at what point is this evaluated and how can we be certain remedial grading will be permitted in the proposed Reserve or Neutral Lands.

YORK 1

Page 2-1, Section 2.1: The INTRODUCTION inadvertently omitted an important goal of the NCCP Act of 1991. The Introduction should be revised to reflect that the NCCP process is also designed to "allow appropriate development and growth".

YORK 2

Page 2-1, Section 2.2: Section 2.2 refers to 1,514 acres being within the proposed Reserve, yet the total acres described in Section 2.3 do not equal 1,514 acres. Please describe and reconcile.

YORK 3

Page 2-1, Section 2.3: The Project Description does not include an exhibit depicting the Subarea Reserve Design. Please include.

YORK 4

Page 3-7, Section 3.4.2.2: The NCCP Subarea Plan and the Draft NCCP EIR assume that 41 acres will be donated to the Reserve as mitigation for previous brush-clearing activities and loss of CSS from future development of the Lower Filiorum Parcel (Point View). While we recognize the requirement to mitigate the loss of CSS, YLPA has not agreed to dedicate 41 acres to the Reserve. The Draft EIR fails to state the basis of the determination that 41 acres must be dedicated. YLPA has previously provided information on our site plan showing an open space/wildlife corridor of approximately 38 acres. We assume that the proposed 41-acre donation is not an absolute requirement and will be determined at a later date (e.g., at the entitlement stage).

YORK 5

This section also states that the donation to the Reserve would be a condition of approval for a development project. The Subarea Plan and Draft EIR are both silent about when the donated land would be transferred into the Reserve and whether approved development improvements can be made after the area is formally designated as Reserve?

YORK 6

Page 3-8, Section 3.4.2.3: 218.4 acres of the Upper and Middle Filiorum Properties have been designated for purchase and dedication to the Reserve. It is important to recognize that this figure was a tentative size and may ultimately vary, due to refinement of the parcel boundaries or other, independent real estate transactions.

YORK 7

**Comment 1**

Landslide abatement activities are a compatible use within the Reserve, but must be followed by restoration of project impacts. If approved by the City, remedial grading could be allowed in the lower Filiorum area prior to dedication of lands to the Reserve, but any such approval would impose conditions to mandate restoration of any impacts.

**Comment 2**

The text in Section 2.2 has been revised.

**Comment 3**

The 1,504 acres encompasses the areas shown in the revised Reserve design map. The specific parcels represent specific areas being contributed to the Reserve.

**Comment 4**

Figure 2-2 outlines proposed Reserve and neutral lands. Figure 3-1 also shows the Reserve design.

**Comment 5**

Covered projects, including the Lower Filiorum project must undergo project-specific CEQA review and be consistent with the Subarea Plan and EIR. As part of this review, a proposed project will be assessed as to whether it is consistent with the Plan. For the Lower Filiorum area, the Subarea Plan excludes a portion of the area from the future Reserve. If a development project is approved for a portion of the Lower Filiorum area, the Plan requires the developer to donate at least 40 acres of the property into the Reserve. If no Lower Filiorum development project is approved, the entire Lower Filiorum area remains as non-reserve Open Space.

**Comment 6**

See response to York comment 1. Contribution of Reserve lands would occur after remedial grading is complete and habitat restoration has been initiated.

**Comment 7**

Comment noted.

| <i><b>COMMENTS</b></i> | <i><b>RESPONSES</b></i> |
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Page 3-8, Section 3.4.3: This section introduces a new mitigation requirement for the loss of non-native grasslands at a ratio of 0.5:1. What is the precedent for this new requirement? How was the mitigation ratio established? Will all areas of non-native grasslands be treated the same, including areas that have been repeatedly disked or areas that include invasive exotic plants (reference CNPS Policy on Invasive Exotic Plants)? Will land donated to mitigate loss of non-native grasslands be revegetated with non-native grassland species? Will normal weed abatement activities be permitted in non-native grasslands that are not proposed in the Reserve?

YORK 8

Pages 3-11 and 3-12, Section 3.4.5.1: Pursuant to previous comments regarding compatible uses in the Reserve, please respond to the following comments:

- The Public Review Draft NCCP Subarea Plan (6/03) listed various compatible public uses that would be permitted in the Reserve. The Draft EIR (page 3-11) now appears to expand those limited compatible uses to Neutral Lands. Please respond and describe the impacts of including a new land component. YORK 9
- If included in the Reserve, will the existing Pony Club improvements (bathrooms, cook shack, equestrian jump arena, dressage area, etc.) be permitted to remain in the Reserve? (4<sup>th</sup> bullet point, page 3-12) What impacts would result if these improvements remain or are removed? YORK 10
- Is remedial grading considered an authorized "landslide abatement activity" (5<sup>th</sup> bullet point, page 3-12)? Please provide a list of anticipated landslide abatement activities. YORK 11
- The 6<sup>th</sup> bullet point on page 3-12 states that "selected drainage improvements, linear utility easements and existing access roads... would be maintained and upgraded as required". Please define what qualifies as a "selected" facility. Specifically, would all such facilities that currently exist on or serve Point View be "maintained and upgraded as required"? YORK 12
- Will both public and private emergency access roads be permitted in the Reserve or Neutral Lands? (7<sup>th</sup> bullet point) YORK 13
- We understand that geologic testing will be permitted in the Reserve and Neutral Lands, subject to approval by the City geotechnical consultants. If City required testing activities impact CSS in the Reserve, will a 3:1 mitigation requirement be required? YORK 14
- Although previously requested, but not included in the Subarea Plan, we believe primary vehicular access to new development should be permitted in the Reserve, if no other alignment is feasible. YORK 15
- It is not clear whether runoff from existing and future development will be permitted to drain into natural watercourses within the Reserve or Neutral Lands. Please clarify and describe impacts. YORK 16

Page 5-1, Section 5.1.1.1: This paragraph refers to the area of RPV being 8,558.4 acres, yet page 3-1 refers to 8,661 acres. Please clarify. YORK 17

Page 5-4, Section 5.1.1.1: The last paragraph of this section describes "disturbed CSS" as having a "high percentage of non-native species and is fragmented to some degree". We assume there is an objective definition of "disturbed CSS" (e.g., percentage of CSS species, size of patch, relationship to CSS, etc.). Please describe. Since there is no "disturbed CSS" identified in Tables 5.1-1 or 5.1-2 or Figure 5.1-1, we conclude that it is included in the "undifferentiated CSS" category. Please verify this assumption. Also, is YORK 18

**Comment 8**

Mitigation for non-native grassland was requested by the wildlife agencies during their review of the administrative draft EIR. This mitigation requirement has been required in other approved Southern California NCCP Plans. Non-native grasslands must support at least 50 percent cover of non-native annual grass species to be categorized as non-native grassland. Areas dominated by broad-leafed exotic species would be categorized as disturbed vegetation and not require mitigation. Existing fuel management areas would not require mitigation. New fire management areas would be included in the area of development impacts and require mitigation.

**Comment 9**

Section 3.4.5.1 has been revised to apply only to Reserve Lands.

**Comment 10**

The equestrian improvements that are noted were previously used by the Pony Club until York Long Point Associates disallowed the Pony Club's use of the property. The Pony Club has since relocated and is operating at a different private property. The equestrian facilities that remain are located on a portion of the Lower Filiorum property that would become part of the NCCP Reserve only as a condition of approval for any development project subsequently approved for the Lower Filiorum property. If no approvals are obtained, there would be no obligation on the present or future property owner to donate this portion of property into the Reserve. The Subarea Plan does not require the removal of the existing equestrian facilities, therefore whether they remain or not is up to the property owner. However, if the property becomes part of the Reserve, the status of the equestrian facilities would be addressed as part of the public review process for the proposed Lower Filiorum development project. Although an active equestrian facility is not allowed in the Reserve, the maintenance of passive overlook areas that can be used by equestrian trail riders is allowed in the Reserve. Therefore, whether all or a portion of the existing facilities could remain in the Reserve would have to be addressed at the time a future development project is considered by the City.

**Comment 11**

Remedial grading, as defined in Section 17.96.860 of the City's Development Code, could be considered an authorized "landslide abatement activity". Anticipated landslide abatement activities are those described under City Projects in section 3.1.6 of the Subarea Plan.

**Comment 12**

Selected improvements would be those improvements existing in the Reserve at the time the Subarea Plan goes into effect.

**Comment 13**

Yes.

**Comment 14**

Yes.

| <i><b>COMMENTS</b></i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <i><b>RESPONSES</b></i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Comment 15</b><br>Comment noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Comment 16</b><br>Water from existing development would be allowed to drain through natural water courses. Future development may require water quality facilities. The Regional Water Quality Control Board and the City would determine appropriate water quality control measures.                                                                                                                                                                                                                                                                             |
| loss of "disturbed CSS" mitigated at the same ratio as non-disturbed CSS? If yes, discuss the rationale for this and if no, describe the mitigation ratio.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>Comment 17</b><br>Section 3.1 has been corrected. RPV encompasses 8,558.7 acres of land.                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <u>Page 5-16, Section 5.1.1.3:</u> The discussion of Regionally Important Habitat Areas does not include an exhibit. Please include an exhibit depicting Regionally Important Habitat Areas and Linkages. Also, please respond to the following comments:                                                                                                                                                                                                                                                                                                                                                                                                        | <b>Comment 18</b><br>Specific areas potentially classified as disturbed CSS have not been mapped in the NCCP database. Typically, disturbed CSS would have evidence of past physical disturbance and scrub species would have less than 30 percent cover and show signs of recovery. Areas supporting less than 15 percent cover of scrub species would be classified as grassland or disturbed vegetation. Disturbed CSS would have the same mitigation ratio as non-disturbed since the disturbed area is showing signs of recovery back to a non-disturbed state. |
| <ul style="list-style-type: none"> <li>Based on our review of Figure 3-2 in the Draft Subarea Plan, there are areas designated as "Regionally Important Habitat" (including Point View), which do not appear fit the definition provided on Page 5-16 of the Draft EIR. The 94-acre Point View parcel does not include "extensive native vegetation supporting concentrations of target species".</li> <li>It is not clear how the term "Linkage Planning Area" is defined, its scientific importance, or what criteria were used to assign such a designation. Please discuss.</li> </ul>                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <u>Page 5-16, Section 5.1.2:</u> We understand that the NCCP EIR does not override the need for further CEQA review of development projects, but we are troubled by the statement that "a take authorization would not be automatically granted to individual projects". This language leaves some doubt whether a take authorization must be granted if the project is consistent with the Subarea Plan. Assuming a project is consistent with the Subarea Plan, under what circumstance would a take authorization not be granted? Are there any circumstances where a NEPA review would be required to secure a take authorization for a development project? | <b>Comment 19</b><br>The Subarea Plan has an exhibit of Regionally Important Habitat Areas.                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <u>Page 5-17, Section 5.1.2.3:</u> This section refers to certain "dimensions and habitat characteristics". Please describe the Reserve design guidelines specific to RPV and cite a source that describes these guidelines.                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Comment 20</b><br>The Point View parcel supports some target species and includes a habitat linkage area that is important to the Reserve design.                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <u>Page 5-18, Table 5.1-2:</u> The original exhibits and tables depicting vegetation communities and sensitive species included "ruderal habitat", but it does not appear on this table. We believe it was incorporated into the "disturbed vegetation" category. Please confirm and discuss this change.                                                                                                                                                                                                                                                                                                                                                        | <b>Comment 21</b><br>Linkage Planning Area is the area where a habitat linkage is required to meet Reserve design requirements. The actual configuration of the linkage is flexible within the Planning area.                                                                                                                                                                                                                                                                                                                                                        |
| <u>Page 5-19, Section 5.1.2.4:</u> Given the alignment of the proposed Reserve boundary and the likelihood that fuel modification will be required for the Point View project the Reserve boundary must be considered a conceptual alignment that will be finalized during project entitlement. Please confirm this assumption. In the alternative, we recommend that limited fuel modification be permitted as a compatible use in the Reserve.                                                                                                                                                                                                                 | <b>Comment 22</b><br>During project-specific CEQA review, a consistency analysis must be presented to demonstrate that the proposed development is consistent with the Subarea Plan and take permit conditions.                                                                                                                                                                                                                                                                                                                                                      |
| <u>Page 5-21, Table 5.1-4:</u> This table and other references in the Draft EIR and Draft Subarea Plan call for donation of 41 acres as mitigation for potential future loss of CSS and non-native grasslands. YLPA considers this a preliminary number that may change as the development project evolves and entitlement is pursued. (See previous comment) Also, please note that the footnote is not consistent with the table. Please revise the table and acknowledge that the proposed mitigation is preliminary.                                                                                                                                         | <b>Comment 23</b><br>Identified habitat linkage areas meet the minimum guidelines for wildlife movement corridors as defined by Southern California studies cited in the text. See Section 5.1.3 for a listing of NCCP Planning criteria. Studies, in which guidelines for wildlife movement corridors area available, are discussed in Section 5.1.2.3.                                                                                                                                                                                                             |
| On December 22, 2003, a small brush fire occurred on the Point View property. The fire destroyed approximately 4 acres of CSS and non-native grasslands. A survey has not yet been conducted to determine the exact loss of CSS. Once the area of CSS loss been determined, YLPA assumes that Table 5.1-4 will be revised to reflect the current total                                                                                                                                                                                                                                                                                                           | <b>Comment 24</b><br>The wildlife agencies requested that the ruderal vegetation label be changed to disturbed vegetation.                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| <i><b>COMMENTS</b></i> | <i><b>RESPONSES</b></i> |
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amount of CSS on the site, which in turn will affect the mitigation requirement. We do not know the impact of the fire on a Cactus Wren that has been sighted in that vicinity.

YORK 27 (cont'd)

Section 6: This section fails to evaluate the long term effects of the project in the event of the issuance of incidental take and development that is consistent with the NCCP Subarea Plan.

YORK 28

Section 7: This section does not adequately provide support for the No Project/No Action discussion. There is virtually no discussion of the environmental impacts associated with the alternatives. The Alternatives section should also address the effects of securing less private land than specified in Section 3 of the DEIR.

YORK 29

GENERAL COMMENTS

We assume that the NCCP inventory of natural vegetation and covered species distribution is a "baseline" from which the proposed Reserve is based and from which future take permits, future land use decisions, mitigation measures, etc. will be judged. It is important to clearly and unambiguously state that the NCCP Inventory is the "baseline". It is also important to discuss the implications if the baseline condition changes. We are particularly concerned about changed conditions during the NCCP approval process and/or development project entitlement process.

YORK 30

We have pointed out previously that the Reserve Boundary appears to encroach on proposed development areas for the Point View development project. The scale of the NCCP mapping makes accurate interpretation of the Reserve Boundary nearly impossible. Since it is in the best interest of all parties to avoid future disagreements regarding the alignment/location of the Reserve Boundary, we suggest that the exhibit be revised and/or that language be included reflecting the approximate nature of the Reserve Boundary. YLPA's Moratorium Exclusion Application #10 includes an accurate depiction of the proposed development plan that was designed with the NCCP Reserve in mind. We suggest that the Reserve Boundary be plotted on the Point View Site Plan and that all proposed development (including lots, site grading, roads, fuel mod areas, etc.) be omitted from the proposed Reserve. We are available to work with the City and NCCP Consultant to refine the Reserve Boundary.

YORK 31

We understand that there will be no obligation to donate any land in the Point View property for open space purposes unless entitlements for development are approved. However, a 41-acre portion of the Point View property remains designated for the proposed Reserve. We believe this area should not be designated as Reserve until all necessary entitlements are secured. We suggest that a "contingent" reserve status be established for any property that is subject to future entitlements for development and potential donation. This would avoid the perception of an area being in the Reserve and it would also provide the City and developer flexibility in terms of configuration and size. It would also avoid an amendment to the NCCP Subarea Plan if the size or configuration of the area changes.

YORK 32

**Comment 25**

Comment noted. Fire management areas for new development must be included in the development impact boundary.

**Comment 26**

Comment noted. Reference to the 40 acres has been reworded in the Plan (including within the EIR table footnote).

**Comment 27**

Burned sites typically are treated as if they were not burned if pre-fire vegetation mapping is available. Post-burn mapping will classify an area as burned CSS if there is evidence of shrub resprouting or seedling germination with the presumption that the scrub community will eventually return to pre-fire conditions.

**Comment 28**

The long term effect of Plan implementation is a habitat reserve that is actively managed with a habitat carrying capacity for covered species that equals or exceeds the current inventory.

**Comment 29**

CEQA alternatives analysis does not need to be fully equivalent to the proposed project. The relative differences in impact are adequately compared and quantified in the comparison table and figures.

**Comment 30**

The NCCP vegetation database is sufficiently accurate for the purposes of this Plan. Site specific biological assessments for proposed development projects will verify the vegetation mapping and conduct additional focused surveys to determine the extent of native grasslands occurrence within areas categorized as grassland. Habitat mitigation would be calculated from these project specific biological assessments consistent with this Plan.

**Comment 31**

The project, if approved by the city, will dictate the actual boundary established for the Reserve in this area.

**Comment 32**

Like the acquisition parcels, the city classifies this portion of Lower Filiorum as Reserve lands based on the preliminary project design submitted to the city.