

# California Native Plant Society

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April 15, 2020

San Diego County Planning Commission  
County of San Diego  
Planning & Development Services  
5510 Overland Avenue, Suite 110  
San Diego, CA 92123  
By email to Ann Jimenez (ann.jimenez@sdcounty.ca.gov)

RE: Otay Ranch Village 13; PDS2004-3810-SP04-0020(SP) PDS2004-3800-04-003 (GPA), PDS2004-3600-04-009 (REZ), PDS2004-310-5361 (TM) , PDS2004-3910-004-19-005 (ER) (D. Neufeld)

Dear Chairman Barnhart and Commissioners,

Thank you for the opportunity to comment on this draft of the Otay Ranch Village 13 ("Project"). CNPS promotes sound plant science as the backbone of effective natural areas protection. We work closely with decision-makers, scientists, and local planners to advocate for well informed and environmentally friendly policies, regulations, and land management practices. Our focus is on California's native plants, the vegetation they form, on keeping both plants and people safe from damaging fires, and on climate change as it affects both.

As noted in the Planning Commission Hearing Report (p. 1-20), the Planning Commission is asked to make eight determinations, including:

- is the Project consistent with the visions, goals, and policies of the General Plan?
- is the Project consistent with CEQA?

Based on the material presented, I am afraid that the answer is NO, as demonstrated below. Therefore, I strongly urge the Planning Commission to this Project.

Note that, due to the material being released over a holiday, I have given it only a cursory look, based on previous comments CNPSSD made about issues with native plants, wildfire, and climate change. I suspect that, had I had the time to dig further, the number of problems would only increase.

Rather than bury two key conclusions, I would also point out that problems with the mitigations proposed for greenhouse gas impacts and wildfire threats are very similar to those in the Climate Action Plan and Harmony Grove Village South. Judges have already ruled that these are inadequate under CEQA. These are not trivial problems.

## **Is the Project consistent with the visions, goals, and policies of the General Plan?**

This can be simply reframed: is this General Plan Amendment consistent with the visions, goals, and policies of the General Plan? **Obviously not, or there would have been no**



*Dedicated to the preservation of California native flora*

**need for a major amendment.** More specifically, the General Plan is intended to produce more affordable housing near transit. The Project proposes to build thousands of single family homes in a high fire area well away from any transit. It is not consistent with the General Plan.

### **Is the Project consistent with CEQA?**

This analysis I will break into issues with native plants, wildfire, and greenhouse gases.

#### **Native Plant Issues**

There are two major native plant issues in the FEIR: failure to mitigate for the complete take of 1,200 rare, list 1B.1 plants identified on the site, and failure to survey at the appropriate time to find two other list 1B.1 species. Both of these should stop the Project.

The first is that the Project, per FEIR section 2.3 impacts to over 1200 List 1B.1 plants without mitigation. Nuttall's scrub oak (*Quercus dumosa*, CRPR List 1B.1) was at first misidentified as the common scrub oak (*Quercus berberidifolia*), but after comments that noted that the Project is within the known range of Nuttall's scrub oak and re-examining their data, the FEIR writers corrected the mistake. All scrub oak chaparral (6.2 acres) is composed entirely of Nuttall's scrub oak, at about 100 plants/acre, or around 1,200 plants.

Unfortunately, the FEIR stated (p.2.3-21) "Due to the atypical location of the Nuttall's scrub oak, the small area (6.2 acres) and isolated number of plants proposed to be impacted, impacts to Nuttall's scrub oak are considered less than significant."

This is not the Project proponents' decision to make. Anyone who knows conservation biology knows that atypical populations are more worthy of conservation, not less. Certainly an inland, drought-adapted population of Nuttall's scrub oak may be more adapted to climate change than its coastal cousins. Acorns from this population may be critical to the survival of the species in coming decades. This is a critical population, not an insignificant one.

The proposal to bulldoze these oaks becomes more damaging if one considers that the scrub oaks seem to be relatively immune to gold-spotted oak borers and shothole borers, so they may soon be the only oaks left in San Diego County to feed all the animals that depend on oaks and acorns.

As for salvaging scrub oaks or acorns, it takes them over a decade for seedlings to even establish under good conditions (it's a known problem in the native plant gardening community), and ripping out and replanting 1200 scrub oaks is an exercise in masochistic futility. It is better to leave them where they are.

**The scrub oak chaparral would be destroyed to make room for area R-2. Preserving it would require a major redesign. Since most of the remaining populations are already conserved in parks, it is unlikely that the damage can be mitigated by protection of an offsite population, or that they can be salvaged. This is a substantial, unmitigated impact.**

A second major issue is the lack of surveys for sensitive plants known or potentially found near the survey area, including particularly sensitive bryophytes and lichens, such as Campbell's liverwort (*Geothallus tuberosus*, CRPR List 1B.1) bottle liverwort (*Sphaerocarpos drewei* CRPR List 1B.1), and woven-spored lichen (*Texosporium sancti-jacobi*, CRPR list 3). Species found with them occur in the Project area, and Dudek biologists know how to identify Campbell's liverwort, because I taught them.

The response to this comment was that the site was surveyed in July 2015, which was an adequate rainfall year. Since the liverworts were not seen, they are not there. Unfortunately, the

liverworts are only visible aboveground between December and March or April, depending on the weather. I have looked in spots where I have seen them in the winter and seen no trace of them in the summer, so even remnants are not detectable. **Therefore, the biologists did not perform the survey during the appropriate time of year, and so they did not properly survey for this species.**

**In fact, there is no evidence that any search for any liverworts or lichens were made, even once the Project proponents were notified that it was an issue. Also note that *Geothallus* was observed as abundant in December 2019 on Del Mar Mesa. The project proponents failed to make use of the most recent wet year to check for this liverwort, as well as other water-loving species such as little moustail and California adder's tongue. A single day's work could have answered these questions, but it was not done.**

**On both bases, this Project fails to conform to CEQA, both in the failure to survey for rare plants during a time when they are visible, and more importantly, in the failure to mitigate for the take of a known, large population of rare plants.**

### **Wildfire Issues**

The CEQA questions pertaining to wildfire, per the 2019 Association of Environmental Professionals' CEQA guide, are:

- “Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?”
- XX. WILDFIRE. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:
  - a) Substantially impair an adopted emergency response plan or emergency evacuation plan?
  - b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?
  - c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

Since the Project site has burned up to five times in the last 125 years, the answer is yes, this Project exposes people and structures to significant risk of loss, injury, or death. Per the CalFire Fire Hazard Severity Zone Map<sup>1</sup>, the Project is in a very high fire hazard severity zone, so the wildfire questions are pertinent. These impacts need to be quantified and mitigated.

Is there substantial evidence that the Project mitigates all the wildfire risks? The response (FEIR p.2.6-23,24) is: “the Project would be constructed in compliance with all applicable fire codes, the applicant has caused an FPP to be prepared and compliance with the FPP would be assured during building permit review by the FAHJ and San Diego County Fire Authority, and an on-site temporary and permanent fire station would ensure compliance with emergency travel time requirement. As a result, the Project would have **a less than significant impact** due to wildfires.”

**Breaking this down in reverse order, the fire station emergency travel time requirement is for fire engines to get to fires under normal circumstances. This is**

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<sup>1</sup> <https://osfm.fire.ca.gov/divisions/wildfire-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/> accessed April 14, 2020

**wonderful, but irrelevant in the case of wildfire. Therefore this is not mitigation to wildfire risk.**

The rest of this is allegedly mitigated on FEIR p. 2.6-23, as “As stated in the FPP, the Project applicant is required to have a qualified fire specialist prepare a Community Protection and Evacuation Plan (CPEP) for the Project in accordance with the requirements of the Fire Authority Having Jurisdiction (FAHJ) and approved by the FAHJ and San Diego County Fire Marshal prior to occupancy of any dwelling units in the first phase of Project development.”

**The FEIR does not present substantial evidence that future creation of an evacuation plan that mitigates the threat below the level of significance is possible.**

Substantial evidence would have included, among other things, modeling of how fast a typical, Santa Ana-driven wildfire would engulf the site and modeling of how fast people could be evacuated. If people could be evacuated faster than the fire, then the plan could be presumed to work. Where are those models?

Indeed, greenhouse gas mitigation M-GCC-1 proposes (p. 2.10-30) to “implement traffic calming features throughout the roadway network on the Project site to reduce motor vehicle speed and encourage walking and biking” while the Fire Protection Plan requires that roads be engineered for at least 35 mph movement simply to allow emergency vehicles to move within the Project for normal service. What about evacuations? Will they be impeded by traffic calming features? The conflicts between everyday traffic calming and emergency, wholesale evacuation and fire engine movements were not analyzed.

**As for the other CEQA wildfire questions, they do not appear to have been answered at all, so those impacts are unmitigated. Unfortunately, the FEIR strongly appears to leave unmitigated impacts from wildfires, without substantial evidence that they have been or even can be mitigated. Therefore, the Project should not be approved.**

## **Greenhouse Gas Issues**

There are numerous issues here. One is that the Project proponents apparently do not understand that buildings built on the site will (absent fire or earthquake) be in use in 2045 when California goes to net zero carbon emissions. Discussions of Zero Net Energy and natural gas loads simultaneously (e.g. p. 2.10-32) demonstrate a monumental cluelessness: by 2045, there needs to be no natural gas in use on the site. Why build greenhouse gas emissions into the Project’s infrastructure?

Zero Net Energy as discussed in the FEIR also misses the biggest single energy use: transportation. As people switch perforce to electric vehicles, on-site renewable generation that may be sufficient to power a single home becomes hopelessly inadequate. To power an electric car, a home needs on order 30 m<sup>2</sup> of solar panels angled south or west. This is from personal experience with my own system, which powers the commute of an electric car 120 miles/week.

These numbers are important, because having a large solar array depends in large part on having roof surfaces that are properly angled south and/or west to capture the sun. A development designed to power its own electric transportation therefore has to be designed from the parcel lines up so that all houses catch the sun on their large, properly oriented roofs. In conventional developments, this is impossible, as curving streets and standardized house designs cause roof surfaces to be pointed to all directions of the compass. Worse, modern aesthetics seemingly demand complex roofs that do not have 30 m<sup>2</sup> pointed in any direction.

As one can see simply by looking at the street and parcel maps, the Project is not designed to maximize solar gain. There is no planning for solar in this development. Rather, the

Project proponents erroneously assumed that all one has to do to solve the problem is slap a few solar panels on a conventional house. This is a badly wrong assumption. It is just as wrong as assuming that any car can be made into a high performance EV by putting an electric motor and a couple of batteries under the hood, when we know that EVs need to be purpose built in all details.

**The FEIR does not present substantial evidence that it can meet its ZNE goals based on what it presents of the design of the Project.** It assumes that greenhouse gas emissions will be built into the Project in the form of natural gas lines, and it fails to account for the biggest source of electricity consumption, electric vehicles.

**Second, the FEIR relies on carbon offsets to make up the gap. There FEIR lacks substantial evidence that this mitigation works, as there are numerous reports that a majority of carbon offset schemes fail to meet their goals. Moreover, two lawsuits to date have successfully challenged the County's use of off-site carbon offsets in mitigating for greenhouse gas impacts. The FEIR does not present substantial evidence that this project is any different.**

Ultimately, Otay Ranch Village 13 is a legacy project of the 2010s, designed for a time when the economy was growing, tourism was booming, and it made sense to try to build thousands of high end homes and a resort on the edge of a reservoir near the border.

Unfortunately, it is 2020, we live with climate change and Covid-19, while the economists debate whether we're entering a depression or merely the worst recession since 1931. We know the climate will warm and dry, there are helicopters flying along the border, and Covid-19 has decimated the hospitality industry. It is not clear why anyone would want to book a resort where they can look out over a drying reservoir during the day and listen to the helicopters at night. The Project may have made sense a decade ago, but it makes no sense now.

Similarly, who wants to be forced to shelter in place in an expensive home where doing anything requires a long commute to stores and work? Will these homes even be designed for a future where the medical professionals who can afford these homes will have to come in, strip down in the laundry room and go immediately to the shower before greeting their families? I doubt it. They are not well designed for their stated Zero Net Energy goals, and I doubt there is space in the garage for a house battery.

The bottom line is that this is a Project whose time has passed. Even if it does get approved and somehow survives the likely litigation based on its obvious CEQA shortcomings, the Project will require a massive redesign to be viable in this grim new decade we find ourselves facing. That CEQA document will come in front of the Planning Commission again, regardless of what the decision is on April 17.

The simplest action to do is to turn it down and let the applicants go back to the drawing board now. Perhaps they can come up with something less destructive, that meets the needs of San Diego County going forward. They are going to have to do this anyway, why stop them?

Thank you for taking these comments.

Stay safe,



Frank Landis, PhD  
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