

Hand-Out Supporting Public Comment Prior to Closed Session Del Rey Oaks City Council Meeting, June 23, 2020

Monterey Bay - California Native Plant Society (CNPS)
Brian LeNeve, Chapter President, and Nikki Nedeff, past President

Action Requested: CNPS urges the City Council to resolve the conflicts with the Monterey Bay Chapter of the California Native Plant Society that Del Rey Oaks has inherited from FORA. CNPS urges the City Council to direct staff to investigate the relocation of the proposed South Boundary Road realignment and round-about to the north of CNPS Plant Reserve 1 North.

Background:

Since the closure of the Fort Ord Military Base, the community of Del Rey Oaks has been a member of the Board of the Fort Ord Reuse Authority (FORA), which will sunset in one week at the end of June, 2020.

In 2010, FORA certified the Environmental Assessment/Initial Study (EA/IS) under CEQA for a number of improvements to South Boundary Road, including the realignment of the intersection at General Jim Moore Blvd.

Del Rey Oaks has agreed to accept \$8.8 million from FORA for proposed road improvements along South Boundary Road, including the realignment of the intersection at General Jim Moore Blvd. FORA has to date been the Project Proponent and Lead Agency under CEQA for the South Boundary Road project. The City has taken on the Lead Agency role and responsibility for the South Boundary Road project.

As currently proposed, the South Boundary Road improvements would severely impact 4.63-acres of environmentally sensitive habitat that has been preserved in perpetuity as a CNPS Plant Reserve (referred to as CNPS Plant Reserve 1 North). The habitat area is protected by a binding contract between FORA, Del Rey Oaks and CNPS, and is also protected by binding CEQA mitigation for a FORA road project that FORA approved in 1999 and constructed shortly after – the Highway 218/General Jim Moore intersection and improvements project. The contract and CEQA mitigation (Mitigation #3) require the preservation of the area in perpetuity and prohibit fragmentation of the protected area. The location of the proposed South Boundary Road realignment and round-about would significantly reduce the size of Plant Reserve 1 North and would severely impact the integrity of the remaining sensitive habitat. This would be contrary to the CEQA Mitigation #3 and the Del Rey Oaks contract with CNPS.

This conflict can be avoided.

The Del Rey Oaks City Council has choices. The City Council can pursue the very problematic and harmful road realignment through the protected habitat as was proposed by FORA, or the City Council can consider an alternative road alignment that maintains the integrity of the CNPS Plant Reserve.

CNPS implores the City Council to resolve the current conflict over irreparable damage to Plant Reserve 1 North and asks that the Council adopt an alignment for South Boundary Road that moves the alignment and the intersection to the north of the protected habitat.

CNPS, a non-profit dedicated to the conservation of California's unique vegetation, is steadfastly opposed to the current FORA road alignment for South Boundary Road and the location proposed for a round-about at General Jim Moore Blvd.

CNPS presents the following benefits of a more northerly alignment.

Benefits of Northerly Road Alignment:

- Avoid removal of extremely high-quality Maritime Chaparral habitat and damage to the integrity of remaining sensitive habitat in CNPS Plant Reserve 1 North that was to be protected in perpetuity as CEQA mitigation for past road projects and through CNPS contract with Del Rey Oaks and FORA.
- Avoid the need to obtain an Incidental Take Permit from California Department of Fish and Wildlife for a take of California Endangered Seaside bird's beak. There is potentially high risk that a Take permit would be denied for this unique hemi-parasitic plant species.
- Avoid the need to mitigate for impacts to plants listed under the California Endangered Species Act and potentially other special status species.
- Locate a round-about in an area of General Jim Moore Blvd where line of sight visuals are better and where the area is already wider and flatter than the proposed location for the intersection with South Boundary Rd.
- Materially reduce the quantity of soil grading and commensurate placement of unused fill.

History of Plant Reserve 1 North:

- In the 1970's, CNPS identified important plant areas at Fort Ord and worked with the Army to conserve these unique habitat areas.
- In the early 1990's, as mitigation for impacts to Maritime Chaparral related to the construction of the Ammunition Supply Depot, the Army gave formal protection to 13 CNPS plant reserves.

- In 1999, as mitigation (Mitigation #3) for impacts to Plant Reserve 1 related to FORA's improvements to North-South Road (now called General Jim Moore Blvd.) and the installation of traffic signals at the intersection of Highway 218, a minimum of 2 acres plus an adequate buffer were set aside as a new Plant Reserve by FORA.
- In April 1998, the City, FORA and CNPS signed a letter contract protecting at least 2 acres of land plus a buffer at the Northeast corner of South Boundary Road and what was then North-South Road (later renamed General Jim Moore Blvd). This became Plant Reserve 1 North.
- In June 1999, the City, FORA and CNPS letter contract was amended to accommodate changes that FORA wanted to make to the intersection.
- In February 2000, the Army Corps of Engineers was removing vegetation in the habitat areas in the southern portion of the base in advance of conducting ordnance removal activities. Concerned for the protection of Plant Reserve 1 North, on March 2, 2000 CNPS met in the field with the Del Rey Oaks City Manager, a representative of DBO Development Co., and the FORA Engineer. The Minutes of the field meeting were accompanied by a map of the designated "Habitat Area". The Minutes of the field meeting state that the Corps of Engineers was following the attached map when conducting their vegetation removal activities and that confirmation from the City was requested as to the boundary of the Habitat Area (noted as 4.58 acres on the map). All parties agreed that the 2-acre Reserve required by CEQA Mitigation #3 plus "a 2-acre buffer is required thus the approximately 4-acre habitat area identified on the attached map." The map referenced in the March 2, 2000 Minutes is attached below. The Minutes of the March 2, 2000 meeting further state that the Del Rey Oaks City Manager "accepted that the area shown on the attached map shall be the habitat area". This agreement was entirely consistent with the 1998 contract as amended in 1999 - because it was consistent, no modification of the contract was necessary.
- The approximately 4.58-acre Habitat Area shown in the map and agreed to by Del Rey Oaks was further affirmed by splitting the habitat parcel away from the surrounding development parcel and designating the habitat parcel as Parcel E29a.1.
- When the development property (Parcel E29a) adjacent to CNPS Plant Reserve 1 North was transferred from the Army to FORA, the FOSET-003 text stated that, "Included within Parcel E29a is a 5-acre habitat reserve that is not included in the transfer".
- In July 2009, the Habitat Parcel was transferred from FORA to the City and labeled in the transfer documents as "E29a.1, 4.66-acre Habitat Reserve Area".
- Apparently, on May 11, 2000, FORA submitted an application to the CA Dept. of Fish and Game requesting an Incidental Take Permit for Seaside's birds beak arising from the North-South Road/Highway 218 Improvement Project. FORA has shown no evidence that the permit was granted. This is a potentially serious omission.

- Apparently, in 2010, FORA consultants forwarded a different application for an Incidental Take Permit to the CA Dept. of Fish and Game for FORA's proposed road improvements and widening of a different part of General Jim Moore Blvd., which FORA had approved in 2005. Much of the California Endangered Seaside bird's beak population documented in and around the intersection of South Boundary Rd. and General Jim Moore Blvd. would have been impacted by the project. As mitigation for the impacts to Seaside bird's beak, the parcel labeled APN "0311-191-0113-000" (typo for 031-191-013-000) was described as to be preserved in perpetuity as open space. The parcel is the CNPS Habitat Reserve Area.
- The Incidental Take Permit was not granted for the project approved in 2005. FORA constructed the widening project along General Jim Moore Blvd and stopped short of the intersection at South Boundary Road and the Seaside bird's beak population. At this point, the Incidental Take Permit would be required if Del Rey Oaks decides to pursue the problematic FORA realignment of South Boundary Road. If the northerly route urged by CNPS is pursued, it may eliminate the need for the Incidental Take Permit, which is a lengthy process and ultimately may not succeed because the resource agencies would have concerns similar to the concerns expressed by the California Native Plant Society.
- Also in 2010, the FORA Board certified the Environmental Assessment /Initial Study (EA/IS) for the widening and realignment of South Boundary Road. This document states that implementation of the proposed project would require successful negotiations with CNPS to relocate their habitat preserve area to an area south of the currently identified location. FORA did not contact CNPS.
- On August 28, 2012 during a Del Rey Oaks City Council workshop led by Mayor Jerry Edelen and attended by FORA representatives and potential developers, the Del Rey Oaks City Manager stated publicly that "... at the other end of the property on the corner of General Jim Moore Blvd. and South Boundary.... The 4.5 acres on the corner has been allotted to the Native Plant Society". (Video of August 28, 2012 meeting and minutes of this meeting presented at City Council meeting on September 25, 2012).
- In September 2017, CNPS sent a letter to FORA requesting an update on the status of Plant Reserves in the former Fort Ord. No response was received.
- In July 2018, CNPS sent a letter to FORA requesting a meeting to discuss the status of CNPS Plant Reserves. No response was received.
- On August 10, 2018, CNPS attended a FORA Board meeting and made a public statement reminding FORA that the realignment of South Boundary Road was contingent on negotiating with CNPS to move Plant Reserve 1 North. After the meeting, FORA staff stated that FORA was waiting to reach out to CNPS until after the road design was complete. This made no sense, as

the road design is dependent on negotiating with CNPS to agree to “relocate” the protected habitat area.

- The first meeting with FORA to review the proposed road improvements was on January 18, 2019. CNPS made it clear that the impacts to Plant Reserve 1 North were unacceptable. Mayor Kerr was present, as was Councilman Gagliotti. Since then CNPS has met several times with FORA, at least one other time including Mayor Kerr, and all with Del Rey Oaks City Manager Dino Pick present. Over the past few weeks CNPS has met with Mr. Pick and City Attorney Lorca to express our concerns. Last Thursday June 18, 2020, CNPS met via Zoom with Mr. Pick, Mr. Lorca, and representatives from FORA and LAFCO, and we discussed ways to resolve the situation.

This matter is resolvable, and CNPS would like to resolve it.

CNPS provides the below two maps to assist your review of the situation.

Below is a small version of the February 2000 map of the Habitat Reserve given to CNPS when all parties, including Del Rey Oaks, agreed that the outlined parcel would be the property preserved as the CNPS Plant Reserve under the FORA-CNPS-Del Rey Oaks contract and to implement CEQA mitigation #3 for the 1999 General Jim Moore/Highway 218 project.



The next map is the county assessor's parcel map showing the Native Plant Society parcel in red for easy reference.

