

# KEVIN K. JOHNSON, APLC

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TELEPHONE (619) 696-6211  
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August 19, 2013

Mark Slovick, Project Manager  
County of San Diego Planning and Development Services  
5510 Overland Avenue, Suite 310  
San Diego, CA 92123  
[Mark.Slovick@sdcounty.ca.gov](mailto:Mark.Slovick@sdcounty.ca.gov)  
(858) 495-5172

**Subject:** DEIR Public Comment to the Proposed Accretive Lilac Hills Ranch General Plan Amendment and Specific Plan PDS2012-3800-12-001(GPA),PDS2012-3810-12-001 (SP), Draft Environmental Impact Report (DEIR)—**UTILITIES AND SERVICE SYSTEMS**

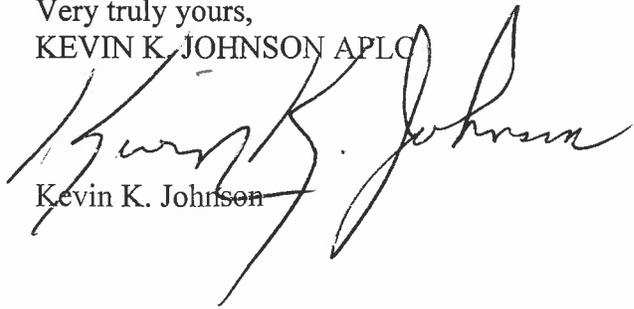
Dear Mr. Slovick:

This firm represents Heart of Valley Center, a California Non-Profit Corporation. On its behalf, we offer the following comments on the Utilities and Service Systems Section of the Lilac Hills Ranch DEIR.

Subchapter 3.1.7 Utilities and Service Systems Regulatory Framework fails to include or analyze compliance with Government Code sections 65352 and 65352.5 regarding referral to VCMWD of the proposed amendments to the County General Plan and VCMWD's compliance with the information provision requirements under section 65352.5 (c).

Please revise the DEIR to include an appropriate discussion of compliance with these sections.

Very truly yours,  
KEVIN K. JOHNSON APLC

  
Kevin K. Johnson

August 19, 2013

cc: Claudia Anzures, Esq.  
Mark Mead, Esq.

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August 6, 2013

## VIA EMAIL

Mark Slovick  
County of San Diego Planning and  
Development Services  
5510 Overland Avenue, Suite 310  
San Diego, CA 92123  
Email: mark.slovick@sdcounty.ca.gov

**Subject:** DEIR Public Comments to the Proposed Accretive Lilac Hills Ranch General Plan Amendment and Specific Plan PDS2012-3800-12-001(GPA), PDS2012-3810-12-001 (SP), Tentative Maps and Grading Plans

Dear Mr. Slovick:

Our firm represents Heart of Valley Center, a California Non-Profit Corporation. On behalf of a number of residents in the Valley Center community we have previously provided the County with clear evidence that Accretive does not have legal road easements useable for the purposes indicated in the LHR Specific Plan, Tentative Map, and Traffic Impact and related studies for Mountain Ridge and Covey Lane Private Roads. See our letters dated February 5, 2013 and May 29, 2013 attached hereto as Exhibits "A" and "B" respectively.

The issues raised in these letters should have been addressed and resolved in the DEIR. They are critical to whether or not the project can actually be built, what the actual environmental impacts will be and whether there are avoidance and/or mitigation options associated with the easement gaps. Also, the lack of easement rights prevents the project from being approved under the Subdivision Map Act (Gov. Code Sections 66410-66413.5)

In addition to the basic easement questions, there are critical Line of Sight issues; Irrevocable Offers of Dedication issues; prescriptive right issues and site specific biological issues that need to be addressed in the DEIR. These are addressed below.

Additional Information since our May 29, 2013 letter

**Covey Lane/West Lilac Intersection** - In our February 5, 2013 letter, we informed you that there is inadequate Sight Line Distance on the Covey Lane/West Lilac Public Road intersection. This statement was confirmed in a June 25, 2013 Sight Distance Analysis by Landmark Consultants working on behalf of Accretive Capitol Partners, LLC. See page 1, paragraph 3 of Exhibit "C". The same analysis also confirms that Accretive does not own legal Right-of- Way

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to construct a legal intersection of Covey Lane at West Lilac Road.

The property owners of APN 129-190-44 have been contacted and have indicated they will not grant additional rights to Accretive. Accordingly, a legal intersection needed to handle the traffic projected to be generated by the project, cannot be built.

**Mountain Ridge/Circle R Intersection** - In our February 5, 2013 letter, we informed you that there is inadequate Sight Line Distance on the Mountain Ridge/Circle R Public Road intersection. Consistent with this observation, on September 13, 2013 Accretive submitted a request for Road Standard Exemption to reduce the Sight Line from a required 500 feet to 340 feet (See Exhibit "D", page one, middle section).

Also on June 25, 2013, Accretive submitted a Sight Distance Analysis for a 450 foot distance, and stated that despite the property owner's objections, they could clear-cut brush and native Oak trees using County owned prescriptive rights (Exhibit "E").

These inadequate lines of sight as well as the absence of tree and brush clearing rights need to be analyzed in detail in the DEIR. Key questions include, but are not limited to, how can the County approve creating unacceptable public safety risks at the subject intersections; how can the applicant presume to have the County use prescriptive rights to clear mature and sensitive trees (Quercus agrifolia, Quercus engelmanni, etc.); and what will be the biological impacts of such clearing?.

We note that any intersection related improvements along with proposed road standard modifications are part of the project as a whole and cannot be treated piecemeal in terms of CEQA analysis and decision making. The County cannot approve critical project components such as road standard modifications without full environmental review.

#### Use of County Right of Way for Benefit of a Private Developer

Accretive's claimed "right of way" on Mountain Ridge and Covey Lane private roads relies in substantial part on multiple County owned Irrevocable Offers to Dedicate right of way for public usage. These rights are owned by the County and are explicit rights for public roads. Accretive is a private developer proposing Mountain Ridge as a private road enabled by public rights, and is also relying on receiving public rights to label Covey Lane as an Interim Public Road to serve their proposed private project.

There are no County Plans identifying these roads as future County Roads and the proposed use of the IOD's would likely be illegal as well as ill advised. Would the County actually accept the liabilities associated with the proposed exploitation of the IOD's for private corporate benefit? Does the County for example want to approve and enable the creation of a series of dangerous intersections and dangerously narrow roads?

The public safety impacts related to the easement and line of sight problems need to be thoroughly addressed in the DEIR.

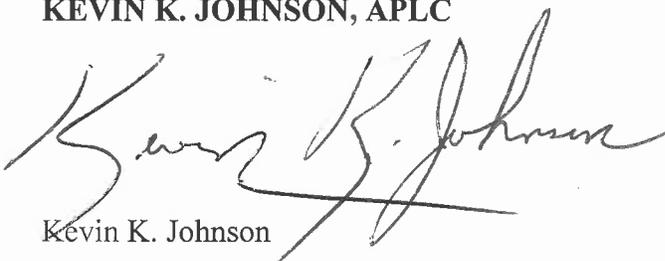
August 6, 2013

Moreover, for purposes of any Statement of Overriding Considerations, there is no public benefit in enabling Accretive to infringe upon and overburden the easement rights of the approximately 30 other private parties that hold undisputed rights on Covey Lane and Mountain Ridge, 80% of whom have signed a petition opposed to Accretive's proposed use of these roads for development dramatically inconsistent with the County General Plan and the Local Community Plan and presenting an unacceptable and illegal burden upon existing easement holders.

In conclusion, we believe that the failure of the DEIR to address the multiple, major and critical issues raised herein requires that the DEIR be rewritten and renoticed for public comment. The issues are too detailed and complicated to be dealt with meaningfully by way of responses to comments.

Very Truly Yours,

**KEVIN K. JOHNSON, APLC**

A handwritten signature in black ink, appearing to read "Kevin K. Johnson", written in a cursive style. The signature is positioned above the printed name "Kevin K. Johnson".

Kevin K. Johnson

CC: Claudia Anzures, Esq. (via email)  
Mark Mead, Esq. (via email)

Exhibit "A" – Feb 5, 2013 KKJ APCL to Thomas Montgomery letter re: Mountain Ridge and Covey Lane Private Road Easement Rights

Exhibit "B" – May 29, 2013 KKJ APLCCL Response to D. Hymer Letter

Exhibit "C" – June 25, 2013 Sight Distance Analysis – Covey Lane Private Road/West Lilac Public Road Intersection

Exhibit "D" – September 12, 2012 Request for Exemption from Road Standards – Mountain Ridge/Circle R intersection

Exhibit "E" – June 25, 2013 Sight Distance Analysis – Mountain Ridge/Circle R intersection

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February 5, 2013

## VIA CERTIFIED MAIL & EMAIL

Thomas Montgomery  
San Diego County Counsel  
Office of the County Counsel  
1600 Pacific Highway, Room 355  
San Diego, CA 92101  
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## VIA EMAIL

Mark Wardlaw  
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Director of Department of Planning &  
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Richard E. Crompton  
County of San Diego  
Director of Department of Public Works  
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## VIA US MAIL & EMAIL

San Diego Planning Commission  
County of San Diego  
Planning & Development Services  
5510 Overland Avenue, Suite 110  
San Diego, CA 92123  
Email: Lisa.Fitzpatrick@sdcounty.ca.gov

San Diego Board of Supervisors  
Greg Cox, Bill Horn, Dave Roberts,  
Ron Roberts, Dianne Jacob  
County Administrative Center  
1600 Pacific Highway, Room 335  
San Diego, CA 92101  
Email: greg.cox@sdcounty.ca.gov  
bill.horn@sdcounty.ca.gov  
dave.roberts@sdcounty.ca.gov  
ron.roberts@sdcounty.ca.gov  
dianne.jacob@sdcounty.ca.gov

**Subject:** Proposed Lilac Hills Ranch Development  
Absence of Accretive Investments' Legal Rights for Use of Mountain Ridge and  
Covey Lane Private Road Easements and failure to satisfy conditions of approval

Honorable County Supervisors; County Counsel Montgomery; Planning Commissioners; and  
County Staff:

This firm represents a number of property owners who own Rights of Way on Mountain Ridge Road and Covey Lane. We are writing to advise you that Accretive Investments does not hold any road easements to or upon Mountain Ridge Road and has limited rights on Covey Lane. Representations of expanded easement "rights" by Accretive have resulted to date in at least two legally unsupported and inappropriate County actions.

On December 17, 2010, the Planning Commission, relying on incorrect information in the December 16, 2010 letter in Attachment "A" from Accretive's Engineering consultant, voted 4-2-1 to approve the Accretive Investment's Plan Amendment Authorization (PAA) 09-007.

February 5, 2013

In April and September of 2012, Accretive's Lilac Hills Ranch General Plan Amendment GP 12-001 and Specific Plan SP12-001 were improperly allowed to proceed in the County's approval process because the represented Private Road Easement rights for Covey Lane and Mountain Ridge Road appeared to meet but did not meet, the "dead end road" secondary access requirement of the County's 2011 Consolidated Fire Code and other related County mandatory requirements.

County Staff is requested to carefully reexamine Accretive's claims of legal right to use Private Roads for its proposed development based upon the following information.

As stated in Attachment "B":

"It is the applicant's responsibility to provide suitable evidence that offsite improvements including grading, dedications, grants (if any), and easements can be accomplished without resorting to County of San Diego assistance...  
... Other evidence satisfactory to the County that clearly shows an existing and continuing right to construct the required improvements."

Ten Mountain Ridge Road and eight Covey Lane Private Road Easement holders have recently confirmed that they will not grant easement rights to Accretive now or in the future. See Attachment "C" hereto. Accretive therefore cannot make the necessary showing required by Attachment "B".

### **Easement History and Expanded Discussion**

**Mountain Ridge Private Road Easement** - The 40 foot Private Road Easement for Mountain Ridge was created by Private Road Maintenance Agreement 1993-0850511 recorded December 16, 1993 and multiple other Private Road Easement agreements. These agreements have not been modified or superseded. Ten heirs and assigns of the subject agreement have all signed Attachment "C1" confirming they will not grant easement rights to Accretive now or in the future.

Accretive Parcels 129-300-09 and -10 that border Mountain Ridge have NO ROAD EASEMENT to use Mountain Ridge recorded in their Deed (see Attachment "E"). There are no existing documents outside of the Deed for these parcels that record a legal easement to use Mountain Ridge Private Road. An analysis of Chicago Title Company fourth amended Title Report dated August 30, 2012 received via a California Public Records Act request validates this statement.

Accretive has no legal rights to utilize the Southern 2500 feet of Mountain Ridge Private Road for any road purposes whatsoever.

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**Mountain Ridge Private Road** - Although Accretive has no legal rights to utilize the Southern 2500 feet of Mountain Ridge Private Road, on Sheet 8 “Offsite Improvements” of the Tentative Master Map TM 5571 RPL 1 that was released for public review together with the September 2012 draft of the Lilac Hills Ranch Specific Plan, Accretive has drawn an approximate 2500 linear foot Private Road connecting their proposed Subdivision with the Circle R Drive Public Road. (See Attachment “D”).

Accretive asserts no legal easement for this Mountain Ridge Private Road on Sheet 2 of TM 5571 RPL 1 “Existing Easements” or Sheet 3 “Easement Notes.”

However, on Sheet 8 “Offsite Improvements”, Accretive represents a proposed Private Road with reference to grading, widening and other improvements.

Accretive does not currently have rights to use the Mountain Ridge Private Road for purposes of their proposed Subdivision, nor will they achieve these rights in the future.

**Covey Lane Private Road Easement** - The 40 foot Private Road Easement for Covey Lane was created by Private Road Easement Agreement 79-539700 recorded December 28, 1979. This agreement has not been modified or superseded.

While Accretive has rights as an “heir or assignee” to this 12/28/79 agreement, there are eleven other current Heirs and Assigns that would need to grant Accretive additional rights to use Covey Lane for the uses that the Applicant has described in their September 2012 Specific Plan and road network represented in Tentative Master Map TM 5571 RPL 1.

Eight current Heirs and Assigns have certified that they have never granted Accretive rights for Road Easement rights beyond those contained in Private Road Easement Agreement 79-539700, nor will they. This certification is attached in Attachment ‘C2’.

**Covey Lane Public Road** - On Sheet 8 “Offsite Improvements” of the Tentative Master Map TM 5571 RPL 1 that was released for public review together with the September 2012 draft of the Lilac Hills Ranch Specific Plan, Accretive represents an approximate 600 linear foot Public Road connecting their proposed Subdivision with the West Lilac Road Public Road. (See Attachment “D”).

Accretive asserts no legal easement for this Public Road on Sheet 2 of TM 5571 RPL 1 “Existing Easements” or Sheet 3 “Easement Notes.”

However, on Sheet 8 “Offsite Improvements” – Accretive represents a proposed Public Road connecting to the public West Lilac Road with a reference note to an “EXIST. 30’ IRREVOCABLE OFFER TO DEDICATE.”

An Irrevocable Offer to Dedicate (IOD) to dedicate 30’ of road easement was offered to the County and rejected for use August 29, 2000 via Subdivision Map TM 18536. The IOD granted and rejected by the County does not fully connect to the east to West Lilac Road,

February 5, 2013

needing rights from two additional property owners to connect to West Lilac Road. Additionally, this IOD conflicts with the Covey Lane 40' Private Road Easement Agreement 79-539700 recorded December 28, 1979.

Accretive does not have legal rights for the "Covey Lane (Pub)" road depicted in Sheet 8 of TM 5571 RPL 1. The IOD for an approximate 30' road easement is property of the County and Accretive cannot use these rights, without resorting to County of San Diego assistance, violating a condition previously imposed on Accretive by the County.

Accretive does not have rights to use the Covey Lane Private Road for purposes of their proposed Subdivision, nor will they achieve these rights in the future.

**Ciremele Surveying Independent Review** - In the letters in Attachment "F", a licensed California Surveyor has independently reviewed the above assertions regarding Mountain Ridge and Covey Lane Private Roads and has certified their accuracy and completeness.

**December 16, 2010 Landmark Consulting Letter "Valley Center Sustainable Community/ PAA 09-007" to Vice Chair Leon Brooks (Attachment "A")** – Accretive represented in Planning Commission testimony that Accretive had legal rights to use Mountain Ridge Road and Covey Lane as private circulation roads for their proposed Subdivision.

However, public testimony during the Planning Commission hearing established that Accretive did not hold legal rights to use Covey Lane, Rodriguez Road, and Mountain Ridge Private Roads for circulation purposes and secondary road access.

The Planning Commission ignored this public testimony and voted 4-2-1 to approve Accretive's Plan Amendment Authorization PAA-009-07 relying on incorrect statements by Accretive's engineering consultant. Accretive did not have these rights as of December 16, 2010 and to date does not have the rights stated in the letter.

### **Requested Action**

**Rescind the Planning Commission vote approving PAA 09-007 on December 17, 2010.** The Planning Commission relied on the letter provided by Accretive with the seals of a Licensed Surveyor and Registered Engineer on December 16, 2010 in which Accretive, through its representative, made incorrect statements regarding its rights to use Mountain Ridge and Covey Lane Private Roads for the proposed subdivision.

**Formally and immediately Reject the General Plan Amendment 12-001 as filed on the following two grounds:**

1. Accretive did not have legal rights for the Private Road Easements to Mountain Ridge and Covey Lane to obtain PAA approval, which were a prerequisite/condition for General Plan Amendment requests at the time of the PAA approval.

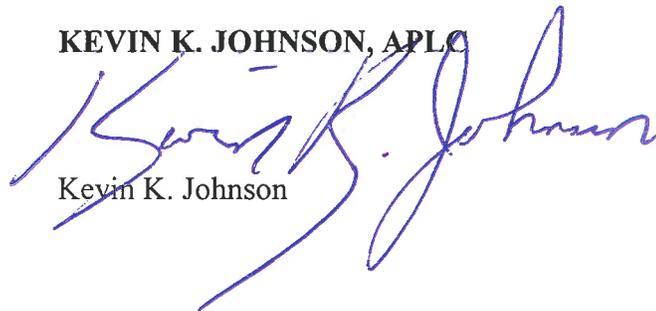
February 5, 2013

2. Accretive has failed to achieve required entitlements from Mountain Ridge and Covey Lane private easement holders and cannot demonstrate that Accretive can secure them in the future. Current owners of Covey Lane and Mountain Ridge Private Road easement rights have certified that they will not grant additional rights to Accretive.

Thank you for your consideration of these matters. We look forward to your response.

Sincerely,

**KEVIN K. JOHNSON, APLC**



Kevin K. Johnson

CC:

Rich Grunow DPDS Advanced Planning  
Mark Slovick SP 12-001 DPS Project Manager  
Jarrett Ramaiya DPS Planning Manager

**References:**

December 12, 2010 Patsy Fritz to Vice Chairman Brooks and Members of the Planning Commission subject: Challenging Private Road Easement Rights asserted by Accretive

July 27, 2012 Mark Jackson to DPLU Mark Slovick subject: EIR Scoping comments, with specific comments challenging Accretive's asserted Private Road Easement Rights

October 25, 2012 Valley Center Planning Group to Mark Slovick subject: Comments to the September 25, 2012 Lilac Hills Specific Plan submitted by Accretive with specific comments challenging Accretive's Private Road Easement assertions

October 26, 2012 Mark C Mead to Patsy Fritz e-mail and attachments subject: California Public Records Act Request Private Road Easements + 2 Attachments

**Attachment A:** December 16, 2010 Landmark Consulting Letter "Valley Center Sustainable Community/ PAA 09-007" to Vice Chair Leon Brooks

February 5, 2013

**Attachment B:** Excerpts of instructions regarding Private Road Easements within the County Accretive General Plan Amendment Pre-Application Scoping Letter MPA 10-25 dated February 7, 2011

**Attachment C1:** Certification of Current Heirs and Assigns to *Mountain Ridge Private Road Easement Agreements*

**Attachment C2:** Certification of Current Heirs and Assigns to *Covey Lane Private Road Easement Agreement*

**Attachment D:** September 25, 2010 Accretive Investments proposed Tentative Map 5571- RPL 1 Sheet 8 *Offsite Improvements – Mountain Ridge and Covey Lane Private Roads*

**Attachment E:** Deed for Accretive Parcels 129-300-09 and -10

**Attachment F:** Ciremele Surveying Letters – Mountain Ridge and Covey Lane

**Attachment A - December 16, 2010 Landmark Consulting Letter "Valley Center Sustainable Community/ PAA 09-007" to Vice Chair Leon Brooks**

December 16, 2010

Vice Chairman Leon Brooks  
County of San Diego Planning Commission  
5201 Ruffin Road, Suite B  
San Diego, CA 92123

**RE: Valley Center Sustainable Community / PAA 09-007**

Dear Vice Chairman Brooks & Planning Commissioners:

I am writing this letter to discuss the legal access issues associated with the above referenced PAA. Along with this letter, I have attached the "Legal Access Exhibit for Valley Center Sustainable Community" prepared by my office.

Per the County's Subdivision Ordinance, any subdivision must have two adequate access points that lead to publicly maintained roads. Private road easements are acceptable access as long as they are a minimum of 40' wide and allow access to a public road. Other than the public road frontage on W. Lilac Road (or the primary access to the site), this property has 3 private road easements that are 40' wide that allow access to a public road. They are Covey Lane which leads to W. Lilac Road (depicted as Access Note "C" on the attached Legal Access Exhibit), Rodriguez Road which also leads to W. Lilac Road (depicted as Access Note "D" on the attached Legal Access Exhibit) and Mountain Ridge Road which leads to Circle R Drive (depicted as Access Note "H" on the attached Legal Access Exhibit). Anyone of these secondary access options are available and viable for this project. Consequently, there are more than enough access points to allow this subdivision. However, these private roads would have to be rebuilt to current private road standards – which, based upon my professional opinion, won't be a problem based upon existing topographic constraints. There is also the real possibility that public road 3A will be required with this project which would provide yet another acceptable access for this subdivision.

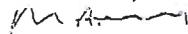
Additionally, it is too early in the planning process to commit to a circulation/traffic plan for this project. All of these issues would be analyzed in depth after the PAA is approved and the planning work/traffic studies are completed.

The other private road easements depicted on the Legal Access Exhibit are either not 40' wide or do not extend to a public road. However, these other private road easements could be used for bicycle or pedestrian access or circulation.

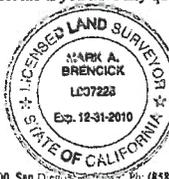
In summary, acceptable access to this project is not an issue in allowing a major subdivision at this location. Please do not hesitate to contact me if you have any questions regarding this letter.

Sincerely,

LANDMARK CONSULTING

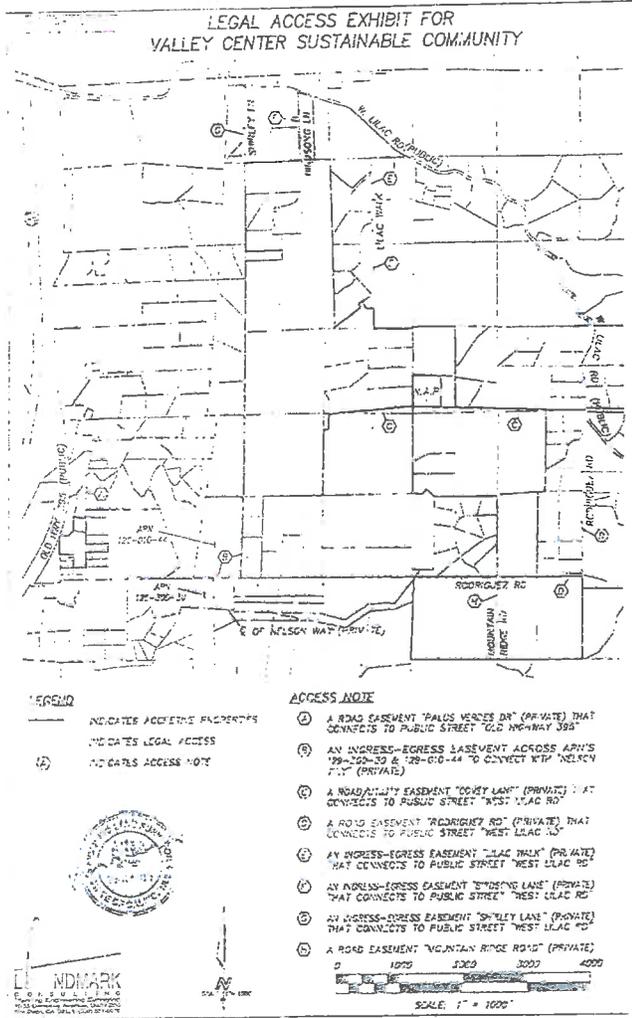


Mark A. Brencick, PE, PLS, Esq.  
President



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LEGAL ACCESS EXHIBIT FOR  
VALLEY CENTER SUSTAINABLE COMMUNITY



**LEGEND**  
 ——— INDICATES ADJACENT PROPERTIES  
 - - - - INDICATES LEGAL ACCESS  
 (1) INDICATES ACCESS NOTE

**ACCESS NOTE**  
 (1) A ROAD EASEMENT "PAULS VERDE DR" (PRIVATE) THAT CONNECTS TO PUBLIC STREET "OLD NW-WAY DR"  
 (2) AN INGRESS-EGRESS EASEMENT ACROSS ARV'S "198-00-00 & 198-00-44" TO CONNECT WITH "NELSON WAY" (PRIVATE)  
 (3) A ROAD EASEMENT "COWLEY LANE" (PRIVATE) THAT CONNECTS TO PUBLIC STREET "WEST LIAC RD"  
 (4) A ROAD EASEMENT "RODRIGUEZ RD" (PRIVATE) THAT CONNECTS TO PUBLIC STREET "WEST LIAC RD"  
 (5) AN INGRESS-EGRESS EASEMENT "LIAC WALK" (PRIVATE) THAT CONNECTS TO PUBLIC STREET "WEST LIAC RD"  
 (6) AN INGRESS-EGRESS EASEMENT "SHIMONE LANE" (PRIVATE) THAT CONNECTS TO PUBLIC STREET "WEST LIAC RD"  
 (7) AN INGRESS-EGRESS EASEMENT "SHILLY LANE" (PRIVATE) THAT CONNECTS TO PUBLIC STREET "WEST LIAC RD"  
 (8) A ROAD EASEMENT "MOUNTAIN RIDGE ROAD" (PRIVATE)

**LANDMARK**  
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 Valley Center, KS 67157  
 Phone: 785.853.1111  
 Fax: 785.853.1112  
 www.landmarkks.com

SCALE: 1" = 1000'

**Attachment B: Excerpts of instructions regarding Private Road Easements within the County Accretive General Plan Amendment Pre-Application Scoping Letter MPA 10-25 dated February 7, 2011**

**4. Off-Site Grading for Public and/or Private Road Improvements**

To allow for public and/or private improvements for areas outside the boundary of this subdivision along Interstate 15, Old Highway 395, West Lilac Road, proposed Mobility Element Road 3A, Birdsong Drive, Covey Lane, Mountain Ridge Road, Nelson Way, Rodriguez Road, and other roads in the vicinity of the project site, the following shall be completed:

It is the applicant's responsibility to provide suitable evidence that offsite improvements including grading, dedications, grants (if any), and easements can be accomplished without resorting to County of San Diego assistance. This evidence can be provided in several forms (provide a letter of explanation with the below forms) used:

- A Title Report showing applicant has the right to construct improvements along with a Title Company Guarantee (\$20,000) acknowledging those rights;
- Recorded Grant Deed or Recorded Right To Purchase for the area where improvements are to be constructed;
- Other evidence satisfactory to the County that clearly shows an existing and continuing right to construct the required improvements.

The applicant's evidence must also show the ability to have any existing utility easements subordinated to the new Public Easement (if any) as per County Subdivision Ordinance. The foregoing must be accomplished to the satisfaction of DPLU and DPW prior to DPW writing final requirements for this project.

Provide a Map, to Engineer's scale, which clearly indicates any off-site road Easements/Dedications/Letters of Permission to Grade/Improve to be acquired, existing I.O.D.s, existing Public Road Easements, etc. Letters of Permission to Grade/Improve must be notarized. Please note that existing off-site road easements may need to be expanded to accommodate road widening required by the project. The ultimate right-of-way width required would be determined through the results of a traffic study.

**Attachment C1: Certification of Current Heirs and Assigns to Mountain Ridge Private Road Easement Agreement 1993-0850511 recorded December 16, 1993**

I hereby certify that I/We am a current Heir or Assign to Mountain Ridge Private Road Easement Agreement 1993-0850511 recorded December 16, 1993 and other recorded easements that grant rights for the Southern 2500 feet of Mountain Ridge that connect with the Public Circle R Drive.

I/We further certify that I/We have granted no additional rights for use of the Mountain Ridge Private Road Easement beyond those indicated in 1993-0850511 and other recorded legal easements.

I/We additionally certify that I/We oppose the use of Mountain Ridge as a secondary access road for the purposes of Accretive Investments' proposed General Plan Amendment 12-001.

11-1-2012.

4767 Megan Terrace	Rachel [unclear]
5795 MEGAN TERRACE	Angela [unclear]
4755 Megan Terrace	William [unclear]
6185 Megan Terrace	William [unclear]
9733 ADAM PT	gabriel nancy [unclear]
9790 Megan Terrace	Beth Samantha de Souza
9779 Megan Terrace	Ann Fong Bruce Feisberg
31013 Mountain Ridge Rd.	Will [unclear] William B [unclear]
9741 ADAM CT	Ray S
9146 Megan Terrace	Maria [unclear]

Page 11 of 24

**Attachment C2: Certification of Current Heirs and Assigns to Covey Lane  
Private Road Easement Agreement 79-539700 recorded December 28, 1979**

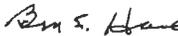
Page 9 of

**Attachment C: Certification of Current Heirs and Assigns to Covey Lane Private Road Easement Agreement 79-539700 recorded December 28, 1979**

I/We hereby certify that I/We am/are a current Heir or Assign to Covey Lane Private Road Easement Agreement 79-539700 recorded December 28, 1979.

I/We further certify that I/We have granted no additional rights to Accretive Investments for use of the Covey Lane Private Road Easement beyond those indicated in 79-539700.

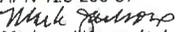
I/We additionally certify that I/We oppose the use of Covey Lane as a secondary access road for the purposes of Accretive Investments' proposed General Plan Amendment 12-001.

 11-5-12  
Ben and Darlene Hare (dated)  
APN 129-190-44

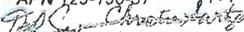
 11/3/12  
Ken and (wife) Blue (dated) 11/3/12  
APN 128-290-65

 11-3-12  
Rob and Tissa Carr (dated)  
APN 129-018-83

  
Qing and Glynnda Purdy (dated)  
APN 128-290-37

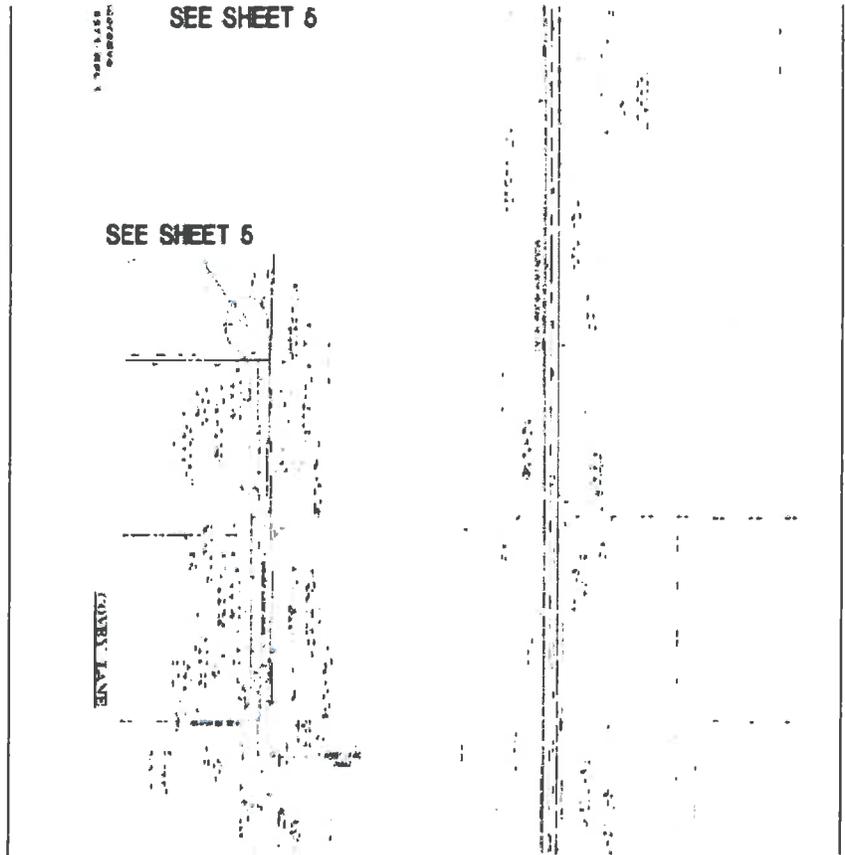
 11/1/2012  
Mark and Warren Jackson (dated)  
APN 128-290-77

 11/3/12  
Peter and Elizabeth Bulkley (dated)  
APN 129-190-37

 11/2/12  
Ted and Christie Switzer (dated)  
APN 129-010-84

  
Alfred and Floann Sahnipoli (dated) 11-3-12  
APN 128-290-76

**Attachment D:** September 25, 2010 Accretive Investments proposed Tentative Map 5571- RPL 1 Sheet 8 *Offsite Improvements – Mountain Ridge and Covey Lane Private Roads*





6091

EXHIBIT 'A'  
LEGAL DESCRIPTION  
31039 PODRIGUEZ ROAD, ESCROWED, CA 92121  
APN: 129 011 05 124 700 09 129 700 10

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO, AND IS DESCRIBED AS FOLLOWS:

PART 1

THE WEST HALF OF THE SOUTHEAST QUARTER OF THE NORTH-EAST QUARTER OF SECTION 30, TOWNSHIP 10 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED APRIL 21, 1893

PART 2

THE EAST 20 ACRES OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 10 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED NOVEMBER 1, 1913.

PART 3

THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 10 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED NOVEMBER 1, 1913.

EXCEPTING THEREFROM THE EAST 20 ACRES THEREOF

PART 4

AN EASEMENT AND RIGHT OF WAY FOR ROAD PURPOSES AND INCIDENTAL PURPOSES OVER, ALONG AND ACROSS THE SOUTHERLY 200 FEET OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTH-EAST QUARTER OF SECTION 30, TOWNSHIP 10 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED APRIL 21, 1893

PART 5

AN EASEMENT AND RIGHT OF WAY FOR INGRESS AND EGRESS FOR ROAD PURPOSES OVER, ALONG AND ACROSS THE SOUTHERLY 200 FEET OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTH-EAST QUARTER OF SECTION 30, TOWNSHIP 10 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED APRIL 21, 1893.

6092

PARCEL 6.

AN EASEMENT AND RIGHT OF WAY FOR INGRESS AND EGRESS FOR ROAD PURPOSES OVER, ALONG AND ACROSS THE NORTH 20 FEET OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 10 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED, NOVEMBER 1, 1913

PARCEL 7.

AN EASEMENT AND RIGHT OF WAY FOR INGRESS AND EGRESS FOR ROAD PURPOSES OVER, ALONG AND ACROSS THAT PORTION OF THE SOUTH 5 ACRES OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 10 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY DESCRIBED AS FOLLOWS

COMMENCING AT THE NORTHEAST CORNER OF SAID SOUTH 5 ACRES OF THE EAST HALF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 30, THENCE ALONG THE EASTERLY LINE OF SAID SECTION 30, SOUTH 00°10'14" WEST, 297.00 FEET TO THE TRUE POINT OF BEGINNING, THENCE PARALLEL WITH THE NORTHERLY LINE OF SAID SOUTH 5 ACRES NORTH 89°16'39" WEST, 330.00 FEET, THENCE PARALLEL WITH THE EASTERLY LINE OF SAID SECTION 30, NORTH 00°10'14" EAST, 330.00 FEET, THENCE PARALLEL WITH THE NORTHERLY LINE OF SAID SOUTH 5 ACRES, NORTH 89°16'39" WEST, 330.00 FEET TO THE INTERSECTION WITH THE WESTERLY LINE OF EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 30, THENCE ALONG SAID WESTERLY LINE SOUTH 00°10'14" WEST, 254.00 FEET TO THE INTERSECTION WITH THE SOUTHERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 30, THENCE ALONG SAID SOUTHERLY LINE SOUTH 89°16'39" EAST, 660.00 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 30, THENCE ALONG THE EASTERLY LINE OF SAID SECTION 30, NORTH 00°10'14" EAST, 231.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 8.

AN EASEMENT AND RIGHT OF WAY FOR INGRESS AND EGRESS FOR ROAD PURPOSES OVER, ALONG AND ACROSS THE EAST 20 FEET OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 10 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED, APPROXIMATE APRIL 21, 1890

EXCEPTING THEREFROM THAT PORTION IN PARCEL 5 HEREINABOVE DESCRIBED

6093

PARCEL 9:

AN EASEMENT FOR INGRESS AND EGRESS FOR ROAD PURPOSES OVER, ALONG AND ACROSS THE WEST 20 FEET OF THE NORTHWEST QUARTER AND THE NORTH 20 FEET OF THE NORTHWEST QUARTER LYING WEST OF THE WESTERLY LINE OF LILAC ROAD OF SECTION 29 TOWNSHIP 10 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED, APRIL 21, 1890 AND OVER AND ALONG AND ACROSS THE NORTH 20 FEET OF THE WEST 20 FEET OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 10 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED, APRIL 21, 1890.

PARCEL 10:

AN EASEMENT AND RIGHT OF WAY FOR INGRESS AND EGRESS FOR ROAD PURPOSES, OVER, ALONG AND ACROSS THE SOUTH 20 FEET OF THE EAST 20 FEET OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 19, AND THE SOUTH 20 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20 LYING WESTERLY OF THE WESTERLY LINE OF WEST LILAC ROAD, ALL BEING IN TOWNSHIP 10 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED, APRIL 21, 1890.

ALL OF SAID EASEMENT PARCELS HEREIN DESCRIBED ARE HEREBY DECLARED TO BE APPURTENANT TO AND FOR THE USE AND BENEFIT OF ALL OR ANY PORTION OF LAND OWNED BY THE GRANTEES, THEIR SUCCESSOR OR ASSIGNS HEREIN LYING WITHIN THE ROUTE OF SAID EASEMENT.

**Attachment F: Ciremele Surveying Letters – Mountain Ridge and Covey Lane**

**Ciremele Surveying Inc.** is a full-service land surveying firm based in Escondido, California. Operating since 1998, Ciremele Surveying has more than 45 years combined experience providing land surveying services in California and Arizona.

Chris Ciremele, has been a licensed surveyor for 30 years and holds licenses in California and Arizona. Ciremele Surveying is a member of the California Land Surveyors Association and The National Society of Professional Land Surveyors.

Ciremele Surveying provides services to a myriad of clients including, but not limited to engineers, architects, tribal lands, insurance agents, attorneys, expert witness, contractors, investors, developers, realtors, and residential land owners with land surveying needs in San Diego, Riverside, Orange County and San Bernardino County.



**CIREMELE  
SURVEYING INC.**

• 64 S. Escondido Blvd., Escondido, CA 92025 • Phone (760) 489-2200 • Fax (760) 489-2267

January 14, 2013

Kevin K. Johnson, APLC  
Attorneys at Law  
600 W. Broadway #225  
San Diego, CA 92101

**Subject:** Analysis of Accretive Lilac Hills Subdivision existing easements for use of Covey Lane private road by the proposed Accretive Lilac Hills Ranch Subdivision

**References:**

- a) August 30, 2012, Chicago Title 4<sup>th</sup> amended Preliminary Report, Accretive "Las Lilas Map"
- b) Lilac Hills Ranch Tentative Map Tract 5571 Rpl 1 dated 9/13/12
- c) Parcel Map 18536 – Minor Subdivision rec. 8/29/2000

I have reviewed the above referenced map, Title Report document, and Minor Subdivision Parcel Map.

Accretive has identified 19 "Existing Easements to Remain" on Tentative Map Tract 5571 Rpl 1 dated 9/13/12 sheet 2- Existing Easements and sheet 3 – Easements Notes along the route of the existing Covey Lane private road. Of these 19 easements, 7 are road and utility easements, 2 are Irrevocable Offers to Dedicate, and the remaining 10 are utility easements.

Of the 7 road easements listed below, the only easement that runs the full approx. 4328 foot length of the existing Covey Lane private road is item 102- "40' wide road and utility easement: 1/11/79-539700 O.R. Rec. 12/28/1979."

ITEM No.	
72	20 ROAD AND UTILITY ESMI LN 1951 O.R. REC. 1201971
66	70 VCMWV UTILITY ESMI
107	30 ROAD & UTILITY ESMI LN 70 539700 O.R. REC. 12 28 1979
99	140 ROAD & UTILITY EASEMENTS 78-344789 & 78-344795 O.R. REC. 8 15 1978
14	20 ROAD & UTILITY ESMI BK 3496 PG. 236 O.R. REC. 11 11 1955
05	20 ROAD ESMI OVER EASE COVEY LANE LN 76 402688 O.R. REC. 9 20 1979
33	75 SDI&L UTILITY ESMI
12	20 ROAD & UTILITY BK 3488 PG 465 O.R. REC. 11 7 1955
13	20 ROAD & UTILITY BK 3496 PG 236 O.R. REC. 11 14 1955

In the preliminary Title Report.

The "Legal Description" of Assessor Parcels within the proposed Accretive Subdivision that border Covey Lane are listed below. There are many road easements for these parcels none that run the entire length of the existing length of the existing Covey Lane private road. Some are part of the deed 79 539700 giving the parcels legal access to West Llac Road.

PARCEL No.	ASSESSOR'S PARCEL NUMBER
TITLE RP1	
	<b>NORTH SIDE OF COVEY</b>
55	128-290-51
385	128-290-60 & 128-290-61
375	128-290-57
	<b>SOUTH SIDE OF COVEY</b>
55	129-010-02
385	129-010-69 AND 129-010-72
87	129-010-68

In schedule B- Matters Affecting Parcels 55, 38A, 37A, 90A, and 87 there are many legacy road easements, none of which run the full length of Covey Lane private road to its intersection with West Liac Road (public). All of the bordering parcels described in the Legal Description have Covey Lane private road easement rights via Instrument No. 79-539700 recorded 12/28/1979 granting ingress and egress to West Liac Road (public).

There are three cited Irrevocable Offers of Dedication (I O D) of public right of way.

Item 334- Instrument No. 81-173147 recorded 6/3/1981 offers an additional 30' road RoW across the Northern border of APN's 129-010-69 and -72 along the South side of the route of the existing Covey Lane private road for a distance of approx. 4328 feet.

Item 152- Instrument No. Document 80-193808 recorded 6/18/1980 offers an additional 30' road RoW across the Southern border of APN's 128-290-60 and -61 along the North side of the route of the existing Covey Lane private road for a distance of approx. 600 feet.

Item 136- Instrument No. Document 80-172563 recorded 5/28/1980 offers an additional 30' road RoW across the Southern border of APN 128-290-57 along the North side of the route of the existing Covey Lane private road for a distance of approx. 600 feet. This IOD was not listed on the TM 5571 RPL 1 Map.

These three IODs do not extend to both sides of the 4328 foot full route of the existing 40' Covey Lane private road.

Parcel Map- Minor Subdivision 18536 rec. 8/28/2000 the most recent recorded Subdivision Map for the property that borders Covey Lane private road have certification approved by the County of San Diego that cite Instrument No. 79-539700 dated 12/28/1979 as the easement granting private road rights for use of the Covey Lane.

If the certification in Minor Subdivision 18536 is correct Instrument No., 79-539700 recorded 12/28/1979 is the governing document for existing 40' Covey Lane easement rights.

In addition to Accretive parcels that are heir and assigns to Instrument No 79-539700 recorded 12/28/1979, there are 11 other current property owners that border the route of the existing 40 Covey Lane private road. The parcels are listed below.

129-190-44	129-190-37
128-290-65	129-010-84
129-010-83	128-290-67
128-290-37	128-290-38
128-290-77	128-290-76
129-010-61	

Sincerely,

*Chris Cremele*  
Chris Cremele  
Cremele Surveying  
Professional Licensed Surveyor LS 5267





**CIREMELE  
SURVEYING INC.**

• 164 S. Escondido Blvd. Escondido, CA 92025 • Phone (760) 469-2200 • Fax (760) 499-2227

January 14, 2013

Kevin K. Johnson, APLC  
Attorneys at Law  
600 W. Broadway #225  
San Diego, CA 92101

**Subject:** Analysis of Accretive Lilac Hills Subdivision existing easements for use of Mountain Ridge Private Road by the proposed Accretive Lilac Hills Ranch Subdivision

**References:**

- a) August 30, 2012 Chicago Title 6" amended Preliminary Report- Accretive Lilac Hills Map
- b) Lilac Hills Ranch Tentative Map Tract 5571 Rpl 1 dated 9/13/12

I have reviewed the above referenced map and Title Report document.

There are no "existing road easements" over Mountain Ridge Road asserted by Accretive on Tentative Map Tract 5571 Rpl dated 9/13/12 Sheet 2 For Accretive's use - *Existing Easements* and Sheet 3 Easement Notes for Mountain Ridge Road South of the proposed Subdivision. Boundaries on parcels 129-300-09 and -10, which form the southern boundary of the proposed Subdivision.

In the preliminary Title Report

The Legal Description of Parcel 93 (APN 129-300-09) and Parcel 94 (APN 129-300-10) contains reference to seven recorded easements.

The seven road easements are referred to in the Preliminary Title Report as Legal Description Parcels 94, 95, 96, 97, 98, 99 and 100. These seven easements are for a route that utilizes Rodriguez Road to Covey Lane to West Lilac. No easements to use Mountain Ridge Private Road South of APN's 129-300-09 and -10 are described in the seven easement references.

In Schedule B- Matters Affected Parcels 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 there are items 341-372. After reviewing these 32 items, there are none that explicitly grant Accretive road easements for use of Mountain Ridge Private Road South of the southern boundary of APN's 129-300-09 and -10.

Based on the information in the two referenced documents, Accretive has not demonstrated rights to use Mountain Ridge private road south of APN's 129-300-09 and -10.

Sincerely,



Chris Ciremele  
Ciremele Surveying  
Professional Licensed Surveyor LS: 5267



# KEVIN K. JOHNSON, APLC

KEVIN K. JOHNSON  
JEANNE L. MacKINNON  
HEIDI E. BROWN

A PROFESSIONAL LAW CORPORATION  
ATTORNEYS AT LAW  
600 WEST BROADWAY, SUITE 225  
SAN DIEGO, CALIFORNIA 92101

TELEPHONE (619) 696-6211  
FAX (619) 696-7516

May 29, 2013

**VIA CERTIFIED MAIL & EMAIL**

Thomas Montgomery  
San Diego County Counsel  
Office of the County Counsel  
1600 Pacific Highway, Room 355  
San Diego, CA 92101  
Email: thomas.montgomery@sdcounty.ca.gov

**VIA US MAIL & EMAIL**

San Diego Planning Commission  
County of San Diego  
Planning & Development Services  
5510 Overland Avenue, Suite 110  
San Diego, CA 92123  
Email: Lisa.Fitzpatrick@sdcounty.ca.gov

**VIA EMAIL**

Mark Wardlaw  
County of San Diego  
Director of Department of Planning &  
Development Services  
Email: mark.wardlaw@sdcounty.ca.gov

Richard E. Crompton  
County of San Diego  
Director of Department of Public Works  
Email: richard.crompton@sdcounty.ca.gov

San Diego Board of Supervisors  
Greg Cox, Bill Horn, Dave Roberts,  
Ron Roberts, Dianne Jacob  
County Administrative Center  
1600 Pacific Highway, Room 335  
San Diego, CA 92101  
Email: greg.cox@sdcounty.ca.gov  
bill.horn@sdcounty.ca.gov  
dave.roberts@sdcounty.ca.gov  
ron.roberts@sdcounty.ca.gov  
dianne.jacob@sdcounty.ca.gov

**Subject:** Response to David Hymer April 08, 2013 letter regarding Legal Rights for Use of Mountain Ridge and Covey Lane Private Road Easements related to the proposed Lilac Hills Ranch Development

**Honorable County Supervisors, County Counsel Montgomery; Planning Commissioners and County Staff:**

My office informed you via our February 5, 2013 letter that Accretive Investments lacks adequate road easement rights on two private roads outside the Subdivision boundaries of Accretive's proposed Lilac Hills Ranch project.

The February 5, 2013 letter was based on Amendment 4 to the Lilac Hills Ranch Preliminary Title Report (PTR) dated 8/30/12, which was received from the County on 10/26/12 as the result of a California Public Records Act request to the County. After receipt of Mr. Hymer's letter referencing Amendment 10 to the Lilac Hills Ranch PTR dated 2/1/13, we requested a copy of Amendment 10 of the PTR and it was subsequently provided by the County on April 16, 2013.

May 29, 2013

Amendment 10 of the PTR indicates that Accretive may have **limited rights** granted in 1957 to use the Mountain Ridge private road for two parcels. The 1957 grant of road easement is quite explicit in limiting the rights to the two parcels, not their entire proposed project. Please see the attached May 3 letter from Ciremele Surveying Inc. (Exhibit "A") showing that property owners outside the Southeast Quarter of Section 30 do not have rights to use the subject easement.

An objective reading of the documentation makes it clear that Accretive lacks adequate road easement rights on Covey Lane and Mountain Ridge to implement their project as proposed.

Two recent road exemption requests to the County from Accretive serve as functional admissions that the applicant does not have adequate road easement rights. See Exhibits "B" and "C". Also, if granted, these proposed exemptions will expose the County to non-standard roads liability and infringe dramatically upon the private property rights of existing road easement holders.

You should also be aware of a fatal accident that occurred August 9, 2007 at the intersection of Covey Lane and West Lilac Road wherein the line of sight is insufficient for safe driving. The County was sued for damages in *West v. County of San Diego, et al* 37-2008-00058195-CU-PO-NC.

### **Use of Public Rights to enable a private development**

Exhibits "A" and "H" in Mr. Hymer's April 08, 2013 letter graphically document that Accretive's "right of way" relies on multiple County owned Irrevocable Offers to Dedicate right of way for public usage. These rights are owned by the County and are explicit rights for **public roads**. Accretive is a private developer proposing Mountain Ridge as a private road enabled by public rights, and is also relying on receiving public rights to enable Covey Lane as an Interim Public Road to serve their proposed private project.

There are no County Plans identifying these roads as future County Roads.

Moreover, there is no public benefit in enabling Accretive to infringe upon the easement rights of the approximately 30 other private parties that hold undisputed rights on Covey Lane and Mountain Ridge, 80% who have signed a petition opposed to Accretive's proposed use of these roads.

### **Accretive is misinterpreting its Covey Lane Private Road Easement rights recorded in Document No. 1979-539700**

Accretive's Engineer, Mr. Brencick, asserts "This easement was granted in gross to all of the grantees identified in this document with the "right to ...dedicate the same for public use. ...Therefore, Accretive has the right to dedicate a portion of this easement to the County to

May 29, 2013

complete the public road connection between the easterly project boundary and West Lilac Road.”

This interpretation of Accretive’s rights supposedly granted by this document is flatly unreasonable.

The intent of the parties at formation of the agreement and a reasonable interpretation of the language of the agreement provides that a property owner can dedicate for future public use that portion of this easement that is on his property. Accretive can only grant public road easement rights on parcels that Accretive owns that have Covey Lane road frontage. Accretive clearly does not own all of the parcels with Covey Lane frontage. Accretive essentially is proposing granting public road easements against multiple parcels that they do not own.

**Accretive is also proposing grossly overburdening their limited road easement rights across Covey Lane and Mountain Ridge**

Accretive is proposing using Mountain Ridge and Covey Lane as circulation element and secondary access roads for a proposed city of 5,000 people. This would result in, without question, an illegal and gross overburdening of the subject easement rights. Civil Code Section 807: Russell v. Palos Verdes Properties (1963); 218 CA 2d 754, 772; Jordan v Worthen (1977) 68 CA 3d 310, 327.

Should the County allow this project to proceed it will infringing upon the private property rights of the approximately 30 owners of easement rights on these two roads.

**Requested Action**

Despite their statements to the contrary, Accretive does not hold legal rights to use Covey Lane and Mountain Ridge private roads for the purposes indicated in their proposed subdivision.

Moreover, 80% of the other easement holders of Covey Lane and Mountain Ridge have signed petitions stating that they will not grant Accretive additional rights.

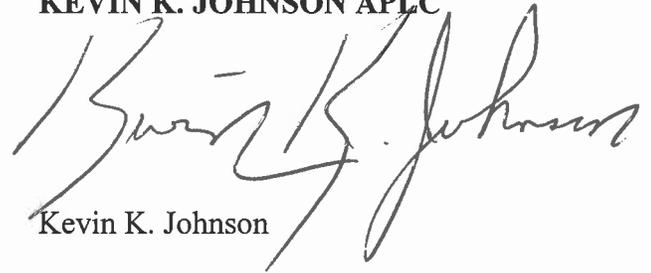
Before proceeding further with processing the subject project application, including the proposed General Plan Amendment 12-001, the County is requested to take a formal position on the easement rights issue. There is no point in continuing to use County resources and in wasting the public’s time in following and commenting upon a massive project which cannot be legally built.

May 29, 2013

The issue of adequate easement rights is not a mere civil dispute. The relevant documentation is clear and decisive.

Thank you for your prompt attention to these matters.

Very truly yours,  
**KEVIN K. JOHNSON APLC**

A handwritten signature in black ink, appearing to read "Kevin K. Johnson". The signature is written in a cursive, flowing style with a large, prominent initial "K".

Kevin K. Johnson

# EXHIBIT A



**CIREMELE  
SURVEYING INC.**

---

•164 S. Escondido Blvd, Escondido, CA 92025 •Phone (760)489-2200 • Fax (760)489-2202

May 3, 2013

Kevin K. Johnson, APLC  
Attorneys at Law  
600 W. Broadway #225  
San Diego, CA 92101

Having read the letter from Landmark Consulting dated April 8, 2013 and signed by Mark Brencick I have a few comments to make.

First: My letter of January 14, 2013 was based on the fourth revision of the preliminary title report. Since then a more current revision (tenth revision) has been produced. My current comments are based on this tenth revision.

Second: Mr. Brencick seems to think an "Irrevocable Offer to Dedicate" is much more than an offer made to the County by a property owner asking for a discretionary permit (in this case a Parcel Map). This offer has to be accepted by the County and that acceptance would make the County responsible for maintenance.

Third: The most striking statement by Mr. Brencick occurs under the heading Mountain Ridge Road regarding the four deeds recorded in 1957. He states that the easements in the deeds were granted to owners and future owners of the Southeast Quarter of Section 30. This I agree with, but he further states that the subject deed gives "the right to grant said easements to others". Since the words are in quotes, I assumed that the language was in the deeds. I re-read the deeds thinking I had missed something and found them to say:

"The easement and right of way is hereby declared to be appurtenant to and for the use and benefit of the present or future owner or owners of all or any portion of the Southeast Quarter of Section 30, Township 10 South, Range 2 West, San Bernardino Meridian."

In other words, any portion of the proposed Subdivision outside the Southeast Quarter of Section 30 does not have the right to use the easement. My opinion is that the deed is this specific because of a clear intent to avoid over-burdening the road.

Please call me with any questions or comments.

Sincerely,

Chris Ciremele, LS

# EXHIBIT B

DEPARTMENT OF PUBLIC WORKS

Request for a
Modification to a Road Standard
and/or to Project Conditions

Project Number: TM 5571/5572 Date of Request: Sep. 12, 2012

Project Location: East side of Interstate 15, southerly of W. Lilac Road in the County of San Diego, State of California.

Thos. Bros. Map/Grid: 1049, 1069 APN: 127-072-46, 127-072-47, 128-280-42, 128-440-01, 128-280-46, 128-280-27, 128-280-10, 128-440-23, 128-280-37, 128-440-05

Requestor Name: Accretive Investments, Inc Telephone: (858) 546-0700

Address: 12275 El Camino Real, Suite 110, San Diego, CA 92130

Requested Modification (attach engineering sketches showing existing layout, details and notes):

The County Public road standard for the angle between centerlines at intersections is to be as nearly a right angle as possible and in no case less than 70 degrees or greater than 110 degrees. Angles between 70-80 (or 100-110)degrees will require a taper on the acute angle for right turn movement. The requested modification to the road standard is to waive this requirement for a taper.

Reason for requested Modification (provide attachment if additional space is required):

The requested road modification is located at the intersection of Mountain Ridge Road and Circle R Drive, where the existing centerline of Mountain Ridge intersects Circle R at 72 degrees. This would require a taper for right turns from westbound Circle R Road onto Mountain Ridge Rd. Currently there is no right-of-way on this portion of Circle R Road and no room for a taper (see Attachment 1). This offsite property owner is hostile project and could hold up the entire project. Also, the traffic movement from westbound Circle 'R' Drive to northbound Mountain Ridge Road is very minimal.

List alternatives that could mitigate the requested Modification (attach engineering sketches showing proposed layouts, details and notes): Redesign Mtn Ridge Rd to approach Circle R at 90 degrees

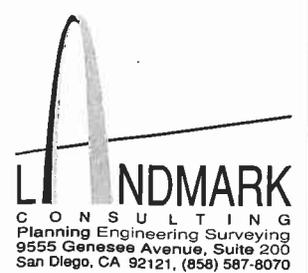
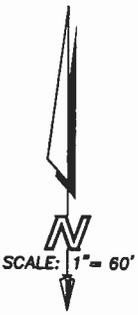
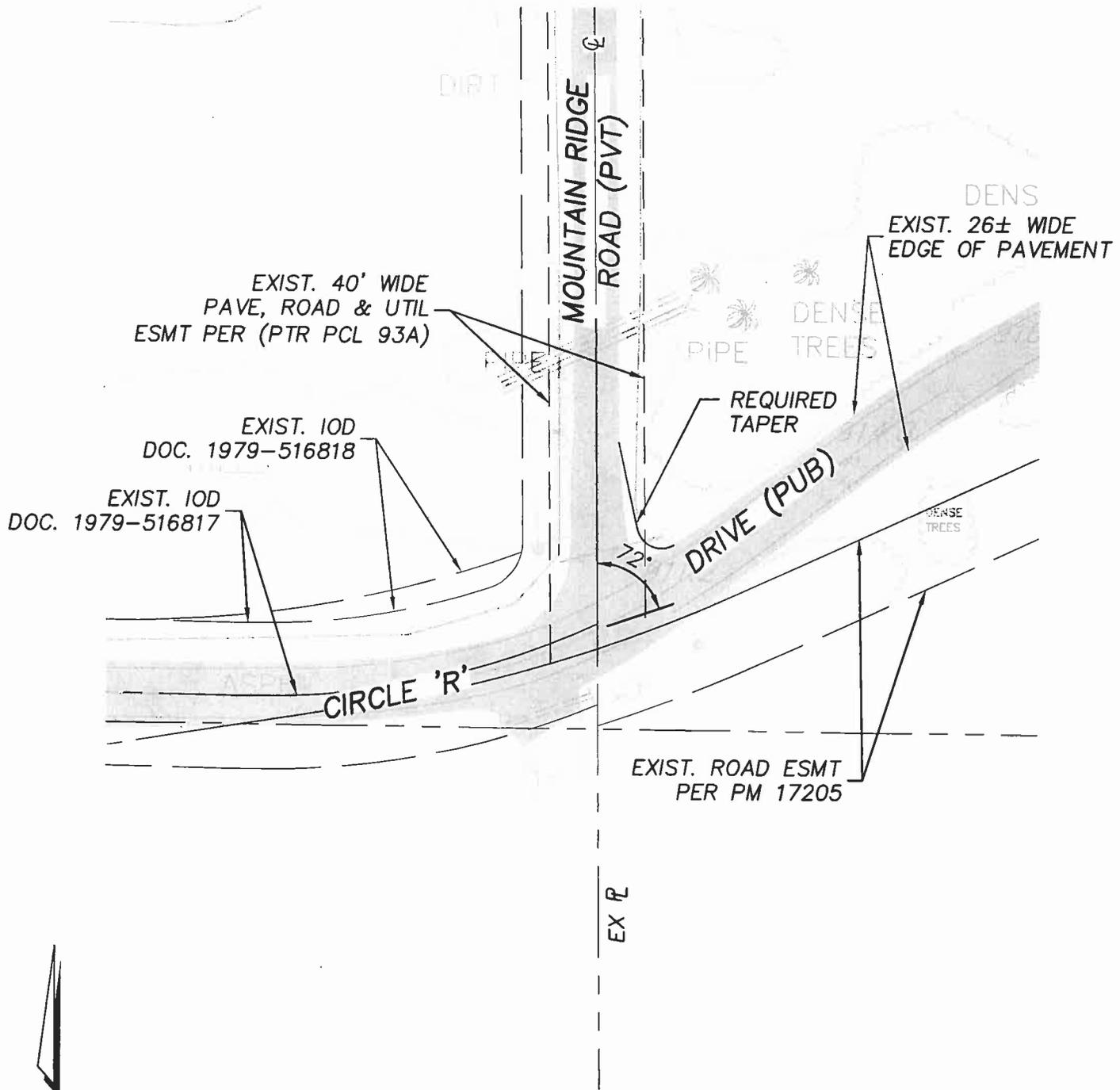
Describe the hardship(s) to the property owner(s) and/or neighbor(s) if the request is not approved (see note 3. on reverse):

A taper cannot be achieved without acquiring an additional road easement from a neighbor that is against any form of development and improvements. There is virtually no traffic movement that would benefit from this right turn taper.

Provide Design and Cost Estimate for meeting the Condition (see note 3. on reverse):

See reverse for directions and important information.

**ATTACHMENT 1**  
**LILAC HILLS RANCH: TAPER FOR RIGHT TURN MOVEMENT**  
**MODIFICATION TO ROAD STANDARDS**



# EXHIBIT C

REDUCED DESIGN SPEED MOUNTAIN RIDGE ROAD

DEPARTMENT OF PUBLIC WORKS

Request for a
Modification to a Road Standard
and/or to Project Conditions

Project Number: TM 5571/5572 Date of Request: Sep. 13, 2012

Project Location: East side of Interstate 15, scutherly of W. Lilac Road in the County of San Diego, State of California.

Thos. Bros. Map/Grid: 1049, 1069 APN: 127-072-20, 127-072-14 127-072-38, 127-072-41 127-072-40, 127-072-46 127-072-47, 128-280-42 128-440-01, 138-280-46 128-280-27, 128-280-10, 128-440-23, 128-280-37 128-440-05

Requestor Name: Accretive Investments, Inc Telephone: (858) 546-0700

Address: 12275 El Camino Real, Suite 110 San Diego, CA 92130

Requested Modification (attach engineering sketches showing existing layout, details and notes):

The Private Road standard street section is 24' paved, 28' graded within a 40' easement (see Attachment 1). Based on the average daily traffic, the minimum design speed is 25 mph for Mountain Ridge Road. The requested modification to the road standard is to allow for a 15 mph design speed over this existing private road (that was previously built to 15 mph standards as conditioned on an adjacent subdivision).

Reason for requested Modification (provide attachment if additional space is required):

The requested road modification pertains to Mountain Ridge Road (private) north of Circle R Drive (see Attachment 2). At a 25 mph design speed, the existing road would have to be completely rebuilt. Existing vertical curves would have to be lengthened considerably (which would result in some existing driveways no longer being accessible since they are at the sag or peak of the existing curves). These driveways would need to be redesigned and rebuilt, while still access is maintained. Lastly, the newly designed road would require permission to grade from multiple neighbors. The cost and time to acquire these approvals would be considerable (if they would even be given from adjacent hostile neighbors).

List alternatives that could mitigate the requested Modification (attach engineering sketches showing proposed layouts, details and notes): Redesign/reconstruct entire existing road and retaining walls.

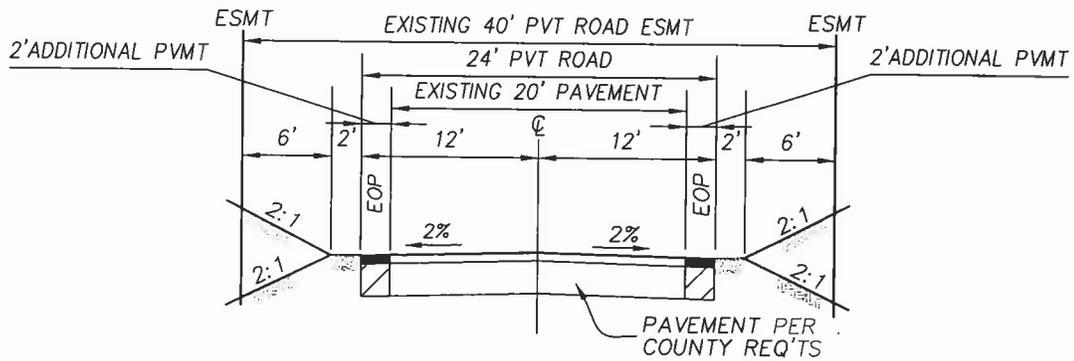
Describe the hardship(s) to the property owner(s) and/or neighbor(s) if the request is not approved (see note 3. on reverse): The impact to the existing homes on this road would be tremendous and the need for permission to grade letters from a large number of neighbors could cause serious delays (and/or kill this project). Also, the additional costs to reconstruct this entire road and add many large retaining walls would be prohibitive. Access to some of the existing driveways (on the sags or peaks) may not even be possible. Finally, the existing Bio Open Space Easement would be impacted if the 25mph design was constructed.

Provide Design and Cost Estimate for meeting the Condition (see note 3. on reverse):

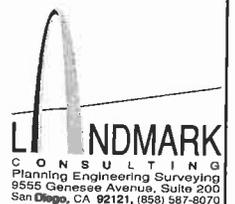
See reverse for directions and important information.

# ATTACHMENT 1

## LILAC HILLS RANCH: REDUCE DESIGN SPEED MODIFICATION TO ROAD STANDARDS

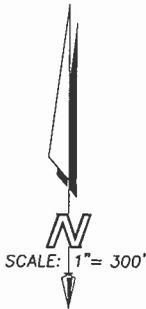
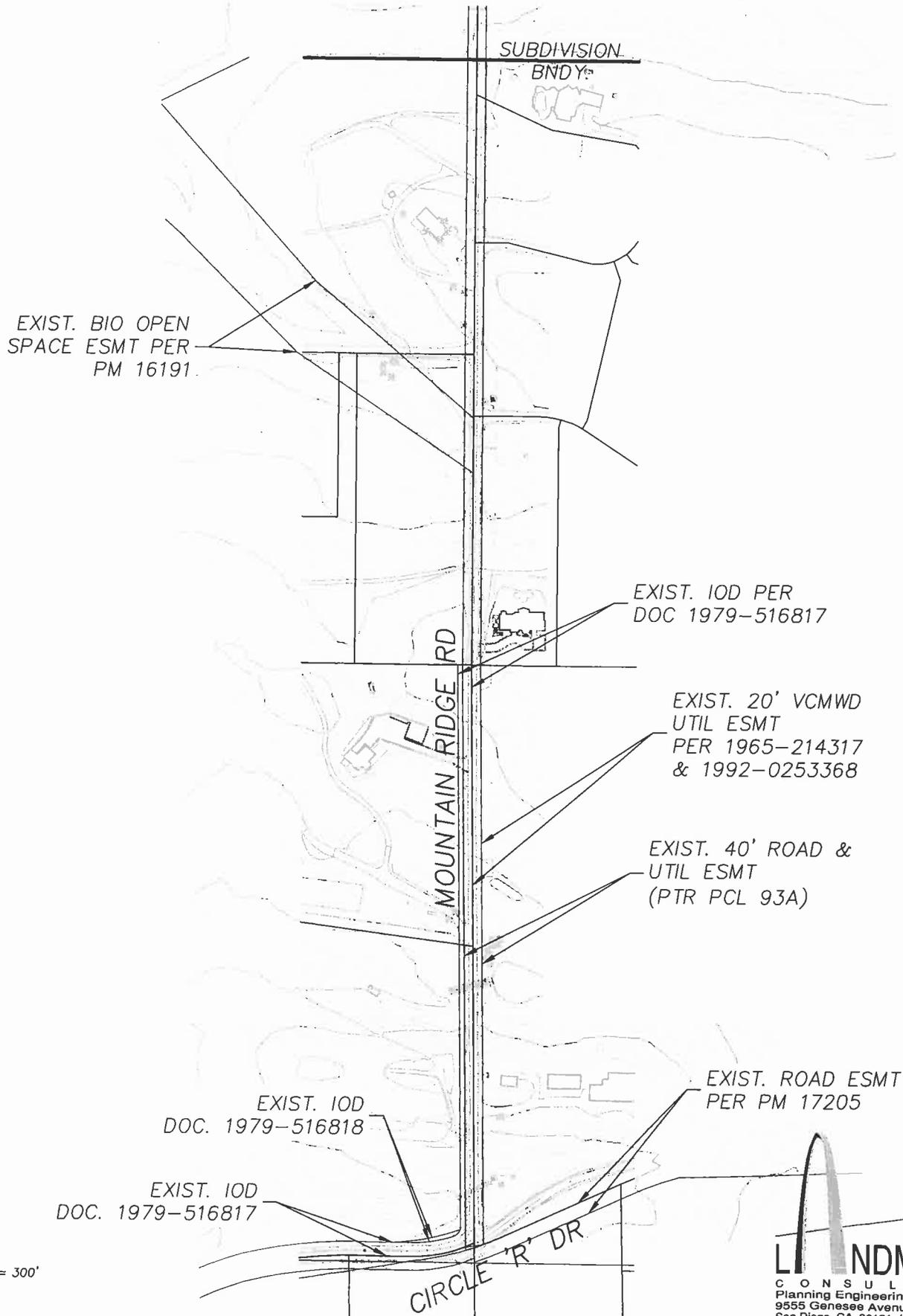


TYPICAL SECTION  
PRIVATE ROAD - MOUNTAIN RIDGE ROAD  
NO SCALE



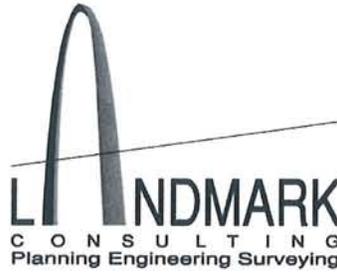
# ATTACHMENT 2

## LILAC HILLS RANCH: REDUCE DESIGN SPEED MODIFICATION TO ROAD STANDARDS



**LI** **NDMARK**

CONSULTING  
 Planning Engineering Surveying  
 9555 Genesee Avenue, Suite 200  
 San Diego, CA 92121, (858) 587-8070



June 25, 2013

Mr. Jon Rilling  
 Accretive Capital Partners, LLC  
 12275 El Camino Real, Suite 110  
 San Diego, CA 92130

**RE: Lilac Hills Ranch (TM 5571) - Sight Distance Analysis at West Lilac Road and Covey lane**

Dear Jon:

Per your request, we have conducted the Sight Distance Analysis at the intersection of West Lilac Road and Covey Lane in Valley Center (see Figure 1 - Vicinity Map) to determine adequate sight distance per the San Diego County Public Road Standards requirements.

The speed survey was completed January 2013 by National Data and Surveying Services. Average speeds range from 25 to 42 mph while the 85<sup>th</sup> percentile speeds were in the range of 31-48 mph (see table below). For this analysis, a 48 mph prevailing speed was used for the northbound traffic on West Lilac Road south of Covey Lane; and 40 mph for the southbound traffic on West Lilac Road north of Covey Lane. Per the County of San Diego sight distance requirements, the minimum corner intersection sight distance is 480' for a prevailing speed of 48 mph, and 400' for a prevailing speed of 40 mph.

West Lilac Road at Covey Lane				
Roadway	Segment	Direction	Average Speed	85% Percentile Speed
Covey Lane	West of L. Lilac Road	EB	25	31
		WB	28	35
W. Lilac Road	North of Covey Lane	NB	34	41
		SB	34	40
	South of Covey Lane	NB	42	48
		SB	38	44

Currently, the maximum line of sight distance from Observation Point 'B' looking south toward Object Target 'C' on West Lilac Road is 330' assuming no clearing or grading is completed. A line of sight distance of 480' can be achieved by grading and clearing dense trees and brush in an area on property APN 129-190-44. In order to mitigate for the 480' Line of Sight distance requirement, a clear space easement with grading rights should be obtained (as illustrated in Figure 2).

The current line of sight for the southbound traffic as seen from Observation Point 'B' on Covey Lane looking north toward Object Target 'A' on West Lilac Road was adequate; no improvements or clearing will be required.

Profiles through both lines of sight and photos are provided for clarity (Figures 3-5).

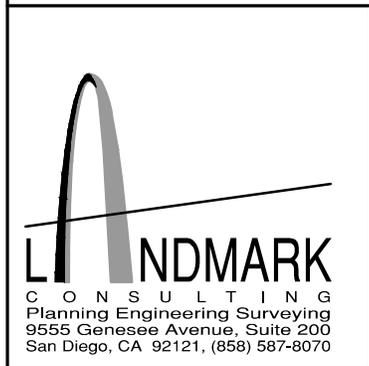
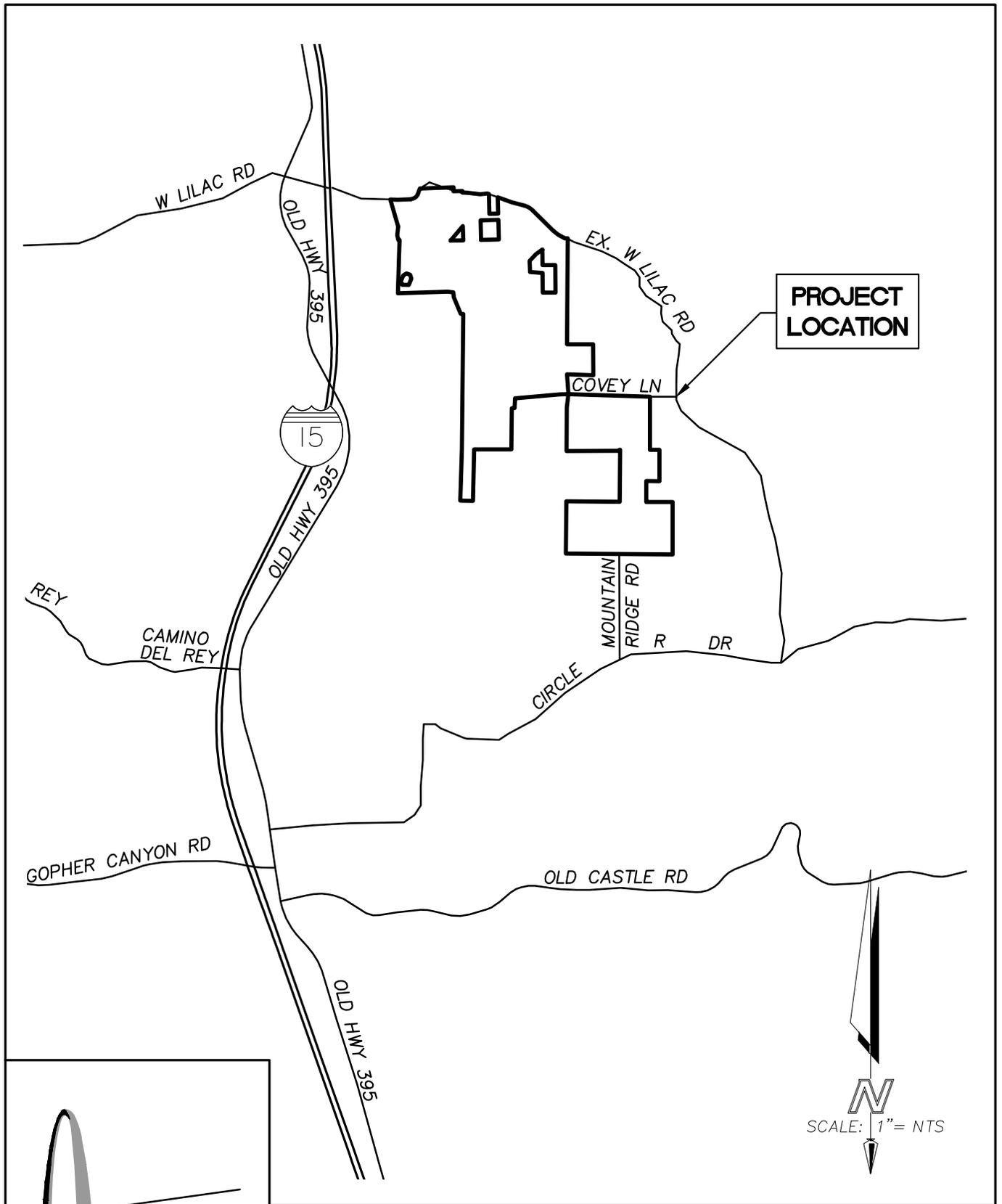
If you have any particular questions or require additional information, please do not hesitate to call.

Sincerely,

LANDMARK CONSULTING

Mark A. Brencick, P.E., P.L.S.  
 President





**FIGURE 1**  
**VICINITY MAP**



# PROFILE: W LILAC NORTH

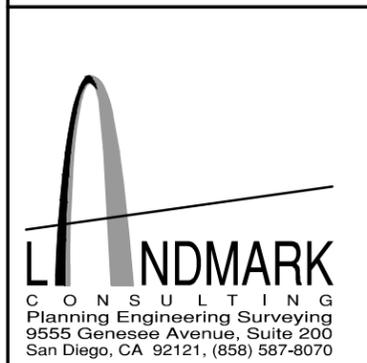
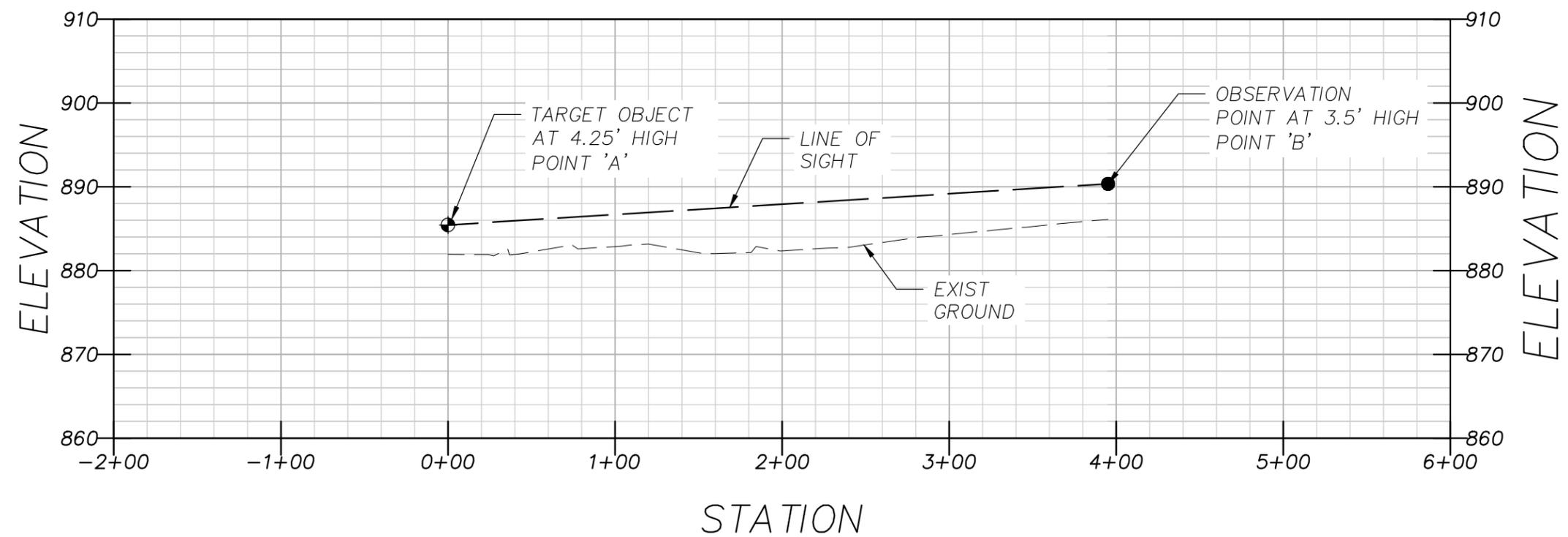
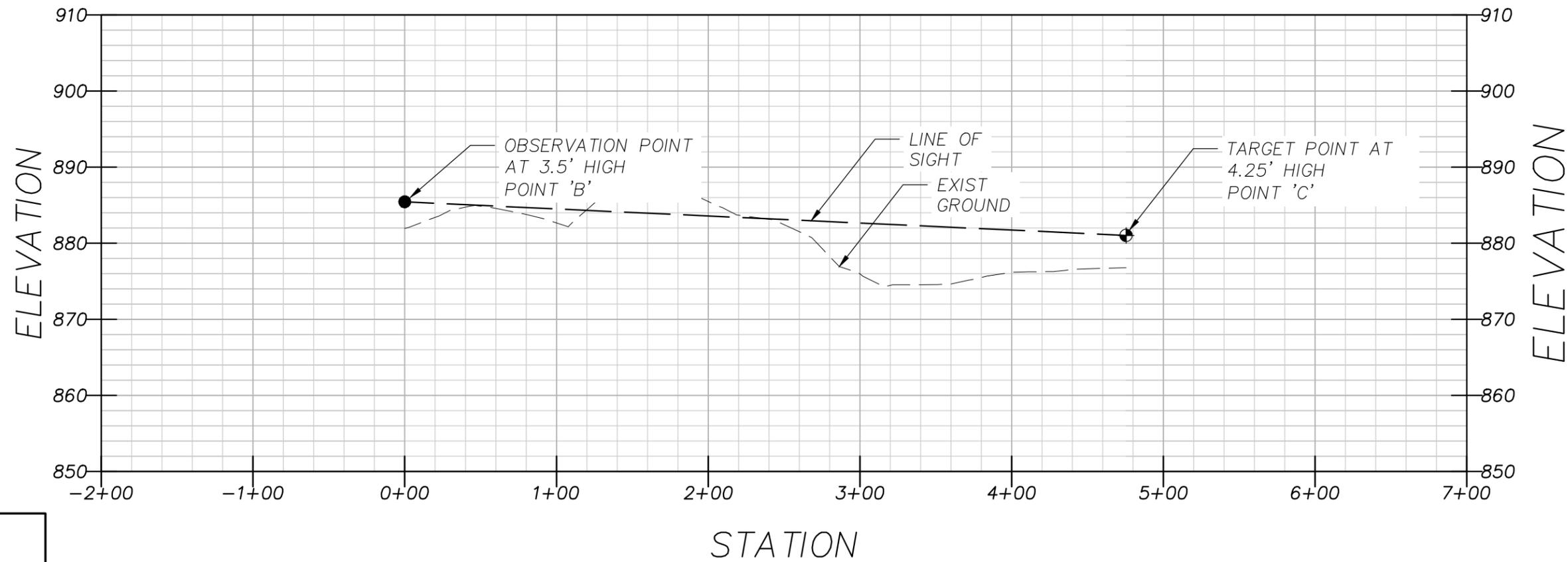
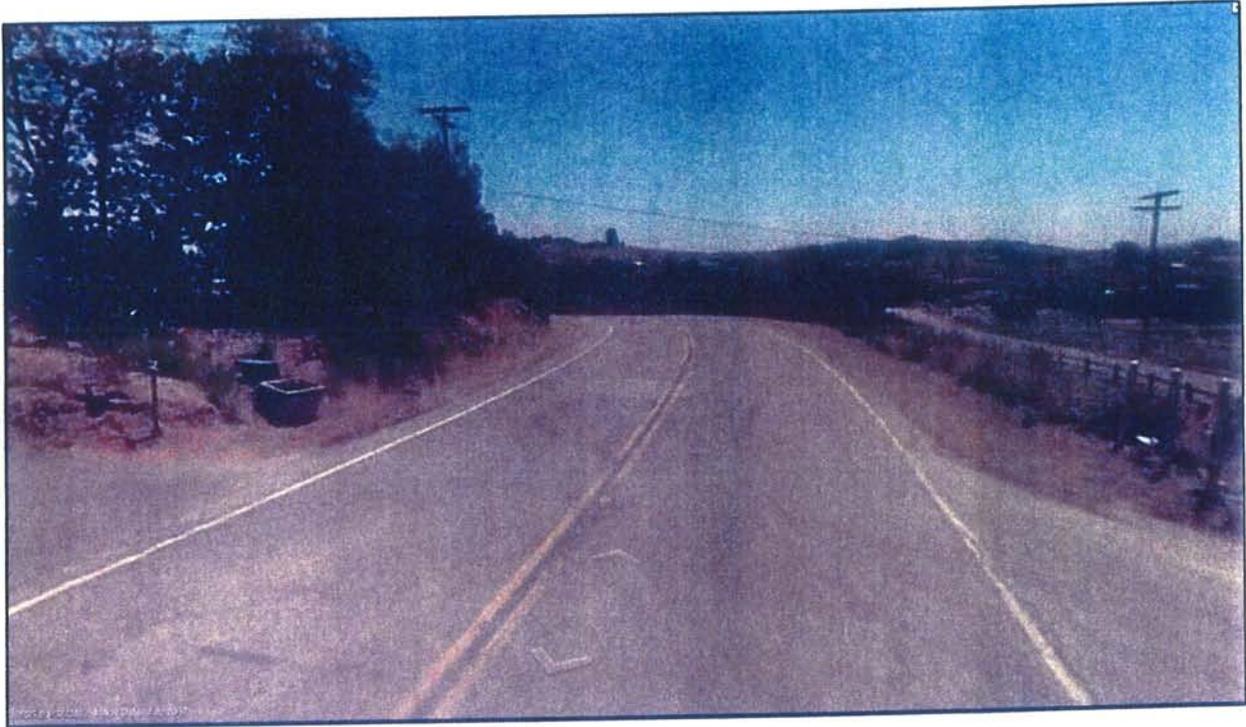


FIGURE 3  
LINE OF SIGHT PROFILE FOR WEST LILAC ROAD AND COVEY LANE (SOUTHBOUND TRAFFIC)

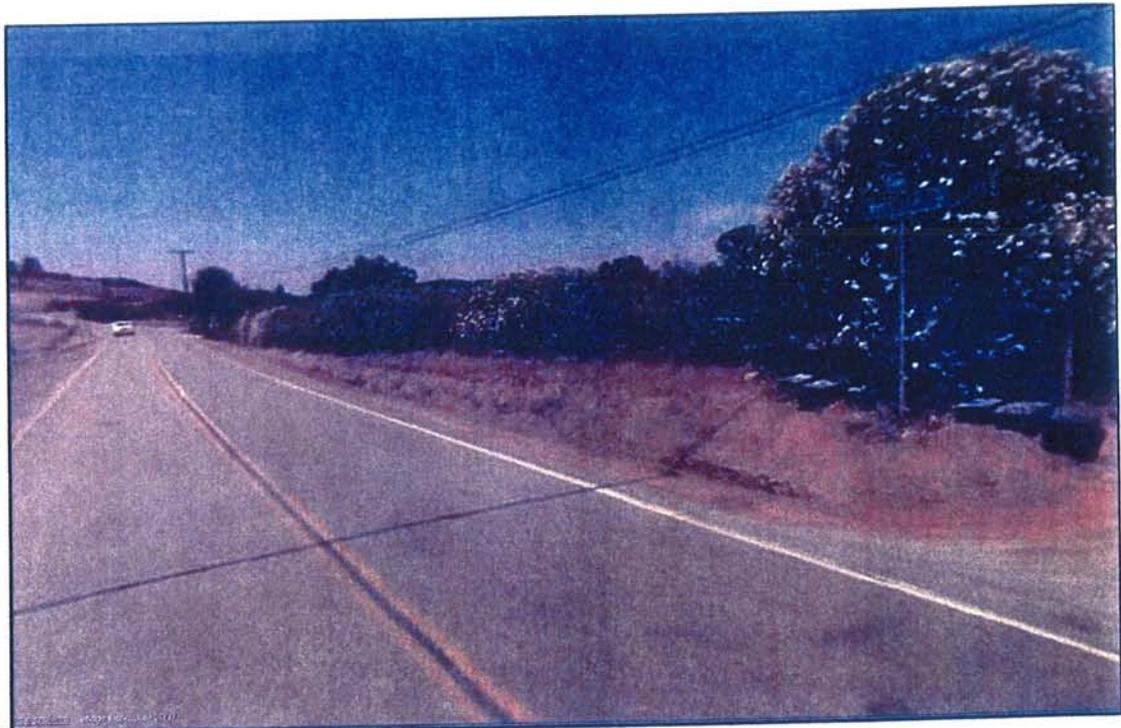
# PROFILE: W LILAC SOUTH



**FIGURE 4**  
LINE OF SIGHT PROFILE FOR WEST LILAC ROAD AND COVEY LANE (NORTHBOUND TRAFFIC)



LOOKING SOUTH



LOOKING NORTH

**Request for a  
Modification to a Road Standard  
and/or to Project Conditions**

Project Number: TW 5571/5572 Date of Request: Sep. 13, 2012  
Project Location: East side of Interstate 15, southerly of W. Lilac Road in the County of San Diego,  
State of California. 127-072-20, 127-072-24 127-072-38, 127-072-41 127-072-40,  
Thos. Bros. Map/Grid: 1049, 1069 APN: 127-072-46 127-072-47, 128-280-42 128-440-01, 128-280-46,  
128-280-27, 128-280-10, 128-440-23, 128-280-37 128-440-05.  
Requestor Name: Accretive Investments, Inc Telephone: (858) 546-0700  
Address: 12275 El Camino Real, Suite 110, San Diego, CA 92130

Requested Modification (attach engineering sketches showing existing layout, details and notes):  
The line of sight distance requirement per Public Road standard is 500' for 50 mph design  
speed. The requested modification is to allow a reduced line of sight distance requirement  
from 500' to 340'.  
\_\_\_\_\_  
\_\_\_\_\_

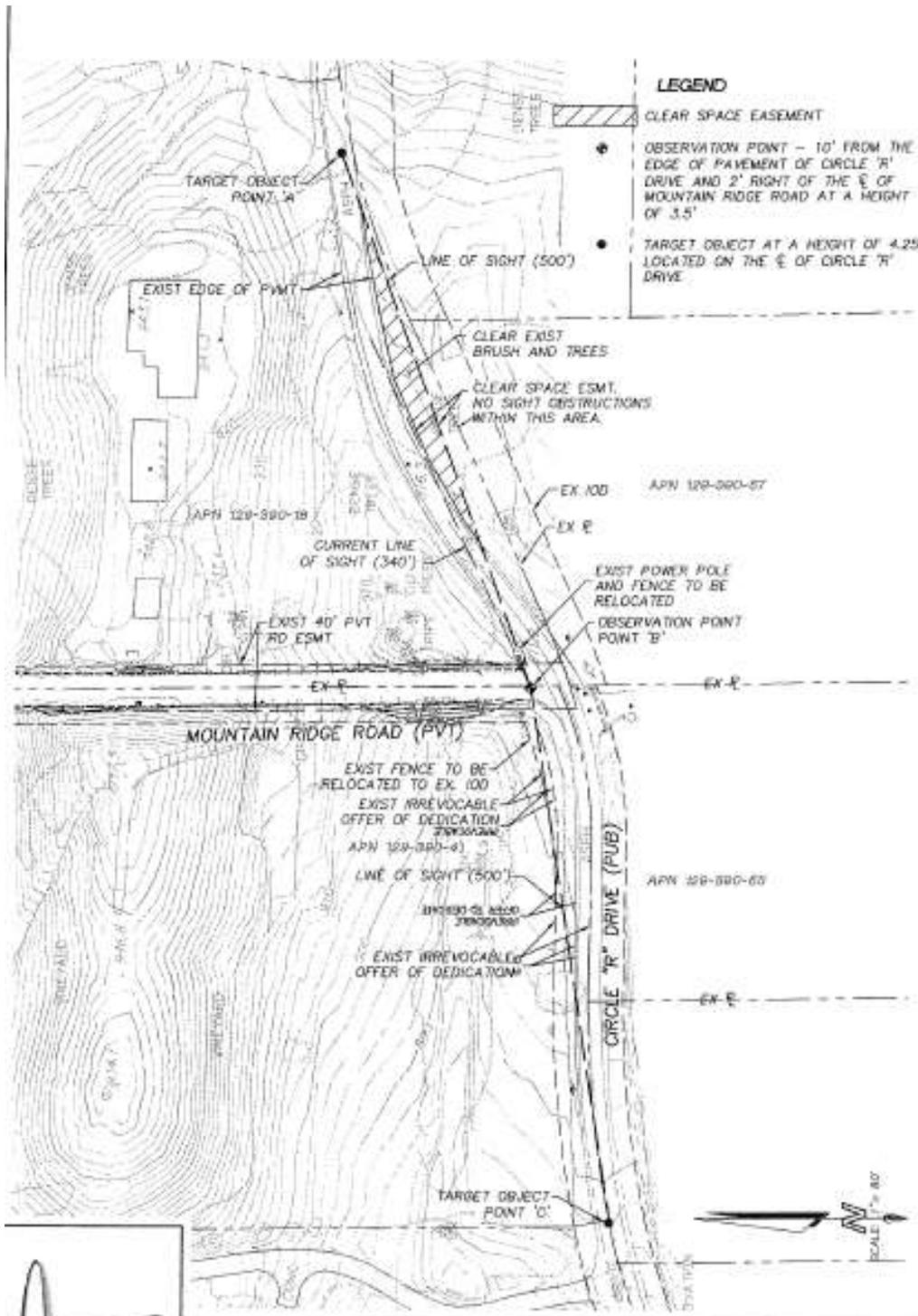
Reason for requested Modification (provide attachment if additional space is required): \_\_\_\_\_  
The requested road modification pertains to the intersection of Mountain Ridge Road and  
Circle 'R' Drive. This currently has an intersectional sight distance of 340' which is  
achieved within the existing paved Circle 'R' Drive. (see attached Figure 2 Sight Distance  
Analysis). The current line of sight distance of 340' is reasonable due to the low traffic  
volume anticipated on Mountain Ridge. With minor clearing of brush and trees, a sight  
distance of 500' can be achieved. For the applicant to do this would require a clearspace  
easement from the adjacent, hostile property owner. Although there is no right-of-way for  
Circle 'R' Dr here, the County could clear brush for this County maintained road through their  
prescriptive rights on this road.

List alternatives that could mitigate the requested Modification (attach engineering sketches showing proposed layouts, details and notes): Relocate the intersection  
\_\_\_\_\_

Describe the hardship(s) to the property owner(s) and/or neighbor(s) if the request is not approved (see note 3. on reverse): \_\_\_\_\_  
A 500' sight distance can be achieved without grading, but to maintain a permanent  
clearspace, an easement from a hostile neighbor is required to clear brush and trees. Additional  
cost and project delays can result from trying to obtain easement rights from this property owner  
While County should have the rights to clear this brush with their prescriptive rights over this  
County maintained public road.

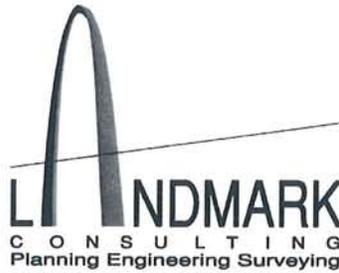
Provide Design and Cost Estimate for meeting the Condition (see note 3. on reverse): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

See reverse for directions and important information.



**FIGURE 2**  
SIGHT DISTANCE ANALYSIS  
CIRCLE R DRIVE AND MOUNTAIN RIDGE RD





June 25, 2013

Mr. Jon Rilling  
 Accretive Capital Partners, LLC  
 12275 El Camino Real, Suite 110  
 San Diego, CA 92130

**RE: Lilac Hills Ranch (TM 5571) - Sight Distance Analysis at Circle R Drive and Mtn Ridge Rd**

Dear Jon:

Per your request, we have conducted the Sight Distance Analysis at the intersection of Circle R Drive and Mountain Ridge Road in Valley Center (see Figure 1 - Vicinity Map) to determine adequate sight distance per the San Diego County Public Road Standards requirements. For this analysis, it was assumed the existing alignment of Mountain Ridge Road would remain the same as it approaches Circle R Drive from the north.

The speed survey was completed between September 11, 2012 and September 16, 2012 by National Data and Surveying Services. Average speeds range from 34.7 to 37.0 mph while the 85<sup>th</sup> percentile, speeds were in the range of 41.3-44.0 mph (see table below). For this analysis, a 45 mph prevailing speed was used. Per the County of San Diego sight distance requirements, the minimum corner intersection sight distance is 450' for a prevailing speed of 45 mph.

Circle R Drive, just east of Mountain Ridge Road						
	ADT	Average Speed (mph)		85th Percentile Speed (mph)		Heavy Vehicle %
		EB	WB	EB	WB	
Weekday	1,822	34.7	36.7	41.3	44.0	2.0%
Weekend	1,407	34.5	37.0	41.5	44.0	2.5%

The line of sight from Observation Point 'B' looking east is of 450' has been achieved due to recent clearing performed in April 2013 along the existing public road within APN 129-390-18 between the existing pavement of Circle R Drive and an existing public road easement granted per PM 17205. It is recommended that this area be kept clear by means of preventative maintenance to maintain adequate sight distance at this Intersection. The County has prescriptive easement rights to this portion of Circle R Drive, a public road. Since the required clearing area is between the existing pavement to the north and an existing public road easement to the south, the County should have the right to clear this area to establish the required line of sight to assure public safety for the use of this existing public road as part of their normal maintenance responsibilities. However, a clear space easement should be obtained over this area (as illustrated on Figure 2) from the offsite property owner (APN 129-390-18) to ensure maintenance rights in perpetuity. Additionally, this clearing area falls within the 50' fire buffer area required by the Deer Springs Fire Protection District along all existing property lines.

The current line of sight for the eastbound traffic as seen from Observation Point 'B' on Mountain Ridge Road looking west toward Object Target 'C' on Circle R Drive is also adequate and neither maintenance nor clearing is recommended at this time.

Profiles through both lines of sight and photos are provided for clarity (Figures 3-6).

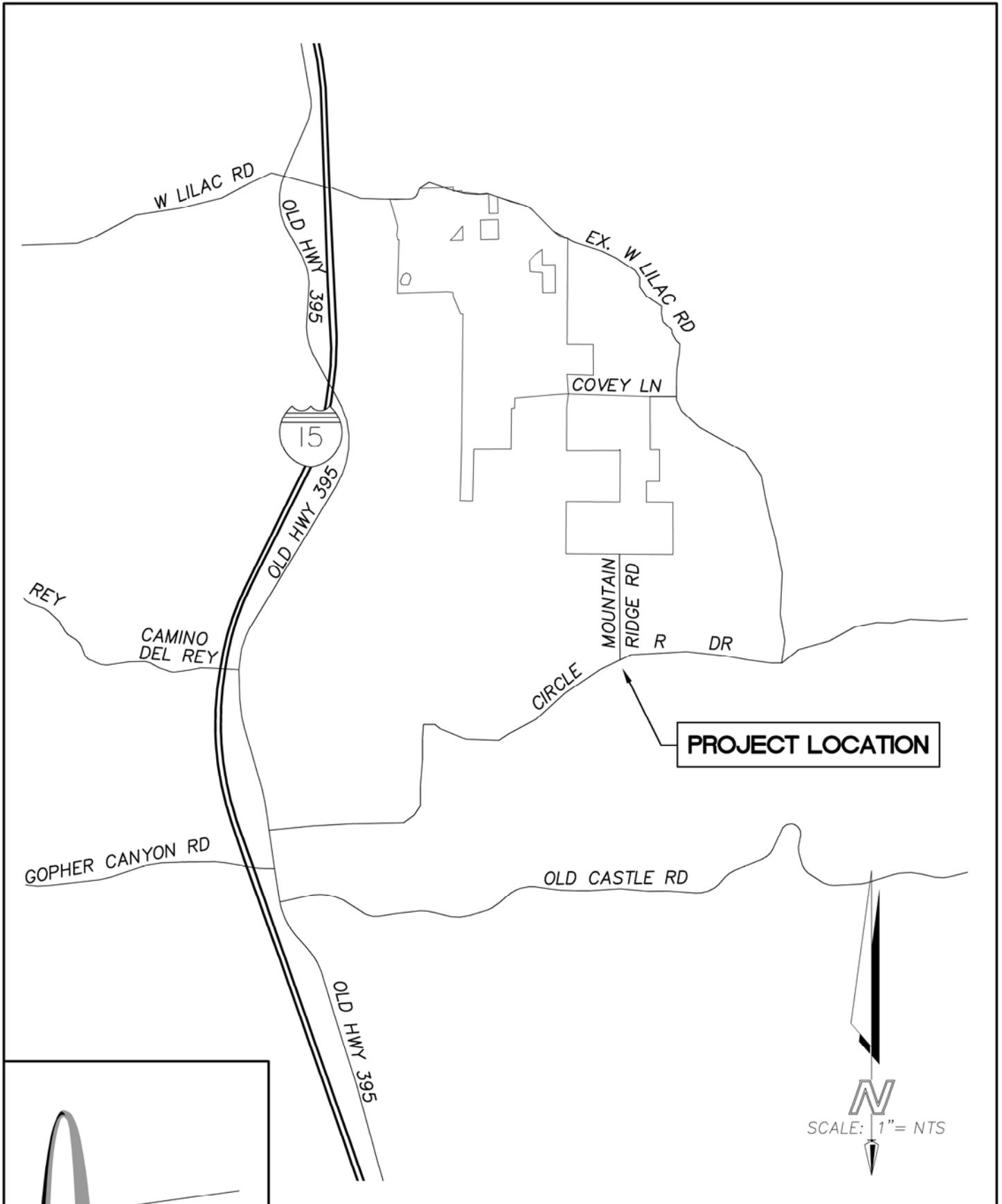
If you have any particular questions or require additional information, please do not hesitate to call.

Sincerely,

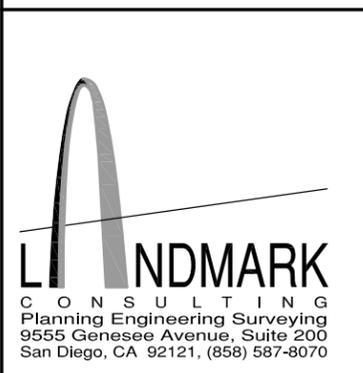
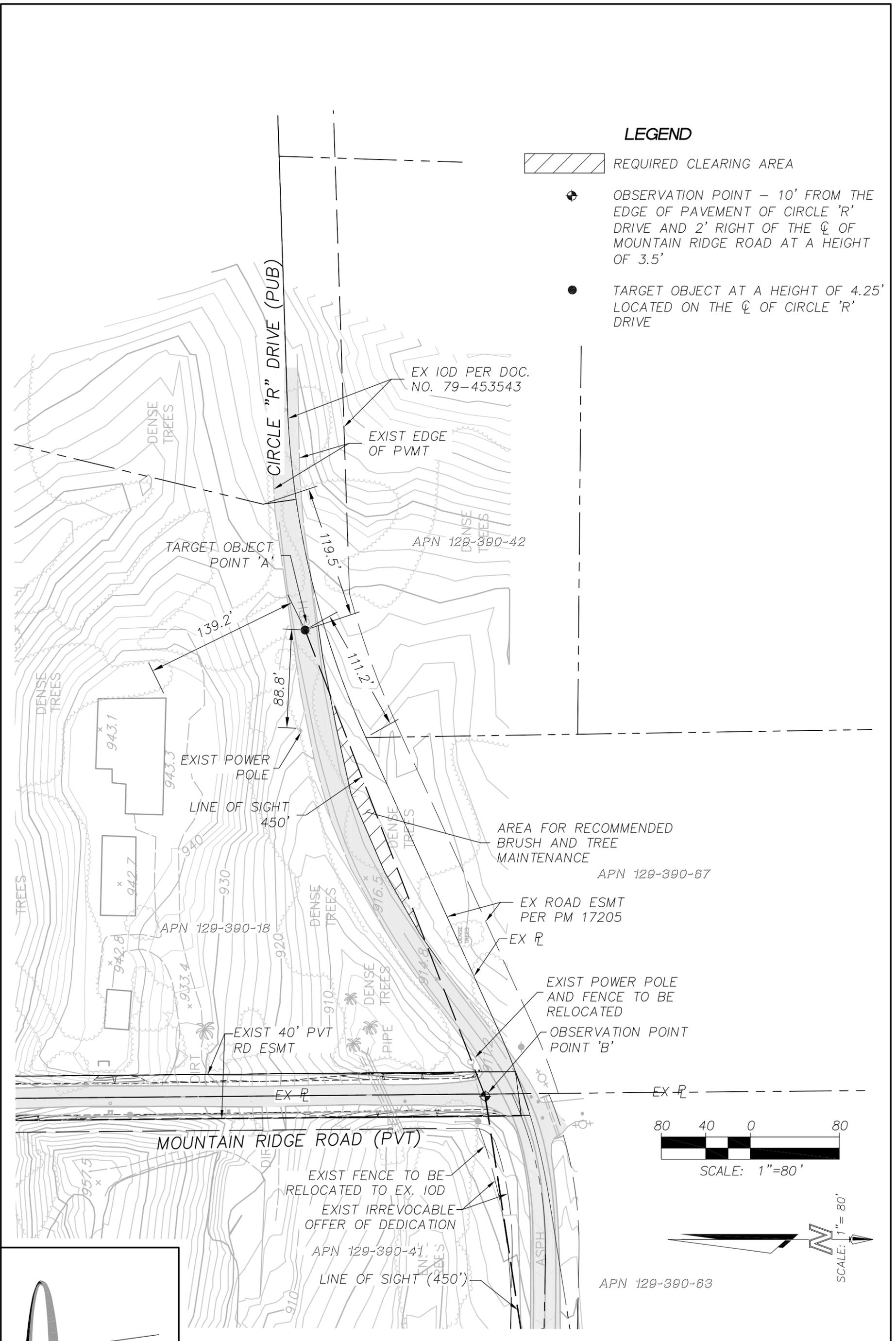
LANDMARK CONSULTING



Mark A. Brencick, P.E., P.L.S.  
 President

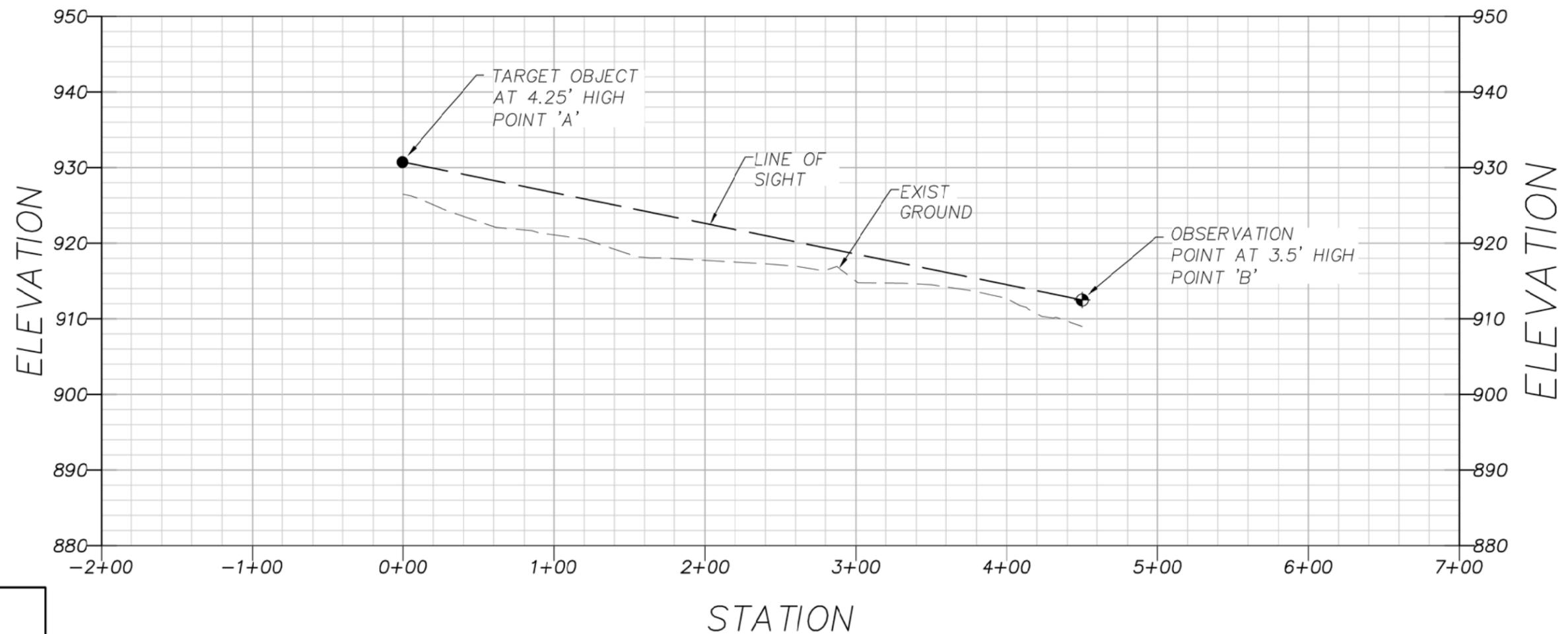


**FIGURE 1**  
**VICINITY MAP**



**FIGURE 2**  
**SIGHT DISTANCE ANALYSIS**  
**CIRCLE R DRIVE AND MOUNTAIN RIDGE RD**

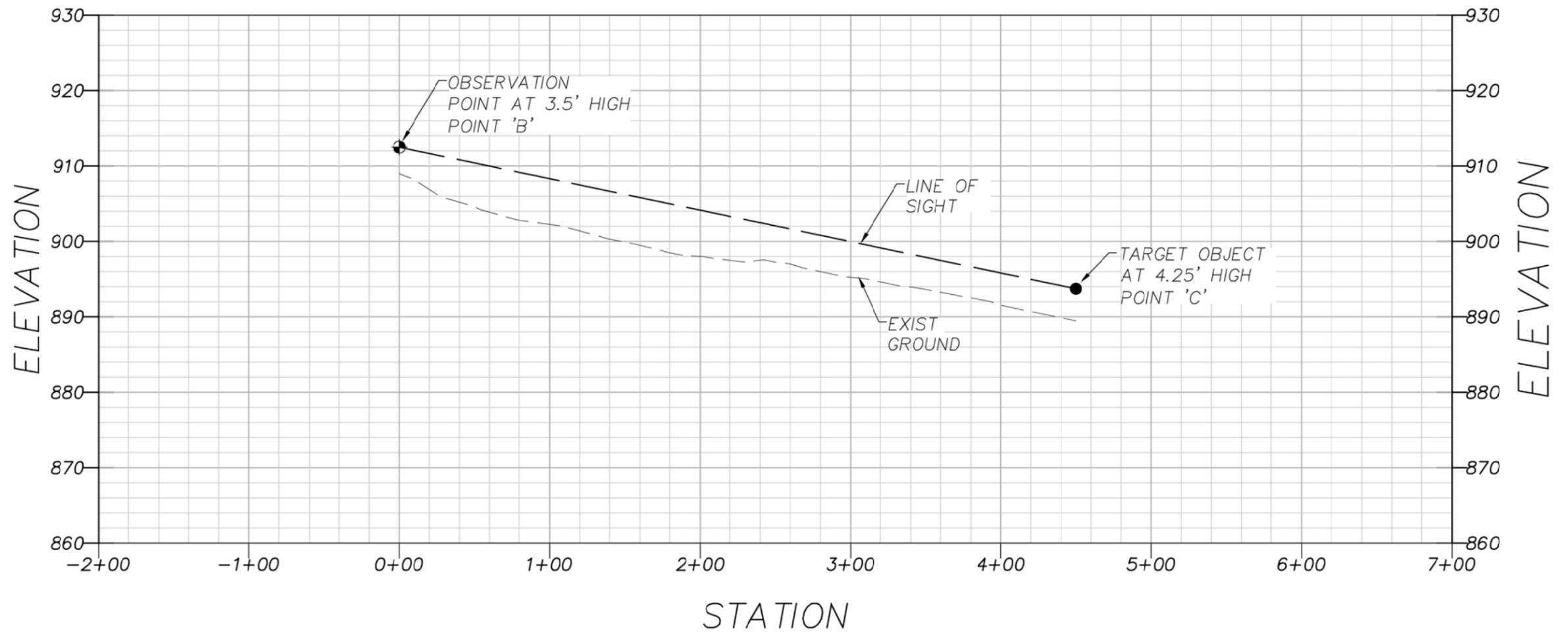
# PROFILE: CIRCLE R EAST



**FIGURE 3**  
**LINE OF SIGHT PROFILE FOR MTN RIDGE RD AND CIRCLE R DR (WESTBOUND TRAFFIC)**



# PROFILE: CIRCLE R WEST



**FIGURE 4**  
LINE OF SIGHT PROFILE FOR MTN RIDGE RD AND CIRCLE R DR (EASTBOUND TRAFFIC)



FROM MOUNTAIN RIDGE ROAD LOOKING WEST ONTO  
CIRCLE "R" DRIVE

PHOTO: 05-01-2013



FROM MOUNTAIN RIDGE ROAD LOOKING EAST ONTO  
CIRCLE "R" DRIVE