

# 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

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

August 6, 2013

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.

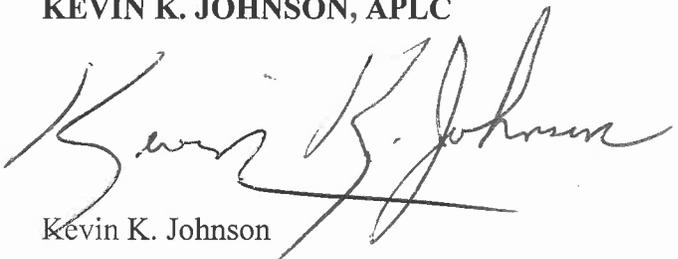
August 6, 2013

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 over a horizontal line.

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