

Letter O3b

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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

O3b-1

O3b-2

O3b-1 The comment provides introductory comments to the letter that are further expanded and responded to in the remaining responses. The commenter's opinion and discussion of project concerns is acknowledged and included in the project's FEIR for the decision makers to consider.

O3b-2 A detailed response has been prepared to address the issues raised with regard to the Covey Lane/West Lilac Intersection. Please refer to Global Response: Easements (Covey Lane and Mountain Ridge Roads), included in the introduction to these responses to comments for a detailed discussion of the project's easement rights.

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<p>August 6, 2013</p> <p>to construct a legal intersection of Covey Lane at West Lilac Road.</p> <p>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.</p> <p>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).</p> <p>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").</p> <p>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?.</p> <p>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.</p> <p><u>Use of County Right of Way for Benefit of a Private Developer</u></p> <p>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.</p> <p>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?</p> <p>The public safety impacts related to the easement and line of sight problems need to be thoroughly addressed in the DEIR.</p> <p style="text-align: center;">2</p>	<p>O3b-2 cont.</p> <p>O3b-3</p> <p>O3b-4</p> <p>O3b-5</p> <p>O3b-3 A detailed response has been prepared to address the issues raised with regard to the Mountain Ridge Road/Circle R Drive Intersection. Please refer to Global Response: Easements (Covey Lane and Mountain Ridge Roads), included in the introduction to these responses to comments for a detailed discussion of the project's easement rights. Additionally, the FEIR has been revised to include additional details relating to the line of sight issue in Chapters 1.0 and 2.3. See also FEIR Appendix C-1 (Sight Distance Analysis).</p> <p>O3b-4 This commenter asserts that the proposed intersection improvements and roadway exception requests have been treated in a piecemeal fashion without full environmental review. The County does not agree with this statement. All of the exceptions to County road standards being requested by the project and the intersection improvements were included in the project's circulation design and considered as a part of the analysis for each subject area discussion within the FEIR. (FEIR, subchapter 2.3.2.3; see also FEIR Table 1-2; the "Proposed Road Modifications"). All proposed improvements and road exception requests have been fully analyzed and considered in the FEIR. All transportation-related impacts are addressed in subchapter 2.4 and Appendix E of the FEIR. In addition, the FEIR includes a project alternative that analyzes impacts that would occur if the project did not include the roadway exception requests. Refer to the Roadway Design Alternative included in Chapter 4.0 of the FEIR.</p> <p>O3b-5 The issues raised in this comment are specifically addressed in the Global Response: Easements (Covey Lane and Mountain Ridge Roads), included in the introduction to these responses to comments. See also Global Response: Off-Site Improvements - Environmental Analysis and Easement Summary Table.</p>
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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.

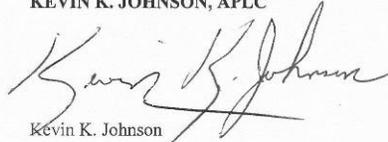
O3b-6

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.

O3b-7

Very Truly Yours,

KEVIN K. JOHNSON, APLC



Kevin K. Johnson

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

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

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

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

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

O3b-11

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

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O3b-6 The County acknowledges the commenters opposition to the project and easement concerns. Refer to Global Response: Easements (Covey Lane and Mountain Ridge Roads), included in the introduction to these responses to comments for details of the easement rights along Covey Lane and Mountain Ridge Road. Ultimately, the Board of Supervisors will weigh the information contained in the FEIR to evaluate whether there would be a public benefit and whether a statement of overriding considerations should be adopted.

O3b-7 The County acknowledges this comment but does not agree that recirculation of the EIR is required. Pursuant to CEQA Guidelines Section 15088.5(a), the County is required to recirculate the DEIR if significant new information is added after public review of the DEIR, but before certification. New information added to a DEIR is not significant unless the DEIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect (including feasible alternatives) that the project's proponents have declined to implement. Recirculation is not required when the new information added to the document clarifies, amplifies, or makes insignificant changes to the EIR. Any revisions that have been made to the REIR regarding easements and the right to access the project have been made to clarify the issues described herein and do not constitute "significant new information" within the context of CEQA Guidelines Section 15088.5; no substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect (including feasible alternatives) have resulted from said revisions. Therefore recirculation is not required.

O3b-8 This attachment is in reference to a letter submitted to various County of San Diego officials outside of any CEQA public review. As this letter is not in reference to information contained in the EIR that was circulated for public review, a detailed response is not required.

O3b-9 This attachment is in reference to a letter submitted outside of any CEQA public review. As this letter is not in reference to information contained in the EIR that was circulated for public review, a detailed response is not required.

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	<p>O3b-10 This attachment references the project's sight distance analysis included as Appendix C-1 of the FEIR. A detailed response is not required.</p> <p>O3b-11 This attachment references the Request for Exemption from Road Standards; however, does not raise any specific comment. Therefore, a detailed response is not required.</p> <p>O3b-12 This attachment references the project's sight distance analysis included as Appendix C-1 of the FEIR. A detailed response is not required.</p>
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