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**VIA E-MAIL and US MAIL**

***Re: LILAC HILLS RANCH SPECIFIC PLAN PROJECT; Planning Commission  
Hearing August 6, 2015***

To the County of San Diego Planning Commission:

The following comments are submitted on behalf of concerned residents and environmental groups regarding the Lilac Hills Ranch Specific Plan Project and associated Final Environmental Impact Report. This Project is currently scheduled for hearing before the Planning Commission on August 6, 2015.

Initially we note that the Planning Commission should not vote on this matter at the August 6, 2015 hearing where the vast amount of material associated with the Staff Report and Final EIR (appendices, attachments, exhibits, etc.) justifies additional time for review by the both the public and decisionmakers.

**I. The Planning Commission Should Deny the Project For Important Policy Reasons.**

As the Staff Report notes, the Project proposes the **first major** revision to the General Plan since its adoption in 2011. The Project proposes substantially more development than foreseen in the recently adopted General Plan; and, if approved, the Project will establish high-density development among primarily lower density and rural uses. This is precisely the sort of development scheme sought to be avoided by the new General Plan. The General Plan envisions Village densities *adjacent to or nearby* other Village densities, thus concentrating higher density developments in areas which can support these uses through transportation, public facilities, commercial and employment centers, etc. The Project is fundamentally contrary to this concept.

There can be no question that the Project has the potential for setting a negative precedent for future development in rural areas. If the General Plan Amendment is approved, future projects will invariably point to the present Project as the basis for concluding that it is both consistent with the General Plan and lacking in CEQA impacts - because the Project will have established that high-density development is "appropriate" for the otherwise semi-rural and rural area. In other words,

future projects seeking greater densities than allowed by the General Plan will claim they are a continuation of the type of development proposed by the Project.

The Project does not represent a “mixed-use” development, contrary to its description. The Project proposes 1,742 dwelling units including 903 single-family units, a 50-room inn, and 200-bed Group Care Facility and yet **only 90,000 square feet of “commercial” space** (retail and office). The retail and office spaces will be constructed in Phases 2 and 3, with Phase 2 involving roughly 80,000 square feet of commercial/office and Phase 3 involving only 7,500 square feet of commercial and office space. For reference, a single “specialty” grocery store such as Walmart Neighborhood Market is 40,000 square feet<sup>1 2 3</sup>. Because the retail, services, and/or office will be very limited, there is not a balance of uses on the Project site. The Project cannot fairly rely on concepts of providing a housing-jobs balance to demonstrate sustainability, conformance with “new urbanism” principles, etc. Clearly residents will be leaving the Project site in their vehicles for employment and other services. **The Project is not an integrated development where residents will essentially work, live and shop in the same place.**

Finally, to the extent the EIR concludes that the Project has **significant** impacts as to **growth-inducement, aesthetics, air quality, noise and traffic**, the Project should not be approved as submitted. There are no overriding policy reasons why this Project with its adverse environmental consequences should be approved.

## **II. The EIR is Flawed**

### **a. Land Use**

The Project continues to have significant and unmitigated land use impacts. The determination of less than significant is not supported by substantial evidence, and the EIR fails on an informational basis.

#### **i. The Project Vastly Exceeds Allowable Density Under Adopted Land Use Plans**

The General Plan designates the area for a total of **110 single-family homes** and no commercial uses. The Project proposes **1,746 dwelling units, including 903 single-family homes** and commercial uses. The number of single-family homes alone is nine times the allowable density under the General Plan. This marked increase in the number of units has land use and planning

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<sup>1</sup> [https://en.wikipedia.org/wiki/Walmart\\_Neighborhood\\_Market](https://en.wikipedia.org/wiki/Walmart_Neighborhood_Market)

This hyperlink and contents is fully incorporated herein by reference.

<sup>2</sup> <http://www.sgvtribune.com/business/20150308/haggen-entering-southern-california-supermarket-industry>

This hyperlink and contents is incorporated herein by reference.

<sup>3</sup> At the Flower Hill Promenade in Del Mar, a Whole Foods Market plus a limited amount of retail and office space constitutes 70,000 square feet.

<http://www.sandiegouniontribune.com/news/2013/feb/27/whole-foods-del-mar-flower-hill-promenade/>. This hyperlink and contents is fully incorporated by reference.

impacts that are not mitigated by the proposed General Plan Amendment. Due to the proposed density, there are numerous conflicts between the Project and the General Plan's goals and policies. The Project also requests to amend the General Plan's Mobility Element to allow roadways to operate at Level of Service E/F. This constitutes a significant land use impact.

The Project's proposed amendment to both the Valley Center Community Plan and Bonsall Community Plan to add the Project as a "third village" also has unmitigated land use impacts. These plans control growth and maintain community character through established densities; the Project significantly alters these plans resulting in greater impacts to traffic, air quality, noise, public safety, and community resources than contemplated by these plans.

**ii. The Project is Inconsistent with the General Plan Including Policy LU-1.2**

The Project is not consistent with the General Plan including Policy LU-1.2. As such, the finding cannot be made that the Project is consistent with the General Plan, and, because of conflicts, there are significant land use impacts under CEQA.

First, the Project is not consistent with Community Development Model. Among other reasons, the Project does not *locate* housing close to retail, services and jobs. The Project itself will *build* some very limited commercial and office space. The commercial and office space (90,000 square feet total) is likely to be service-based retail and small offices, while many of the "services" such as the school site and the fire station are merely proposed as options and not actually slated for construction. Further, the Project does not locate housing near "jobs," meaning employment centers. Residents of the Project will be dependent on their cars to reach employment centers, the closest being Escondido at 10 miles away.

Second, the Project is not "equivalent" to LEED-ND where it cannot meet even the first "prerequisite" of that certification. The first prerequisite is "Smart Location". The Project does not satisfy the Smart Location standards for a number of reasons. *See, LEED 2009 For Neighborhood Development* (attached as Exhibit A).

The Staff Report goes to painstaking effort to explain why the Project purportedly qualifies for the so-called equivalent rating program of LEED-ND – that is, the "National Green Building Standard"<sup>4</sup>. But if the Project *effectively* qualifies for LEED-ND, and it will allegedly

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<sup>4</sup> The NGBS standards are promulgated by the National Association of Home Builders, an industry trade group representing home builders. They are construction principles with emphasis on sustainability and green building, with a view towards marketability of those developments. It is not certain that these standards are any more stringent than what is already required under California law, *e.g.*, Title 24 (2013) including the California Green Building Code. *See*, <http://www.nahb.org/en/research/nahb-priorities/green-building-remodeling-and-development.aspx>; <http://www.bsc.ca.gov/Home/CALGreen.aspx>; [http://www.ecodes.biz/ecodes\\_support/free\\_resources/2013California/13Green/PDFs/Chapter%204%20-%20Residential%20Mandatory%20Measures.pdf](http://www.ecodes.biz/ecodes_support/free_resources/2013California/13Green/PDFs/Chapter%204%20-%20Residential%20Mandatory%20Measures.pdf)

seek “future certification” under the NGBS standard, then why not seek LEED-ND certification? Perhaps it is because the Project cannot satisfy even the basic criteria for LEED-ND such as “Smart Location.” Accordingly, the Project cannot be considered “equivalent” to LEED-ND *under any reasonable definition of the word equivalent*.

The discussion of the so-called National Green Building Standard is incomplete, convoluted, and represents new information contained solely in the FEIR. (Global Response- 84 – 85) First, the standards are selectively referenced at, *e.g.*, Global Response-84 – 85; they are not provided in full for the public’s and decision-maker’s review, thus failing to provide necessary information<sup>5</sup>. Second, the cited standards and the accompanying analysis were not discussed in the Draft EIR; *they are presented for public review for the first time with the Final EIR*. This entirely new analysis based on new information justifies recirculation of the EIR. State CEQA Guidelines § 15088.5 (a). *See also*, Specific Plan, Final July 2015 pp. II-39. Third, the use of the NGBS rating system is suspect; among other reasons, if the NGBS were the equivalent of LEED-ND, and it was established in 2007, the County could have included this standard within the language of LU-1.2 when the Policy was adopted in 2011. The County did not. Instead the NGBS certification process is applied apparently for this Project *only*.

The FEIR claims that the Project is “verified for future certification under the ICC 700 National Green Building Standard “NGBS”. The term “future certification” is not defined, and it is not clear under what circumstances the certification will be obtained.

The statements and discussion at Global Response - Consistency with General Plan LU-1.2 are unfounded and contrary to logic. For instance, the Project does not reduce vehicle miles traveled by decreasing “automobile dependency and household vehicle miles traveled” (NGBS Section 405.4). The Project will not reduce VMT when, for instance, there are no meaningful public transit opportunities; there is no public school within the Project site (only a proposed school site); and where *there are very limited commercial and office uses*. The thousands of residents who will occupy the 1,754 housing units will be forced to travel outside of the Project site for services, shopping and employment. The Project is also not a “mixed use” development. (NGBS Section 405.8). As discussed above, the Project proposes a very limited amount of commercial and office space. The Specific Plan outlines plans for a mix of *housing* options<sup>6</sup> – there is not a “diversity of

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These hyperlinks are fully incorporated herein by reference.

<sup>5</sup> To review the NGBS one apparently would need to purchase the book. *See*, <http://www.worldcat.org/title/national-green-building-standard-2008-icc-700-2008/oclc/311768725>  
*See also*, <http://www.nahb.org/en/research/nahb-priorities/green-building-remodeling-and-development/ngbs-green-certification.aspx>

These hyperlinks are fully incorporated herein by reference.

<sup>6</sup> The “mix” of residential housing units is weighted in favor of single-family residential: the Project provides 903 single-family units; 164 “single-family attached” including “luxury” townhomes; and 211 “mixed-use” units. *See*, Final Specific Plan p. I-5. Single-family residential lots range from 10,000 square feet to 2,800 square feet. Final Specific Plan, Figures 98 and 99. Lot sizes and density are also subject to change based on “market demands”. Final Specific Plan, p. III-15.

uses” to mean for instance a mix of commercial, professional, and housing in order to reduce vehicle usage. The County’s General Plan defines “mixed use” to mean,

Properties on which **various uses**, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project **with significant functional interrelationships** and a coherent physical design. A “single site” may include contiguous properties.<sup>7</sup> (emphasis added)

Again the Project does not represent an integrated design, meaning that residents will not generally live, work and shop in the same place. The Project is contrary to many of the basic tenants of “new urbanism”<sup>8</sup> including:

- The balance of jobs, shopping, schools, recreation, civic uses, institutions, housing areas of food production and natural places shall occur at the neighborhood scale with these uses being within walking distances or easy access to transit.
- Whenever possible, new development shall be sited on underutilized, poorly designed or already developed land. Sites shall be urban infill or urban adjacent unless the building is rural in its program, size, scale and character.
- Prime and unique farmland shall be protected and conserved.

The statements at Global-86 that, for instance, the Project is in a location “close” to “multi-modal transportation access” is not supported by fact where there is no multi-modal transportation nearby; at best, Staff recommends the applicant provide “daily” shuttle service to nearest mass transit opportunities, the distances of which are not disclosed; and the feasibility and practicality of the shuttle service is not demonstrated. The statement the Project “avoids priority habitat conservation areas” is not explained; to the extent that the Project avoids sensitive biological areas and/or contains some biological mitigation, this is no doubt required for compliance with CEQA, County regulations and/or Federal or State permitting reasons. Nor is the statement that the Project gets points for “meeting minimum density requirements of 7 dwelling units per acre” explained or supported. The Project entails substantial more density than allowed by current General Plan and zoning designations.

As to Global Response-86, among the misstatements is the claim that the Project reduces vehicle miles traveled (see above). The Project also is not located within “existing water and sewer service boundaries”, where the Project proposes to construct a wastewater treatment plant to service the site. As to Global Response -88, the Project cannot be said to “incorporate principles of smart location.” The Project *encourages vehicle dependence* by siting a housing development in a rural area, forcing more motorists on I-15 and contributing to already congested

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<sup>7</sup><http://www.sandiegocounty.gov/content/dam/sdc/pds/gpupdate/docs/GP/ImplementationGlossary.pdf>

This hyperlink is fully incorporated herein by reference.

<sup>8</sup> *Canons of Sustainable Architecture and Urbanism*, attached hereto as Exhibit B. (<http://cnu.org/who-we-are/charter-new-urbanism>) This hyperlink is fully incorporated herein by reference.

interstate conditions<sup>9</sup>. The mere fact that the Project site is near I-15 does not translate to a finding that it increases efficiency.<sup>10 11</sup>

Above are just some of the ways in which the Project is neither compliant with even basic LEED-ND criteria nor any “equivalent” standard.

### **b. School Impacts**

The Staff Report states that, “there would not be adequate capacity in the local schools to serve the project’s student generation.” This must be deemed a significant impact of the Project. The analysis simply assumes that the impacts can be addressed by the re-opening of a closed school or the placement of “temporary portable classrooms” at existing schools. This is not adequate. There is no assurance that either of these are viable options to address the new student population. Moreover, how is the statement “students generated by the project would continue to attend schools in their associated districts which have indicated their capacity to accommodate such students” plausible? (Staff Report p. 62)

### **c. Greenhouse Gas Emissions**

Project design features particularly for GHGs must be adopted as CEQA mitigation measures to be legally enforceable. (Staff Report pp. 69 – 71) The Project must also adhere to 2013 Title 24 Energy Efficiency Standards, not 2008 Title 24 as indicated at Staff Report p. 69.<sup>12</sup>

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<sup>9</sup> The Specific Plan outlines the Transportation Demand Management Program as well as the Interim Private Transit Services Program. (Final Specific Plan, p. III-11 - 12) These programs are based on permissive standards and are not reasonably calculated to lead to the use of mass transit. For instance, “interim transit service” would be provided by the HOA “upon build-out of the community,” which could be more than 20 years away.

<sup>10</sup> According to the principles of New Urbanism, there are economic, social and environmental consequences associated with “urban sprawl”. See, <http://www.newurbanism.org/sprawlcosts.html> This hyperlink is fully incorporated herein by reference.

<sup>11</sup> According to Smart Growth principles, “low density zoning causes more sprawl. Many municipalities wrongly down-zone large areas thinking this will spread out development and prevent traffic congestion. It does exactly the reverse as the spread out nature of places with people living in single-use pods of development forces everyone to drive to everything they need, resulting in increased congestion. This is why the lowest density suburban areas are the places with the worst traffic congestion. The solution is the building of compact, walkable, mixed-use communities of higher densities starting at an average of 15-20 units per acre, and going up from there.”

<http://www.newurbanism.org/density.html>

This hyperlink is fully incorporated herein by reference.

<sup>12</sup> Title 24 has been updated with the latest version (2013) becoming effective on July 1, 2014.

The Staff Report apparently does not discuss the new Governor’s Executive Order, B-30-15<sup>13</sup>, issued April 29, 2015. This Order requires a 40% reduction of GHGs below 1990 levels by year 2030.

As the Project is a new source of GHGs, the EIR must be revised to evaluate whether/ how the Project is consistent with this new reduction target.

All additional Staff recommendations (Attachment H, pg. 36) must be made requirements of the Project through the mitigation program.

**d. The EIR Must Be Recirculated**

The Final EIR contains new information regarding the significance of impacts in terms of growth inducement. Final EIR Chapter 1, Section 1.8. This discussion justifies recirculation under State CEQA Guidelines § 15088.5 (a)(1). This section requires recirculation when significant new information is added to the EIR including a disclosure showing that “[a] new significant environmental impact would result from the project”.

**III. The EIR Fails to Evaluate a Reasonable Range of Project Alternatives and Alternatives Are Not Shown to Be Infeasible**

The EIR fails to consider a reasonable range of alternatives as required by CEQA. State CEQA Guidelines § 15126.6. The EIR must consider an alternative that reduces single-family residential in the manner of the Reduced Intensity Alternative and Reduced Footprint Alternative *yet that provides some number of “single-family attached” and/or “mixed-use” housing*. There is not one alternative that involves a reduction of single-family units and a reduction, but not elimination, of single-family attached or mixed use housing. *See*, FEIR, Chapter 4, Table 4-1; *see*, p. 4-18 [Reduced Footprint would involve single-family detached and senior housing units; no single-family attached or mixed-use would be provided], p. 4-24 [Reduced Intensity would not include mixed-use or group care facilities]. The failure to evaluate any housing alternative involving a smaller number of “single-family attached” and “mixed use” units guarantees that *only* the proposed Project can satisfy the Project Objective of providing a mix of housing types. *See*, FEIR Attachment H pp. 449-450 [neither Reduced Intensity nor Reduced Footprint meet objective of providing a range of housing types]. This is not the purpose of an alternatives analysis under CEQA. In fact, none of the *housing* alternatives have the potential to meet the stated Project Objective of providing a “range of diverse housing types including mixed-use and senior housing”. The Project, therefore, becomes an inevitability.

Additionally, the reasons for rejecting project alternatives are flawed. For instance, at FEIR Chapter 4 p. 4-11, it is stated that the Legal Lot Alternative fails to meet “any” of the Project objectives which include providing a “range of public facilities, housing opportunities and commercial services to the neighborhood and community.” It is also stated that the Legal Lot Alternative would not constitute a “mixed-use” community. As discussed above, the Project itself is not a mixed use community in that it does not provide a reasonable balance of uses to include housing, commercial, and professional uses.

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<sup>13</sup> (<http://gov.ca.gov/news.php?id=18938>) This hyperlink is fully incorporated herein by reference.

The reasons for rejecting the General Plan Alternative are likewise not supported by substantial evidence. The Project would not create a “mixed-use” village; the Project is heavily weighted towards residential uses. The Project, therefore, does not encourage “non-automotive mobility” where residents will be dependent on their cars for a majority of goods and services including school attendance. Moreover, the Senior housing units are to be constructed in Phase 4 and 5, thus they may not be a reality for quite some time, if at all. Furthermore, there is nothing to say that some portion of any lower-density alternative could not be age-restricted similar to the Project.

As to the Reduced Intensity Alternative, first, the EIR does not state how many units would be developed under this alternative. Also, as with other alternatives, the reasons for rejecting this alternative are unfounded; for instance, the Project itself does not “provide residents educational opportunities” where the school will not necessarily be built.

Overall, the findings of infeasibility at Attachment H, pp. 448-452 are not supported by substantial evidence in the record. State CEQA Guidelines § 15091 (a)(3).

Finally, the CEQA Findings (Attachment H, p. 448) state that the “project proponent designed the project around the following objectives ...”. The County must independently consider and reject project alternatives. The applicant’s reasons for desiring a certain project at certain densities is not the sole factor in evaluating whether an alternative is feasible and/or consistent with County objectives.

#### **IV. The Findings are Not Supported by Substantial Evidence**

Mitigation measures proposed by the public have not been shown to be infeasible based on substantial evidence in the record.

#### **V. The Statement of Overriding Considerations Is Not Supported by Substantial Evidence**

The draft Statement of Overriding Considerations is not supported by substantial evidence as required by law. (Public Resources Code § § 21081 (b), 21081.5) For instance, the claim that the Project will create a “variety” of employment opportunities is not supported by fact given the limited commercial and office space proposed by the Project. There is not substantial evidence to support the claim that the Project would “generate significant sales tax dollars.” For example, food sales are generally not subject to sales tax<sup>14</sup>. In all probability a grocery store will be the largest component of the commercial element of the Project. There is not substantial evidence to support the claim that the Project helps meet regional housing needs. The Project in Phase 3 provides for the dedication of a school site; but there are no current plan to construct and operate a school on the Project site. Indeed the Staff Report notes that students of the Project will attend schools outside the Project site. Thus there are not overriding benefits that justify this Project.

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<sup>14</sup> [http://www.taxes.ca.gov/Sales\\_and\\_Use\\_Tax/WhatsTaxable.shtml](http://www.taxes.ca.gov/Sales_and_Use_Tax/WhatsTaxable.shtml).

This hyperlink is fully incorporated herein by reference.

August 5, 2015  
County of San Diego  
Planning Commission

**VI. Conclusion**

We urge the Planning Commission to deny this Project at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond W. Johnson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Raymond W. Johnson, Esq. AICP LEED GA  
JOHNSON & SEDLACK

Attachments (Exhibits A and B – by mail only)