



www.procopio.com

Procopio, Cory, Hargreaves & Savitch LLP  
525 B Street, Suite 2200  
San Diego, CA 92101  
T. 619.238.1900  
F. 619.235.0398

August 4, 2015.

Mr. Bryan Woods  
and Members of the Planning Commission  
County of San Diego  
Planning & Development Services  
5510 Overland Avenue, Suite 110  
San Diego, CA 92123

Re: Proposed Lilac Hills Ranch Development

Dear Mr. Woods and Members of the Planning Commission:

These comments on the proposed Lilac Hills Ranch Project ("Project") are provided on behalf of our client, the Pala Band of Mission Indians ("Pala Band"), a federally recognized Native American tribe. The Pala Band's Reservation and various properties it owns in fee are located in Northern San Diego County near the site of the proposed Project.

While the Pala Band does not directly oppose the proposed Project, it feels compelled to provide these comments to express its great concern with the County's proposed reinterpretation of General Plan Policy LU-1.2. That policy prohibits any "leapfrog" development, which the proposed Project is.

But the County has taken exceptional efforts to "shoehorn" the proposed Project into meeting the criteria in LU-1.2 that exempt a leapfrog development from the development prohibition. Those efforts are particularly troubling because the County's new interpretation of LU-1.2 eviscerates a linchpin policy of the General Plan. Such an interpretation, if approved by the Planning Commission, would set an unacceptable precedent for other similar large, residential developments, such as the Warner Ranch project, which is proposed to be built on land surrounded on three sides by the Pala Band's Reservation. Like the Lilac Hills Project, the Warner Ranch project also is a leapfrog development under the General Plan. Given that possible outcome, the Pala Band is forced to express its opposition to the proposed reinterpretation of the General Plan to allow these leapfrog developments.

Policy LU-1.2 defines a leapfrog development as "Village densities located away from established villages or outside established water and sewer services boundaries." There is no dispute that the proposed Project is a leapfrog development under this definition. The Policy prohibits any leapfrog development which is "inconsistent with the community development model ["CDM"]," but states that the prohibition does not apply to "new villages" that are (1) designed to be consistent with the CDM; (2) provide

Mr. Bryan Woods  
August 4, 2015  
Page 2

“necessary services and facilities,” and (3) are designed to meet the LEED Neighborhood Development (“LEED-ND”) Certification “or an equivalent.”

The Revised Draft Environmental Impact Report (“RDEIR”) for the proposed Project states that the Project “proposes a land use plan that is consistent with Land Use Policies LU-1.1 and LU-1.2.” While the Pala Band does not concede that the proposed Project is consistent with the CDM under LU-1.1, these comments focus on the proposed Project’s failure to comply with the three criteria listed in LU-1.2 allowing for an exemption from the leapfrog development prohibition.

### **1. The Proposed Project is Not Consistent With the CDM**

As for the first criteria in LU-1.2, the County claims that the proposed Project has been designed to be consistent with the CDM. A CDM-compliant development has a Village core that is surrounded by Semi-Rural land (low-density residential use, small-scale agriculture, and rural commercial businesses) and then by Rural land (very low-density residential development, open space, agriculture, etc.).

The proposed Project does not meet this design requirement because the proposed zoning identified in the Specific Plan is Single-Family Residential and General Commercial/Residential. The proposed Project does not appear to include Semi-Rural or Rural lands, but it uses the existing land zoned Semi-Rural and Rural that surrounds the proposed Project to claim it meets the CDM standard. Those are the semi-rural and rural lands that form the outer edge of the Valley Center village.

But, if a development claims to be a “new” Village, the development itself should include lands zoned Semi-Rural and Rural to comply with the CDM requirements. Under the County’s interpretation of this requirement, any new residential development that contains a claimed “Town Center” and denser construction in the center could be plopped down anywhere in the middle of an area zoned Semi-Rural or Rural and be consistent with the CDM. That unreasonable interpretation of the policy undercuts the goal of the General Plan to force developments to be built around existing villages and to discourage the construction of new villages.

### **2. The Proposed Project Is Not Compliant With LEED-ND or Any Acceptable Equivalent**

The County’s efforts to approve the proposed Project go overboard with relation to the LEED-ND equivalency issue. Throughout the approval process, many well-researched and persuasive arguments have been made by other persons regarding why the proposed Project has not been designed to meet the LEED-ND certification requirements or any proper “equivalent” to the LEED-ND. The Pala Band supports and incorporates by reference those comments. It also rejects the County’s attempt to change the General Plan through an improper interpretation of the word “equivalent” as reflected in the County’s Responses to Comments on the RDEIR.

Mr. Bryan Woods  
August 4, 2015  
Page 3

### 3. The Proposed Project Does Not Provide Necessary Services and Facilities

LU-1.2 also requires that a leapfrog development “provide necessary services and facilities” to be exempt from the prohibition. But the County’s cavalier interpretation of what constitutes “necessary” services and facilities effectively eliminates the meat from this requirement.

The County’s position on this issue is set forth in its Global Response to Comments on the RDEIR. There, the County concludes that the proposed Project will provide “necessary services and facilities to its residents.” It supports that conclusion by stating that the proposed Project is located within the service areas of the County Water Authority, the Valley Center Municipal Water District, the Valley Center Pauma Unified School District, the Bonsall Unified School District and the Deer Springs Fire Protection District. (Page Global-80). The Global Response also states that the proposed Project will be responsible for the construction/improvement or payment of mitigation fees for “private roads, storm drain facilities, underground utility lines, potable and irrigation water lines, water reclamation and distribution facilities, storm water detention basins, wet weather storage ponds, parks and recreational facilities and a school site.” The Global Response states the proposed Project will be “conditioned” to ensure that “adequate infrastructure is available to each phase of development at the appropriate time.” Other County documents clarify that there is only the “opportunity for an on-site school.”

The problem is that any residential development must provide residents with water, sewer, electric, stormwater control, fire service, roads, and parks. Those are minimum “necessary” services and facilities for any residential development. Under the County’s interpretation of what is a “necessary” service or facility, any proposed development project could meet the requirement by simply providing the minimum services and facilities required for any 20<sup>th</sup> or 21<sup>st</sup> century development.

Moreover, the new “Village” is not providing the necessary services. Rather, it is in response to the proposed development that other service providers have agreed to provide these services. Exactly what “necessary” services and facilities are being provided by the proposed Project itself is not explained in any detail, except for the mention of an on-site recycling facility and the potential school site. Although there is mention of a “civic center,” the necessary services that the civic center would provide are not clearly described. Also, there is no indication that the new Village would include a library, a post office, courts, banks, supermarkets, dry cleaners, drug stores, or any of the other myriad services and facilities provided by an actual village. Rather, because these necessary services and facilities will not be provided, residents will be forced to drive out of the “Village” in order to obtain these services, the very thing that the leapfrog development prohibition is intended to avoid.

Again, the County’s forced interpretation of this requirement effectively eliminates it from the General Plan. There is no legal basis for the County to argue that simply providing services required by any residential development and adding a bit of commercial development constitutes providing the necessary services and facilities required to avoid the leapfrog development prohibition. The leapfrog development policy is a fundamental policy in the General Plan and the County’s attempt to read it out of

Mr. Bryan Woods  
August 4, 2015  
Page 4

the General Plan is a violation of law. (*Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4<sup>th</sup> 1332, 1341-42.)

#### 4. Conclusion

The proposed Project clearly fails to satisfy the requirements of Policy LU-1.2 that would allow it to be exempt from the General Plan's prohibition on leapfrog development. Because of the enormous ramifications of the County's proposed revision of this fundamental policy of a General Plan so long in the making, the Pala Band urges the Planning Commission to reject the proposed Project on this ground. If the Planning Commission accepts the argument that the proposed Project is an acceptable leapfrog development, it will set a terrible precedent for other similar large-scale developments making their way through the approval process or waiting in the wings. Once started, the dismantling of the General Plan will be difficult to stop. As written, the General Plan allows for sufficient housing for the future, and the carefully wrought compromises that resulted in the General Plan should not be demolished to allow this the proposed Project to be built.

Sincerely,



Walter E. Rusinek

cc: Mr. Robert Smith, Chairman, Pala Band of Mission Indians  
Dr. Shasta Gaughen, THPO and Director, Pala Environmental Department  
Mr. Mark Wardlaw, Director, County Planning and Development Services  
Mr. Charles Mathews, Chairman, Pala Pauma Valley Community Sponsor Group  
Dan Silver, Endangered Habits League