

**LILAC HILLS RANCH  
FEIR GLOBAL RESPONSES  
EASEMENTS (COVEY LANE AND MOUNTAIN RIDGE ROADS)**

Several comments have been received regarding the road easements for Covey Lane and Mountain Ridge Road suggesting that the project applicant does not have the easement rights necessary for construction of the proposed road improvements or for use of the improved roads. Comments have also been raised asserting that the REIR failed to analyze the environmental impacts associated with the construction of these improvements and “easement gaps” (areas in which they contend the project does not have a legal right to make improvements). A number of comments raised purely legal issues regarding the ability of the County to approve the project under the Subdivision Map Act and accept Irrevocable Offers of Dedication. Finally, comments were made regarding the failure of the REIR to discuss line of sight issues. This global response was prepared in order to provide the proper context and the factual or legal underpinnings with which these concerns should be addressed.

**Covey Lane and West Lilac Road**

The County of San Diego (County) requires projects to have several points of access (primary and secondary) into a project. Covey Lane is one of four primary access points which will connect the project to an existing public road as identified in the Project Description. In particular, Covey Lane will provide access from Phases 4 and 5 of the project to West Lilac Road – a mobility element road.

Covey Lane is currently a two-lane undivided private road that provides access from the project site to the County’s public road system and does not meet the County’s Private Road Standards. Covey Lane consists of two segments; a private road within the project that extends to the boundary of the project and an existing off-site roadway, currently dedicated as a private road, that consists of a 600-foot segment from the boundary of the project to West Lilac Road. Covey Lane from the project boundary to West Lilac Road will be constructed to County Public Road standards (28-foot paved width on a 40-foot graded section). The project is proposing to dedicate the 600-foot off-site segment of Covey Lane as a public road, improve this segment to the County’s Public Road Standards and to make improvements to the roadway at the intersection of Covey Lane and West Lilac Road (“Covey Lane Off-Site Improvements”). The Covey Lane Off-Site Improvements are included in the Project Description as a project design feature and will provide compliance with a number of the County’s General Plan Policies (M-3.3 and M-3.4) and Subdivision regulations. (San Diego County Standard Conditions for Tentative Subdivision Maps, Document Number 740858(a), approved by the Board of Supervisors, June 16, 2000, available at <http://www.sandiegocounty.gov/content/sdc/dpw/land/standcontm2.html#Street>, which document is incorporated in this response by this reference, “County Standard Conditions for Tentative Maps”). Significantly, the Covey Lane Off-Site Improvements will be constructed completely within an area that is subject to Irrevocable Offers Of Dedication (IODs) held by the County for public use and existing roadway easements held by the project applicant (See Global Response: Off-Site Improvements - Environmental Analysis and Easement Summary Table for a description of the IODs and easements held by project.)

A comment was made that the Covey Lane Off-Site Improvements are necessary because of the traffic generated by the project and consequently these improvements should be viewed as a mitigation measure. This is incorrect. The Covey Lane Off-Site Improvements are not traffic mitigation measures. The REIR identified a small percent (9 percent) of the project’s total traffic

will be utilizing Covey Lane. As shown in Tables 7.2, 7.4, and 10.2 of the Traffic Impact Study, from a traffic operation perspective, the project causes no significant impacts to either the intersection at West Lilac Road and Covey Lane, or the off-site road segment of Covey Lane; as a result, there is no traffic impact to mitigate. Rather the Covey Lane Off-Site Improvements would be considered a project design feature of the project and is appropriately included in the project description, described in subchapter 1.2.1.4.

Several comments also alleged that the REIR failed to analyze the line of sight issue at this intersection. This is also incorrect. Landmark Consulting conducted a sight distance analysis for the intersection at Covey Lane and West Lilac Road (Appendix C-1 to the EIR-“Landmark Analysis”). The Landmark Analysis determined that a clear line of sight of 480 feet would be needed across a portion of APN 129-190-44. Because a small hill with vegetation limits the existing line of sight to a distance of 330 feet, the Landmark Analysis recommended the addition of a clear space easement over 0.25 acre with related grading rights to remedy the existing condition. Further, because the REIR identified the area as being comprised of ornamental trees and a number of coast live oaks, the grading to lower the bank requires that a number of the oak trees also be trimmed back. This is more specifically discussed in subchapter 2.5 of the REIR, where the project biologist determined that no significant biological impacts would occur due to this grading and trimming.

The REIR analyzed the safety at this intersection and determined that, since street intersections are required to conform to the intersectional sight distance criteria of the Public Road Standards, the engineer for the project would be required to certify that the sight distance requirements can be met before receiving approval of a final map. If the County determined that an easement would be required to meet this requirement and the applicant has not obtained the easement, the applicant would be required as part of the County’s standard tentative map conditions to request the Board of Supervisors to direct County staff to begin eminent domain proceedings for acquisition of property rights in accordance with Board Policy J-33. The developer would be required to pay the full costs of eminent domain proceedings, including all easement costs. (County Standard Conditions for Tentative Maps) The REIR also analyzed the issue of traffic hazards with respect to the project’s transportation design network that included the Covey Lane Improvements and determined that impacts associated with traffic hazards would be less than significant. (REIR Section 2.3.4.2)

A commenter also incorrectly stated that the REIR failed to address the actual environmental impacts of constructing the Covey Lane Off-Site Improvements as well as the off-site improvements needed to provide adequate sight distance for the intersection of Covey Lane and West Lilac Road. The Project Description (Chapter 1) page 1-11 to 1-12 (of clean version of the REIR) identified all of the off- site improvements that are a part of the project, which included the Covey Lane Off-Site Improvements and the off-site improvements needed to provide adequate sight distance at this intersection. Thereafter, each subject area of the REIR included a discussion of these improvements as applicable. See 2.1 (Visual), 2.5-19 (Bio), 2.6-11 (arch). In essence, the REIR fully analyzed the impacts from the construction of the Covey Lane Off-Site Improvements and the improvements needed to provide adequate sight distance at the intersection of Covey Lane and West Lilac Road as an integral part of the potential impacts of the project.

A comment was made that the lack of easement rights prevents the project from being approved under Subdivision Map Act. This comment is unrelated to an environmental issue within the meaning of CEQA and the statement as a general principle is incorrect. The Subdivision Map Act allows a local agency to approve a subdivision map with an off-site

improvement condition if the agency determines such a condition is appropriate and these conditions often reflect local ordinances or policies adopted by the local agency. If the subdivider does not have the real property rights necessary for public access or the construction of required improvements, he/she is required to request the local agency to begin eminent domain proceedings for acquisition of the property rights needed for public access or off-site improvements. If the agency does not wish to begin the eminent domain proceedings, the condition is considered waived. (Gov. Code §§ 66462.5) County Board of Supervisor Policy J-33, requires the subdivider to use every reasonable effort to acquire the property rights. If the off-site property owners are unwilling to sell their property interests to the subdivider, the Board of Supervisors may choose to use their power of eminent domain to obtain the needed rights. The project applicant will be required to pay full County costs of eminent domain proceedings, including all costs to purchase the real property rights. (County Board of Supervisor Policy J-33, which is incorporated herein by this reference.)

A comment was also made that the project applicant does not have the legal right-of-way to construct the Covey Lane Off Site Improvements, referencing a statement made that the property owners of APN 129-190-44 were contacted and the property owners have indicated that they will not grant additional rights to construct the intersection at Covey Lane and West Lilac Road. As noted above, however, additional rights from other property owners are not needed to construct the Covey Lane Off-Site Improvements. The Covey Lane Off-Site Improvements can be completed pursuant to rights the County currently holds via several Irrevocable Offers of Dedication (IODs) together with easement rights already held by the project applicant. Specifically, an IOD was granted to the County on September 15, 1980, in the Official Records of San Diego County, California as Document No. 80-297659, for 30 feet of right of way along the north half of Covey Lane and the west half of West Lilac Road. Additionally, Parcel Map No. 18536, recorded on August 29, 2000, provides the County with an IOD for a 30 feet wide portion of right of way on the south side of Covey Lane. Both IODs remain open and subject to future acceptance by the County, and which acceptance is proposed as part of the project. As for the remaining portions of the land needed for construction of the Covey Lane Off-Site Improvements, the applicant is the underlying fee owner of APN 128-290-62 and is the successor in interest to an existing 40-foot Private Road easement for Covey Lane that was created by Document No. 1979-539700, in the Official Records of San Diego County, California. This easement was granted in gross to all of the grantees identified in the document with the "right to dedicate the same for public use." Accordingly, the 40-foot portion of this easement can be dedicated to the County to complete the public road connection between the easterly project boundary and West Lilac Road. (See Global Response: Off-Site Improvements - Environmental Analysis and Easement Summary Table for a description of the IODs and easements held by the project and the various rights-of-way described in the public records referred to above.) With respect to any easement that may be needed for correcting the existing line of sight issue at Covey Lane and West Lilac Road, the County would require the project applicant to acquire any necessary easements as a condition of Tentative Map approval pursuant to the County's Standard Conditions for Tentative Subdivision Maps. If the applicant is unable to obtain such easements, the County could begin eminent domain proceedings upon request of the applicant to remedy this existing line of sight issue. (County Standard Conditions for Tentative Maps)

Notwithstanding the discussion above, the need for easements and use of eminent domain is not an environmental issue under CEQA as obtaining easements by condemnation would not result a physical change in the environment. With respect to the issue of condemnation, CEQA requires environmental review before project approval so as to inform the decision making body about any physical impacts to the environment that would result from the actions to

condem. Where CEQA and eminent domain law intersect is that CEQA review of the project must be completed before an eminent domain case is initiated. (See *Stockton v. Marina Towers LLC* (2009) 171 Cal.App.4<sup>th</sup> 93 and *Golden Gate Land Holdings v East Bay Regional Park District* (2013) 215 Cal.App.4<sup>th</sup> 353.) In this case, the physical impacts to the environment resulting from the improvements that would be subject to condemnation have been analyzed within this REIR.

Comments have been raised regarding the ability of the applicant, as a private developer, to rely on the use of IODs held by the County. The comment does not contest the County's ability to require the dedication to the County of an IOD on private property for future roadway purposes or the fact that an IOD may be required for many reasons, including future growth in the area, public safety, better access to mobility element roads, etc. Moreover, it is within the County's authority and police powers to accept the existing IODs at any time in order for the Covey Lane Off-Site Improvements to be built and this acceptance would be consistent with the purposes for which such IODs were originally given to the County. (Government Code Section 66477.2(a)) Acceptance of the IODs would also comply with General Plan policies related to providing multiply access points (M-3.3), designing and constructing roadways to accommodate emergency vehicles (M -4.4) and requiring development to dedicate right-of-way for public roads and other transportation routes identified in the Mobility Element roadway network.

Another comment was made that the REIR failed to discuss "mitigation options for easement gaps." Although these "easement gaps" (areas in which they contend the project does not have a legal right to make improvements) were not specifically identified, as stated earlier, the construction of the Covey Lane Off-Site Improvements is not a project mitigation measure. Equally important, construction of the Covey Lane Off-Site Improvements would occur within existing easements controlled by the applicant and the IODs held by the County – because the County has the authority to accept the existing IODs as needed to construct the Covey Lane Improvements described in the Project Description. Therefore, no "easement gaps" exist that need to be mitigated.

### **Mountain Ridge/Circle R Drive**

Mountain Ridge Road is an existing two-lane private road that provides legal access from several parcels within the project (SRS-5 and SFS-6, and the Institutional site within Phase 5) to Circle R Drive pursuant to existing easement rights ("Easement") as described in the letter written by Landmark Consulting, dated April 8, 2013 and included in the Title Report (10<sup>th</sup> Amendment) from Chicago Title, dated February 1, 2013, which was included as a part of the Tentative Map application for the project, both documents are incorporated in this response by this reference. Those parcels with legal access rights to Mountain Ridge Road are disclosed for informational purposes in Table 4-9 and the APNs are shown on Figure 4-17 and 4-18 of the REIR. Circle R Drive is a County-maintained public road with access to the west to Old Highway 395.

Mountain Ridge Road is an existing access point which connects both the southern portion of SRS-5 and SFS-6 and the institutional site within Phase 5 of the project to the County's public road system. Mountain Ridge Road from the project's southern boundary to Circle R Drive is about 0.5 mile in length. (See Traffic Impact Study, FEIR Appendix E, Figure 3-2A.) The existing Mountain Ridge Road does not meet the County's Private Road Standards and the project is being required by the County to improve this roadway to this standard. Mountain Ridge Road has been designed as a 24-foot private road within the existing 40' Easement as

described in Chapter 1.0 of the FEIR and shown in Table 1-2. The project is requesting an exception to such Standards to reduce the design speed to 15 mph. (Exception Request Number 7) The project also proposes to make related improvements needed at the intersection of Mountain Ridge Road and Circle R Drive and is requesting an exception to the taper requirement at this intersection in order to provide a less impactful transition onto this roadway. (Exception Request Number 8). The improvements to Mountain Ridge Road and the intersection are included in the Project Description as a project design feature and are not needed as a mitigation measure. (See section 7.2 of the TIS, attached as Appendix J to the FEIR.) The off-site improvements made to Mountain Ridge Road will ensure that these parcels will continue to have ingress and egress to Circle R Drive and comply with the requirements of the County's General Plan Policies and Subdivision Ordinance and related regulations pertaining to access. The project applicant has a legal right to access its property from Mountain Ridge Road and to make improvements to the roadway as further explained below.

A comment was made that the off-site improvements to Mountain Ridge Road and the intersection improvements at Mountain Ridge Road and Circle R Drive (referred to collectively as "MRR Improvements") are needed to handle the traffic projected to be generated by the project and is therefore a mitigation measure. This is incorrect. The Mountain Ridge Road Improvements are not traffic mitigation measures. As shown in Table 10.2 of the Traffic Impact Study, from a traffic operation perspective, the project does not cause any significant impact to the intersection at Mountain Ride Road and Circle R Drive (the REIR identified that only 5.5 percent of the project's total traffic utilizing Mountain Ridge Road). As a result, no traffic mitigation was proposed or is necessary. Rather, the Mountain Ridge Road Improvements are an element of the project itself, clearly distinguishable from a mitigation measure that is established in response to the identification of a significant environmental effect. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645 (2014)).

Commenters also assert the REIR failed to analyze the following issues: line of sight at the intersection of Mountain Ridge Road and Circle R Drive, the absence of tree and brush clearing rights at this location, public safety concerns and the County's use of prescriptive rights to clear mature and sensitive trees from this location. However, this is incorrect. Landmark Consulting conducted a sight distance analysis for the intersection at Circle R Drive and Mountain Ridge Road (Appendix C-1 to the EIR) and determined that no line of sight issue existed for this area, in part because recent clearing was performed in April 2013 by the County along the existing public road within APN 129-390-18, as well as between the existing pavement of Circle R Drive and an existing public road easement granted per PM 17205. It is reasonable for Landmark Consulting to assume that the clearing of this site by the County was done in a lawful manner and that the County will continue to do so; no evidence has been provided by the commenters to indicate otherwise. Therefore, Landmark's analysis provides substantial evidence to support the conclusions that have been reached in the REIR. Substantial evidence is defined as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion even though other conclusions might also be reached". CEQA Guidelines Section 15184(a). (*Laurel Heights Improvement Association v. Regents of University of California* (1988) 47 Cal.3d 376, 409 and CEQA Guidelines Title 14 CCR 15384.) In any event, Landmark also recommended that a clear space easement be obtained and, as discussed in the REIR, the County may impose conditions pursuant to the County's Standard Tentative Map Conditions with respect to the clear space easement at this location.

Although the REIR determined that the existing sight distance was adequate at this location, the REIR noted that all street intersections are required to conform to the intersectional sight

distance criteria of the Public Road Standards of the Department of Public Works. If an easement is determined to be necessary to meet this requirement, and the applicant cannot obtain the easement after exhausting all efforts to do so, as part of the County's Standard Tentative Map Conditions, the applicant must request the Board of Supervisors to direct County staff to begin eminent domain proceedings for acquisition of property rights in accordance with Board Policy J-33. The developer is required to pay the full costs of eminent domain proceedings, including all easement costs. (County Standard Tentative Map Conditions.)

The REIR analyzed the impacts from the construction of the MRR Improvements as a part of the project's potential impacts. The project description (Chapter 1 of the REIR) includes construction of the Mountain Ridge Road Improvements as an off-site improvement. (The Project Description also included as described above, the off-site improvements needed to assure adequate sight distance which included the intersection of Mountain Ridge Road and Circle R Drive.) Thereafter, each subject area discussion within the REIR includes a discussion of the off-site improvement areas. As shown on FEIR Table 2.5-2 and illustrated in Figure 2.5-2b, no off-site impacts would occur to existing biology as a result of this road design. Chapter 2.8.2.1 of the FEIR provides a detailed analysis of the noise impacts related to traffic on Mountain Ridge Road. As determined by the analysis, the impacts upon the closest residences would remain less than significant. See also subchapter 2.1 (Visual), and subchapter 2.6 (Cultural).

The REIR also analyzed the issue of traffic hazards with respect to the construction of Mountain Ridge Road Improvements and determined that impacts associated with traffic hazards would not be significant. In fact, the construction of the Mountain Ridge Road Improvements from the project boundary to Circle R Drive would enhance access to the County's public road network, in compliance with General Plan Policy M-4.2. Furthermore, the FEIR concluded that the proposed design standards would allow for the efficient and safe evacuation of residents from the project site and the impacts associated with the adequacy of an evacuation process would be less than significant. (FEIR Sections 2.7.2.4, and 2.7.3.3, and Figure 2.7.3.)

Another comment suggested that the modifications requested to the County's road standards should be a part of the project and should be subject to CEQA analysis together with the project. The Project Description identified two design exceptions to Mountain Ridge Road (exceptions # 7 and 8, as shown in REIR Table 1-2; the "Road Design Alternative"). As described above, the two exceptions would allow Mountain Ridge Road to remain in its current condition, with the exception of minor widening to ensure that there would be two 12-foot lanes consistent with County Private Road Standards, and would avoid significant grading and disruption to existing driveways. It should be noted that Mountain Ridge Road was also analyzed at a design speed of 30 mph as a private road should design exception Number 7 not be approved by the County (Road Design Alternatives subchapter 4.8.1.7). Section 4.8.1.7 discloses that the increase in design speed would require the road to be redesigned, existing power poles would need to be relocated and without any retaining walls, the grading for this road alternative could encroach into the pad area of one single-family residence, however use of retaining walls would eliminate the encroachment. In addition, without retaining walls, grading could impact two ancillary non-habitable sheds that would have to be relocated. The analysis appropriately discusses the visual, noise, and air quality impacts of the grading and construction associated with this alternative and includes specific discussion of impacts to surrounding residences. Biological

impacts are addressed and mitigation measures are identified (M-RD-BIO-1d and M-RD-BIO-2a) that would reduce impacts to less than significant.

FEIR Section 4.9 also analyzed the environmental impacts associated with implementation of the Mountain Ridge Road as a public road under the Mountain Ridge Road Fire Station Alternative. Under this scenario, since Mountain Ridge Road is currently a private road, the project applicant would be required as a condition of its subdivision map, to acquire the off-site property rights needed for Mountain Ridge Road to be dedicated as a public road. The project applicant must use every reasonable effort to acquire the property rights. If the off-site property owners are unwilling to sell their property interests to the project applicant, the Board of Supervisors may choose to use their power of eminent domain to obtain the needed rights. The project applicant will be required to pay full County costs of eminent domain proceedings, including all costs to purchase the real property rights. (County Board of Supervisor Policy J-33., which is incorporated herein by this reference.) The level of analysis of this alternative in the FEIR is greater than required under CEQA (CEQA Guidelines Section 15126.6). The alternative identifies all additional impacts that would occur with constructing Mountain Ridge Road to public road standards (see FEIR subchapter 4.9). The question of condemnation of land is outside the scope of CEQA; however, should the County uses its eminent domain authority, all environmental effects resulting from the construction of Mountain Ridge Road to public road standards were analyzed as required by CEQA. Specifically, subchapter 4.9.1 states the Mountain Ridge Road would require the acquisition of additional 2.37-acres of right-of-way. Impacts associated with the acquisition of the right-of-way and the two (2) options for improvement of Mountain Ridge Road are discussed in FEIR subchapter 4.9.2.

Finally, several commenters raise legal issues pertaining to the “overburdening” of the Mountain Ridge Road easement. However, the use of private road easements is a private matter outside of the County’s land use authority. The question of overburdening Mountain Ridge Road is a legal determination pertaining to the extent the easement holder may intensify the easement’s use. The environmental effects of constructing Mountain Ridge Road and the project’s impact on the roadway were analyzed pursuant to CEQA. As shown in Table 10.2 of the Traffic Impact Study, from a traffic operation perspective, the project does not cause any significant impact to the intersection at Mountain Ride Road and Circle R Drive (the REIR identified that only 5.5 percent of the project’s total traffic utilizing Mountain Ridge Road). As a result, no traffic mitigation was proposed or is necessary.

The project is required to make improvements to Mountain Ridge Road to County Private Roadway Standards pursuant to San Diego County Code of Regulatory Ordinances, Title 8, Division 1, SEC 81.402(j), (this page is incorporated in this response), which requires access roads to be improved to such standards, as a requirement of subdivision map approval. In other words, Mountain Ridge Road is not being required to be improved to Private Road Standards to reflect the size of the project, but rather to comply with the County’s access requirements. Regardless of the size of the project, or the marginal difference between what the easement may arguably allow or not, the requirement to improve the roadway to County Private Road Standards would remain the same. Even if you were to assume the project would not be allowed to intensify the use of Mountain Ridge Road, and consequently the project generated fewer trips on this roadway, the project would still be required to improve Mountain Ride Road to County Private Road standards under Section 81.402(j).

Finally, the project proposes to minimize the improvements being made to Mountain Ridge Road by requesting an exception to the County Private Road Standards to reduce the design speed to 15 mph which would allow the road to remain in its current condition, with the

exception of minor widening to ensure that there would be two 12-foot lanes consistent with County Private Road Standards, and would avoid significant grading and disruption to existing driveways.

It is clear that Mountain Ridge Road provides legal access to the property owners of the southern portion of SRS-5 and SFS-6 and the Institutional Site. The project was specifically planned to reflect the fact that Mountain Ridge Road is a private easement road and only those parcels which benefit from this easement have legal access rights to Mountain Ridge Road and are able to exit to the south. In fact, as described in Figure 24 to the Specific Plan, a project feature includes a gate north of the entrance to the Institutional Site in order to control and limit such access to the permitted users (this gate is also described in detail in the project Description of the REIR and shown on Figure 1-7 therein). Residents in the northern portions of the project will not be able to travel south onto Mountain Ridge Road through this gate. Access to the Institutional Site will be provided via two entrances and parking areas, one north of the Mountain Ridge Road gate and one to the south, allowing all residents of the project access through the internal road system but requiring them to park north of the Mountain Ridge access point and therefore unable to exit in that direction. Likewise, visitors to the Institutional Site from outside the project could only access the site from either Mountain Ridge Road (south of the gated access), or by entering the project from north of the Institutional Site and using the internal road system to get to the north parking lot, which does not connect to the south.

A senior community development, a church, and a park are located in Phase 4 and 5. These uses typically produce less vehicle traffic than traditional residential uses. The trip generation rates for the senior citizen community, developed utilizing SANDAG's Guide to Vehicular Traffic Generation Rates for the San Diego Region, is proportionally less than the generation rate shown for other types of residential uses as described in Tables 4.3 thru 4.8 of the TIS. Further, Mountain Ridge Road would be opened only during emergencies to facilitate evacuation in order to enhance the safety of the project as well as the residents in the area during an emergency.

Although not required as a part of the environmental review of the project under CEQA, a detailed description of the legal rights to Mountain Ridge Road was provided by a letter written by Landmark Consulting, dated April 8, 2013. (Also included in the Title Report (10th Amendment) from Chicago Title, dated February 1, 2013, which was included as a part of the Tentative Map application for the project) The letter and Title Report provides a list of the relevant easement documents found in the Official Records of San Diego County, California.

The Mountain Ridge Road easements contemplated the future subdivision of the benefitted parcels as the easements were originally granted for "the future owner or owners..." and with "the right to grant said easement to others." The Court of Appeal has also twice held that nearby and ongoing (foreseeable) development is a factor that supports increased use of an easement. See *Jordan v. Worthen* (1977), 68 Cal.App.3d at 327; *Hill v. Allen* (1968), 259 Cal.App.2d at 486. Here, it is reasonably foreseeable given the development in Valley Center, that there could be some future subdivision of the benefitted parcels that would result in an increased use of the existing Easement. Indeed, the twenty existing residential properties along the Mountain Ridge Road are part of an earlier subdivision. This factual scenario is similar to *Jordan* wherein at least two defendants had themselves purchased property from an earlier subdivision. *Jordan*, supra, 68 Cal.App.3d at p. 325. Such defendants were later estopped from contesting the impact of additional development to their easement as such changes were foreseeable. *Id.* Similarly, as explained and approved in *Hill*, development generally is part of the "inevitability of change dictated by natural forces and human activities" that the servient estate must accommodate. *Hill*, supra, 259 Cal.App.2d at p. 486. Finally, the senior residents

and church goers will use the easement for ingress and egress purposes as intended by the original reservation and grant. *Wall v. Rudolph*, (1961) 198 Cal.App.2d 684, 695. In any event, based on the Traffic Analysis, the County has concluded that the traffic generated by subdivision of the parcels that are served by the private road easement would be able to handle the traffic from the proposed project. As previously noted, this is a private matter.

Whether the project exercises its rights under the Easement or eminent domain is used, the actual physical impacts to the environment that would result from the construction of the Mountain Ridge Road Improvements have been analyzed by the RER. The FEIR adequately discloses all physical environmental impacts that would result from the off-site improvements, including those that may require the use of eminent domain, such as the construction of Mountain Ridge Road as a public road. (As described above, the REIR includes as an alternative the existing Mountain Ridge Road constructed to public road standards and dedicated as a public road.)

California law grants local public agencies the ability to impose conditions on private development requiring the construction of public improvements located within land not owned by the applicant. The public agency may thereafter condemn the land needed on the developer's behalf so the developer may complete the required improvements with the developer funding the acquisition costs. (Gov. Code §§ 66462.5) This has been memorialized by the County Standard Conditions for Tentative Maps.

Finally, a commenter stated that the REIR should provide an analysis of the impacts if the project is unable to use the existing easements to make the improvements to Mountain Ridge Road as contemplated by the project. As described above, the REIR includes an Alternative that analyzed the existing Mountain Ridge Road constructed to public road standards and dedicated as a public road and can be found in FEIR subchapter 4.9.