

LETTER

RESPONSE

Letter I330

From: Bob & Josette Franck [mailto:franckfort@yahoo.com]
Sent: Thursday, July 24, 2014 10:13 AM
To: Slovick, Mark
Cc: Blackson, Kristin
Subject: Eminent Domain: LHR 2014 DEIR 3800 12-001 (GPA), etc.

Lilac Hills Ranch DEIR 2014
Mark Slovick, Project Manager
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Project: Lilac Hills Ranch

Project Number(s): 3800 12-001 (GPA), 3810 12-001 (SP), 3600 12-003 (REZ), 3100 5571 (TM), 3100 5572 (TM), 3300 12-005 (MUP), 3500 12-017 (STP), 3500 12-018 (STP)

Dear Mark,

The applicant for Lilac Hills Ranch needs extraordinary assistance to access their project due to limited easement rights, which apply to a few parcels and are not extended to the rest of their lots. Enter eminent domain, which County Policy J-33 states: "Notwithstanding the above, non-blighted, owner-occupied, residential structures cannot be condemned for transfer to another private party for purposes of more profitable economic development."

I330-1

Two, possibly three, "non-blighted, owner-occupied, residential structures" along Mountain Ridge Road, as well as similar numbers on Covey Lane, would be inaccessible &/or condemned with the County's authorizing use of eminent domain for the applicant's "more profitable economic development." Without this project's dire situation - lack of ownership of road easements for all parcels - the County would have no need to force eminent domain on the rightful easement owners of these two privately-owned roads.

I330-2

Since this is contrary to the J-33 decree, why would the County even consider stealing (while financial compensation is required, how else should one term the forceful giving up of one's property to benefit a private entity that only has financial interest in gaining the property, not caring about how it's gotten) private roads for this private party to have road access to their development and not even build said stolen property up to County Standard roads? How is the County going to satisfy this decree with respect to the public road, West Lilac Road, which has 2-3 homes that may require condemnation to wide the road so LHR can be built? The County already stated that widening of WLR was in the plan, but not in the works because there isn't a current need to widen it; without this project, there still isn't a need. Why would the County recommend eminent domain that opposes its own policy for its use?

I330-3

Unfortunately for the developer, Mountain Ridge Road and Covey Lane are two very

I330-4

I330-1 The project would be conditioned to make the required improvements and it would be the applicant's responsibility to acquire all necessary right-of-way to make the improvements. If the applicant cannot acquire the right-of-way, the applicant could request the Board of Supervisors to initiate eminent domain proceedings through BOS Policy J-33, which would be at the applicant's expense. For additional details about the easement rights held by the applicant, refer to the Global Response: Off-site Improvements – Environmental Analysis and Easement Summary Table included in the introduction to these responses to comments.

I330-2 The improvements along Mountain Ridge Road, as proposed, would not result in structures becoming inaccessible or condemned. The project proposes improvements to Mountain Ridge Road that would avoid impacts to owner-occupied structures and driveways. Specifically, Road Exception Request #7 would reduce the existing 30 mph design speed to a 15 mph design speed which would avoid impacts to residents and driveways. The roadway would be improved to achieve 28 feet of grading with 25 feet of pavement. The FEIR evaluates an alternative that considers impacts if Road Exception Request #7 is not approved. Refer to subchapter 4.8.1.7 of the FEIR. As analyzed under this alternative, the Road Design Alternative 7: Mountain Ridge Road – Reduced Design Speed, the 30 mph design speed would require the road to be redesigned which would result in impacts to existing power poles, driveways, three single-family residences, and three existing culverts.

Refer to the Global Response: Easements (Covey Lane and Mountain Ridge Roads) for additional detail about the projects easements rights to these roads. In addition, the project would not result in the condemnation of structures along Covey Lane. It is unclear what specific issue the commenter is referring to for the reference to Covey Lane.

In addition, the County requires a Traffic Control Plan prior to construction to ensure that adequate access is provided to existing residences. This measure would ensure that property owners would continue to have access to their properties during construction.

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large project deterrents: both are **private roads with limited easement rights for the project**, they are both privately maintained, and all of the roads' owners will not give up their roads' intended uses to let Del Mar (1.8 square miles / 1,152 acres, 2,600 DU, population of less than 4,300) drop in on 608 acres (less than one square mile), with at least 1,746 DU, and a population of more than 5,200. Where is the public benefit? The only benefit to be had from the taking of these private roads, will be financial gain by the private developer.

I330-4
cont.

As an aside, I know where it wants to be, but I have searched unsuccessfully on the approved County General Plan to find it, so where is Lilac Hills Ranch supposedly located within this approved General Plan?

I330-5

Respectfully,

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I330-2 (cont.)

If the Board of Supervisors decides to adopt one of the project alternatives and/or requires improvements beyond what is currently proposed, the project would be conditioned to obtain additional easements as needed. The project would be conditioned to make the required improvements and it would be the applicant's responsibility to acquire necessary right-of-way to make the improvements. If the applicant cannot acquire the right-of-way, the applicant could request that the Board of Supervisors to initiate eminent domain proceedings through BOS Policy J-33, which would be at the applicant's expense.

I330-3 Regarding the comments on Eminent Domain and easement rights refer to response to comments I33h-1 and I33h-2 above. With regard to the comment about the need for widening West Lilac Road, the project will be conditioned to implement M-TR-4 which requires the applicant to improve West Lilac Road between Old Highway 395 and Main Street to meet the General Plan Mobility Element classification of 2.2C, subject to exceptions as or to a 2.2F standard. Proposed improvements include frontage improvements to West Lilac Road between Old Highway 395 and Main Street. In the current condition, West Lilac Road does not meet the current 2.2C classification. The project improvements would not require condemnation of structures along West Lilac Road as stated by the commenter.

Refer to subchapter 2.3 and Appendix E of the FEIR for additional detail on the project impacts and mitigation recommended for West Lilac Road.

I330-4 The project currently has easements and other rights necessary to improve and use Mountain Ridge Road and Covey Lane. Refer to the Global Response: Easements (Covey Lane and Mountain Ridge Roads) included in the introduction to these responses to comments for additional information about the project's legal easement rights. With respect to the use of Eminent Domain, ultimately it is the discretion of the Board of Supervisors to decide whether to require improvements that would require additional easements and to weigh the public benefit of the project when making a decision on the project.

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	<p>I33o-5 Lilac Hills Ranch would not be found in the existing General Plan because the project requires a General Plan Amendment. Property owners may request a General Plan Amendment pursuant to Government Code Sections 65300 et seq. Prior to the sunset of Board of Supervisors Policy I-63, in order to initiate an amendment to the General Plan, an applicant was required to process a Plan Amendment Authorization (PAA). An application to amend to the General Plan was allowed to proceed by the approval of a PAA by the Planning Commission on December 17, 2010 Chapter 3.0, subchapter 3.1.4, Land Use Planning of the FEIR and Appendix W provide information demonstrating how the project would comply with the General Plan.</p>
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