

Yorba Linda Estates, LLC



7114 E. Stetson Dr. #350 Scottsdale, AZ. 85251  
P: (480) 966-6900 F: (480) 994-9005

October 7, 2016

Colby Cataldi  
Deputy Director  
OC Public Works/Development Services  
300 N. Flower Street  
Santa Ana, CA 92703

Subject: Esperanza Hills Specific Plan Amendment

Dear Mr. Cataldi;

Yorba Linda Estates, LLC is submitting this application for amendment to our Specific Plan, in response to your decision that a revision of our access option from Option 1 to Option 1 Modified requires an amendment to the Specific Plan instead of a minor modification, and because we wish to eliminate the requirement under Section 13.3 that requires that we enter into a pre-annexation agreement with the City of Yorba Linda prior to receiving Vesting Tentative Tract Map approval. The explanation for these requested changes appears below:

Access Option Modification

The approved Specific Plan contains two access options – San Antonio, analyzed in the EIR as Option 2B, and Aspen Drive, analyzed in the EIR as Option 2 Modified. Prior to Board approval of the Specific Plan on June 2, 2015, the Planning Commission recommended approval of a specific plan for the San Antonio option and Stonehaven option, analyzed in the EIR as Option 1.

The San Antonio option was abandoned by us after a vote of the Yorba Linda City Council on January 5, 2016 deciding that they would not permit us to put an access road through the open space in the area between existing homes and San Antonio. Since this access option required consent of the City, there was no point in proceeding further with this option.

The Aspen Way access option required approval of the Travis Trust property landowner and North County BRS, the proposed developer who holds an option on the Travis property. We were unable to reach an agreement with North County despite many meetings and mediations over the past four years, and we also sent an offer to the Travis Trust in January, 2015, for easement rights and it was not accepted or countered by the Travis Trust or North County. There have been no further negotiations.

Further, in August, 2016, we received a report on a focused gnatcatcher survey submitted to US Fish and Wildlife that found that gnatcatchers were present on the Cielo Vista property, which is designated by USFW as critical gnatcatcher habitat as disclosed and analyzed in our EIR. The sitings for the gnatcatchers were along the paths for our proposed access roads across the Cielo Vista property. While the possibility of gnatcatcher presence on the Cielo Vista property was fully analyzed and a plan for mitigation was set forth in our EIR, we have decided not to pursue those access roads any further.

Option 1 Modified eliminates the main switchback road through Blue Mud Canyon that crossed the Whittier Fault and replaces it with a bridge that will provide a wider, shorter road that does not cross the Whittier Fault. The net result will be less disturbance to Blue Mud Canyon and conversion of the existing switchback road into open space. Based on conversations with our biologists, California Fish and Game, USFW and the Army Corps of Engineers, we believe that Option 1 Modified will be the environmentally superior option preferred by these agencies. As outlined in our original memo submitted to the County on Option 1 Modified compared to original Option 1, permanent impacts to ACOE jurisdiction reduce from 0.91 acre to 0.87 acre and impacts to jurisdictional wetlands from .02 acre to 0.0 acre. Option 1 Modified reduces total permanent impacts to CDFW jurisdiction from 1.955 acres to 1.88 acres, and impacts to riparian habitat from 1.15 acres to 0.735 acre.

There will also be less disturbance to the proposed Cielo Vista project, as our project will no longer have access roads extending across the undeveloped portion of their property, and we will no longer have WQMP basins located on the Travis Trust property.

In addition, after discussions with OCFA, the lots to the west were pulled back 170 feet away from the property line, which eliminates the need for alternative materials and methods for fuel modification in that area, and the emergency road was re-designed to extend into the heart of the development, also providing an additional buffer for fuel modification purposes to the west. The emergency road profile extending over our easement through the Richards Trust property was changed to eliminate the high retaining walls in our former design, and the profile is consistent with Alternative 5 for the Cielo Vista project, which is their alternative that takes into account the easement for utility and roadway purposes. OCFA has also requested that we change our fuel modification plan to locate a temporary fuel break immediately east of the proposed Cielo Vista project until it is constructed to allow for additional protection for the emergency road. Option 1 Modified also contemplates a bridge across the Metropolitan Water easement between the southern border of the Richards Trust property and Stonehaven, thereby avoiding interference with the Metropolitan Water easement and any drainage issues in Blue Mud Canyon.

We have also submitted a memorandum outlining the fact that Option 1 Modified does not involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects, does not result in substantial changes which either have occurred or will occur with respect to the circumstances under which the project will be undertaken, or otherwise result in any significant environmental effects not previously analyzed in the EIR.

In addition, we have submitted a new WQMP and a letter from our Traffic Engineer certifying that no changes are necessary in any previous traffic analysis submitted to the County, or in the Traffic Evacuation Analysis submitted to the County.

Elimination of Pre-Annexation Agreement with the City of Yorba Linda

We are requesting elimination of the requirement that we reach a pre-annexation agreement with the City of Yorba Linda for two reasons. First, we have been unable to reach an agreement despite attempts for over a year since the approval of our project on June 2, 2015, and second, the County Resolution on processing of planning applications on properties within the sphere of influence of a city dated July 27, 1999 requires that our project be processed without delay due to any action or inaction of the City. Further, entitlements for our project cannot legally be conditioned on consent from another jurisdiction, as recognized in the County resolution.

Our efforts to obtain a pre-annexation agreement are as follows. We attended a Planning Commission hearing at the City of Yorba Linda on October 28, 2015 and received a recommendation that the road across the City land for Option 2B was consistent with the City General Plan. The City held hearings on adoption of a pre-annexation agreement on November 17, December 1 and January 5, 2016, and the City Council ultimately determined that it would approve the Option 2B road across City land on January 5, 2016 and informed the County that it preferred Modified Option 2 to Aspen Drive in a letter dated January 8, 2016. The Applicant sent a letter to the County dated February 16, 2016 abandoning all rights to proceed with processing a VTTM for Option 2B. The City Council tabled further consideration of the pre-annexation agreement until such time as the Applicant reached an agreement for an easement across the Cielo Vista property to Aspen Drive. Despite multiple mediation meetings, no agreement has been reached between the Applicant and Cielo Vista and negotiations have terminated.

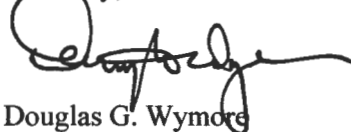
The Applicant sent a letter to the City of Yorba Linda on March 1, 2016 inquiring as to whether or not the City was interested in entering into a pre-annexation agreement, and if so, the terms that it would consider. The City did not reply.

Conclusion

For the reasons set forth above, we request that you process our specific plan amendment together with our proposed EIR revision to comply with the Writ of Mandate issued by the Superior Court on August 24, 2016.

Please contact me should you have any questions.

Sincerely;



Douglas G. Wymore