

**PRELIMINARY  
SUBDIVISION COMMITTEE REPORT**

**DATE:** November 16, 2016

**TO:** OC Subdivision Committee

**FROM:** OC Development Services

**SUBJECT:** Vesting Tentative Tract Map 17522, Esperanza Hills Specific Plan area

**PROPOSAL:** The applicant requests the approval of VTTM 17522, which would allow the creation of 340 single family lots, 5 lots for utility or community uses, and various lettered lots for private streets, open space, park and landscaped slope lots. The map will also establish the main project access configuration from Stonehaven Drive with a secondary emergency-only access.

**ZONING:** Esperanza Hills Specific Plan

**GENERAL PLAN:** 1B "Suburban Residential"

**LOCATION:** The Project is located within the unincorporated area of Orange County north of the SR-91 freeway off Yorba Linda Boulevard, south and west of Chino Hills State Park, east and north of the proposed Cielo Vista project and adjacent to the existing residential development located in the City of Yorba Linda, within the Third (3<sup>rd</sup>) Supervisorial District.

**LANDOWNER/  
SUBDIVIDER:** Yorba Linda Estates, LLC (Douglas Wymore)

**APPLICANT:** Yorba Linda Estates, LLC (Douglas Wymore)

**STAFF  
CONTACT:** Kevin Canning, Contract Planner  
Phone: (714) 667-8847 Email: [Kevin.Canning@ocpw,ocgov.com](mailto:Kevin.Canning@ocpw,ocgov.com)

**RECOMMENDED ACTIONS**

Development Services/Planning recommends that the Subdivision Committee:

- a) Receive staff report and public comment, as appropriate; and,
- b) Adopt Resolution No. 16-13 Recommend to the Board of Supervisors that Vesting Tentative Tract Map 17522 be approved subject to findings and Conditions of Approval

**NOTE:** Per State Law, for any improvements required prior to the recordation of a final map, the

developer may instead enter into an agreement with the County of Orange guaranteeing all required improvements. Said agreement shall be accompanied by financial security.

### **BRIEF PROJECT HISTORY OVERVIEW**

The certification of the Esperanza Hills FEIR 616 was litigated (details provided below). The court's final decision and writ requires that all previous entitlements be vacated (including the General Plan Amendment, Zone Change and Esperanza Hills Specific Plan), that the Final EIR be revised to address GHG mitigation measures. It then requires that the project be reconsidered in light of the Revised Final EIR. It is currently intended that the Board of Supervisors, at a single hearing date (estimated to be in December 2016), will first vacate all previous approvals and then consider the Revised Final EIR, the General Plan Amendment, the Zone Change, and the Esperanza Hills Specific Plan for certification or adoption as appropriate. It is also proposed to have the Board act upon the subject map (VTTM 17522) at this same hearing (the Specific Plan requires Board approval of the initial tentative map).

The Subdivision Committee previously reviewed VTTM 17522 in October 2015, and recommended its approval to the Board, but due to issues relating to the potential pre-annexation agreement and negotiations for access rights across adjoining property (discussed below), the map was never considered by the Board. The current design proposed by VTTM 17522 proposes a different access configuration than that of the previous map considered by the Committee. The currently proposed access configuration is consistent with the action taken by the Planning Commission on November 9, 2016.

### **BACKGROUND AND EXISTING CONDITIONS**

The Esperanza Hills Development Project (Esperanza Hills) was approved by the Board of Supervisors (Board) on June 2, 2015. However, the project's EIR was subsequently challenged in the Orange County Superior Court in *Protect Our Homes and Hills, et al. v. County of Orange, et al.* Case No. 30-2015-00797300. As a result of the court's Writ of Mandate, the previous County approvals relating to Esperanza Hills must be vacated by the Board of Supervisors, the project's EIR must be revised to address GHG mitigation deficiencies, and the Board must reconsider the entire project in light of the Revised Final EIR.

At this time, the revisions to the GHG analysis and mitigations have been completed and comprise the proposed Revised Final EIR 616. The Planning Commission held public hearings on October 26, 2016, to consider the Revised Final EIR 616, the General Plan Amendment, the Zone Change and an Esperanza Hills Specific Plan. At their meeting of November 9, the Commission voted to recommend Board approval of the requests. The Planning Commission Staff Report is included as Attachment 7. All attachments to the Planning Commission Staff Report (and referred herein to as "Planning Commission Attachment X") may be found at the following web link:

[http://ocplanning.net/planning/projects/esperanza\\_hills](http://ocplanning.net/planning/projects/esperanza_hills)

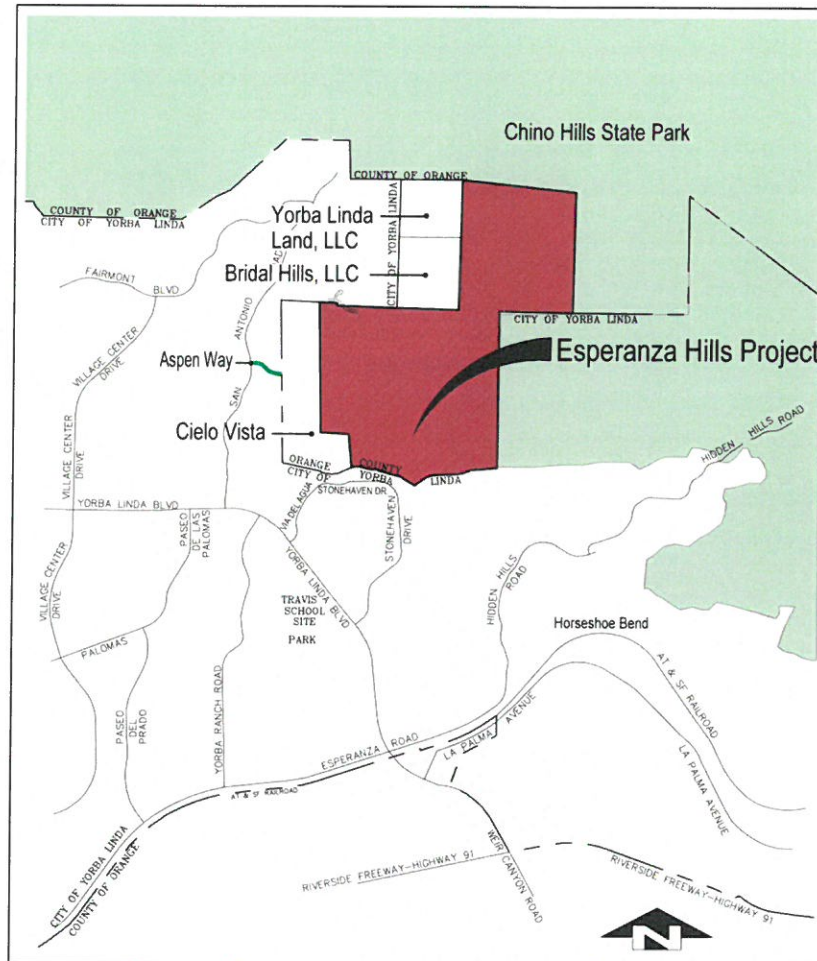
### **Project Description**

The subject property (APN 351-031-04, APN 351-031-06 and APN 326-031-06) is a privately-owned, 469 acre landholding within unincorporated Orange County generally bounded by Chino Hills State Park on the north and east, existing residential communities to the south and west and a proposed adjacent residential subdivision within the unincorporated County to the west and southwest. The property is owned by three entities including OC 33, LLC, Yorba Linda Estates LLC and the Nicholas/Long family



trusts. OC 33, LLC owns approximately 33 acres on the western portion of the project. Yorba Linda Estates, LLC owns approximately 279 acres in the center of the project and the Nicholas/Long family owns approximately 157 acres that form the northeast portion of the project. The site is within the City of Yorba Linda Sphere of Influence. The property is currently undeveloped with the exception of several oil wells that will be closed or relocated subject to appropriate requirements.

### LOCATION MAP



As previously approved, the Esperanza Hills Specific Plan included two different public access roadway configurations from existing roadways to the development area. One configuration proposed the primary public access from San Antonio Road; the other alternative provided primary access from Aspen Way. Both alternatives would have a secondary public access from Stonehaven Drive. The pattern of development within the approved project area did not differ significantly for either access alternative.

In reliance on the original approvals, and while the CEQA lawsuit was underway, the Subdivision Committee on October 7, 2015, considered a design of VTTM 17522 that was compliant with the access configuration alternative to San Antonio Road with a secondary full access to Stonehaven Drive. Under Section 13.3 of the Specific Plan, the Subdivision Committee was not the approving body for the map but instead provided the Board with its findings and recommendations for the Board's approval of the map in Resolution No. SC 15-05. Final Subdivision Committee Report with the adopted Resolution

included is provided to the Committee as Attachment 2.

Section 13.3 of the Esperanza Hills Specific Plan, as first approved, also required additional findings to be made for the approval of the initial tentative map.

- 1. That permission to gain access across land area not owned by the Project Applicant has been secured or it is reasonably assured that access rights will be secured*
- 2. That permission to allow for off-site grading has been secured or it is reasonably assured that permission will be secured*
- 3. That a Pre-annexation Agreement between the City of Yorba Linda and the developer has been completed* (NOTE: The Planning Commission recommended that this provision be deleted)
- 4. Finding of consistency with Final Environmental Impact Report No. 616*
- 5. Finding of consistency with Final Environmental Impact Report No. 616 Mitigation Monitoring and Reporting Program*
- 6. Findings of consistency with this Specific Plan, the Orange County Zoning Code, the Orange County Subdivisions Code, and applicable laws and regulations.*

At the time of the Subdivision Committee's review of VTTM 17522 in October 2015, negotiations for the access permissions and pre-annexation agreements were still in process, so the Committee did not make recommendations on these six special findings at that time. However, findings are offered below for the Committee's consideration at this time.

## **PROJECT PROPOSAL SUMMARY**

The applicant proposes a Vesting Tentative Tract Map for the Esperanza Hills Specific Plan area. The proposed map covers the entire development area within the Specific Plan. The map includes:

- 340 residential lots (including two estate lots)
- 4 reservoirs or booster station lots
- 1 lot for a community office
- 9 private park lots (including two that will also serve drainage and WQMP purposes)
- various lettered lots for:
  - private streets
  - natural open space
  - slope lots and fuel modification areas
  - OCFA staging areas

The current VTTM 17522 map design and configuration is essentially identical to that map recommended for approval by the Subdivision Committee in October 2015. The significant changes to the map involve the primary public access configuration and the internal extension of the emergency access roadway.

The map proposes a public roadway access configuration that would provide for a main project entry from Stonehaven Drive and a secondary, emergency-only access via a 50'-wide access easement through the adjacent proposed Cielo Vista property. This access configuration is a modification of the Option 1 alignment included within the project's Final EIR 616, as well as early draft versions of the Specific Plan.



With Option 1, the main public access was generally aligned with an existing service road, going down into Blue Mud Canyon before crossing the creek area via a short bridge and back up existing grades to meet existing Stonehaven Drive. The subject map now proposes an Option 1 Modified alignment which includes a crossing of the Blue Mud Creek area at a higher elevation via a longer bridge structure. This design provides for a more direct access.

In addition, the internal connection point of emergency access would be extended northeasterly in order to further separate the main project entry from the internal emergency access point. The emergency access would still utilize an access easement through the adjacent property owned by the Richards Trust (one of the owners within proposed Cielo Vista project) but would connect to Esperanza Hills Parkway closer to the Orange County Fire Authority (OCFA) Emergency Fire Staging Area located centrally within the development area. The emergency access road would also provide a separate connection point to Esperanza Hills Parkway resulting in a secondary emergency connection for use at the discretion of OCFA. For example, the emergency access could be used to facilitate more rapid emergency vehicle access into the community, or it could be used as part of a community evacuation route, or for both during a single event depending upon the needs of the first responders.

#### **SURROUNDING LAND USE**

Land uses immediately surrounding the project site include the following:

- Northerly: Chino Hills State Park and undeveloped unincorporated properties
- Easterly: Chino Hills State Park, developed and undeveloped City of Yorba Linda
- Southerly: Existing City of Yorba Linda residential development
- Westerly: Undeveloped unincorporated property and City of Yorba Linda residential

#### **REFERRAL FOR COMMENT AND PUBLIC NOTICE**

Copies of the map were distributed for review and comment to County staff and all comments were addressed through plan revisions and incorporated into the Board's approval action for the construction and creation of the project. Through focused coordination meetings and a collaborative effort with County staff, the applicant adequately addressed all comments. As of the writing of this staff report, no further comments have been received by any County divisions.

VTTM 17522 was also referred to the City of Yorba Linda for review and comment. The City did not respond. It should also be noted that the City also did not respond to the October 2015 map, stating at that time that because the project was within the County, the City did not have a responsibility to review the map.

Public notices were mailed to all owners of record within 2,000 feet of the subject property (as a courtesy to match the City of Yorba Linda's requirement for similar type projects), and posted in front of the project site, the Orange County Hall of Administration at 333 W. Santa Ana Boulevard, and in the lobby at the HGO building located at 300 N. Flower Street at least ten days prior to this public hearing, as required by established public hearing posting procedures. Additionally, approximately 110 emails with a copy of the Committee's public hearing notice were sent to those parties who had previously requested such notification. No public comments have been received to date.

**AERIAL OF PROJECT SITE****CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE**

The requested Subdivision Committee action is to forward a recommendation of approval of the map to the Board of Supervisors. Before their action on the map, the Board will be asked to make appropriate final CEQA determinations. Thus, as with the recommended approval of the map, the Committee's review of the CEQA compliance will be a recommendation to the Board for such final action. The project's CEQA compliance is discussed below.

**Revised Final EIR No. 616**

Final EIR 616 was certified by the Board of Supervisors on March 10, 2015. Upon the conclusion of the legal challenge to the EIR, the actions mandated by the court required only that the mitigation measures for the project's potential of greenhouse gas impacts be reviewed and revised to ensure compliance with CEQA.



The applicant and County staff have completed this reassessment and as a result have added new Technical Appendix V – Greenhouse Gas Mitigation (see Planning Commission Attachment 7) and proposes 40 new GHG mitigation measures within the Mitigation Monitoring and Reporting Plan (Planning Commission Attachment 9-redlined or 10). With the inclusion of the GHG updates, staff recommends that the Committee recommend Board certification of Revised Final EIR 616. The Planning Commission made a similar recommendation on November 9.

Planning Commission Attachment 2 (see web link provided on Page 2) is the staff report from the Planning Commission's initial review of the project on January 14, 2015 meeting and provides a broader discussion and analysis of the project's CEQA process, the topical issues addressed, the unavoidable adverse impacts, referral for comments, and public outreach. All topical issues, conclusions and mitigation measures would remain unaffected, except for those updated pursuant to the court writ regarding the greenhouse gas mitigation plan, which are addressed in Planning Commission Attachments 9 (redlined) or 10. As noted above, the revisions have resulted in the earlier full mitigation plan with the specific 40 mitigation measures to address and mitigate potential GHG impacts consistent with CEQA and AB32 requirements.

The proposed Option 1 Modified access configuration, whose bridge will realign the road and eliminate steep grades and turns, was not specifically assessed in Final EIR No. 616, although Option 1 was analyzed. A consistency analysis based on Public Resources Code Section 21166 and CEQA Guidelines Section 15162, as required by the Orange County CEQA Manual, Section IX, was conducted for the new alignment (Planning Commission Attachment 20). In the memorandum prepared by CAA Planning at the direction of County staff, it concluded that the proposed use of Option 1 Modified is consistent with the findings, conclusions and mitigations of the Final EIR because the modified design does not:

1. Involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects which would require preparation of a subsequent or supplemental EIR;
2. Result in substantial changes which either have occurred or will occur with respect to the circumstances under which the project will be undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
3. Constitute new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the FEIR was certified as complete on March 10, 2015 that shows that: (i) the existing project or the requested Plan Amendment will have one or more significant effects not discussed in the FEIR, (ii) significant effects previously examined will be substantially more severe than shown in the FEIR with the existing project or the requested Plan Amendment; (iii) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project but the project proponents decline to adopt the mitigation measure or alternative; or (iv) mitigation measures or alternatives which are considerably different from those analyzed in the FEIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Therefore, staff and the Planning Commission found that Revised Final EIR No. 616 satisfied the requirements of CEQA for the proposed Option 1 Modified access configuration, as depicted on

VTTM17522, is in substantial conformance with the previous environmental assessments.

## **DISCUSSION/ANALYSIS**

### Consistency Analysis:

The proposed map is consistent with the County General Plan designation of 1B Suburban Residential and the Esperanza Hills Specific Plan.

### Drainage:

The map has been reviewed by Orange County Flood Control District who found that the project can be implemented in compliance with their requirements and standards subject to review and approval of further detailed and engineered plans by the District. Following meetings with the District and the developer, staff worked in coordination with the District and proposes a Condition of Approval (included within the recommended Resolution, Attachment 2) which will require the review and approval of the necessary detailed engineering plans prior to the recordation of a map or issuance of a grading permit, whichever comes first.

### Recreation and Open Space:

- Master Plan of Regional Recreation Facilities - There are no regional park dedication requirements of the subject map.
- Master Plan of Regional Riding and Hiking Trails - There are no County riding and hiking trail requirements of the subject map. However, the project will extend and connect trails within the City of Yorba Linda and Chino Hills State Park. There will be a total 6.7 miles of multi-use and equestrian trails and in-tract pedestrian pathways (separate from sidewalks) constructed as part of the project.
- Master Plan of Local Parks (Local Park Code) – The Local Park Code requirement for the project is 2.72 acres (340 dwelling units at 0.008 acres per unit). The subject map, in compliance with the approved Esperanza Hills Specific Plan, proposes nine private park facilities, both passive and active, within the community, with additional recreational facilities proposed in conjunction with dual uses for drainage and WQMP facilities. The Specific Plan includes conceptual park development plans for each proposed site. The park sites are spread throughout the community. The total area of proposed private parks is estimated by the approved Specific Plan to be up 12 acres (gross), although no park credit above the minimum requirement of 2.72 acres is permitted, and the determination of actual local park credit will be subject to refined plans. Condition of approval No. 8B will require the developer to receive Subdivision Committee approval of a Local Park Implementation Plan (LPIP) prior to recordation of the first map. The LPIP will provide details regarding the area, improvements and phasing of the park sites.
- Resources Element - Open Space Component - There are no open space dedication requirements of the subject map.
- OCTA Strategic Plan for Bikeways – There are no bikeways within Specific Plan area.



Public Services & Utilities:

- Schools - This property is within the boundaries of the Placentia-Yorba Linda Union School District. Appropriate fees will be paid at the issuance of the building permit.
- Facilities Fees Programs - This project area is not included within a facilities fee program area.
- Water/Sewer - This project is served by the Yorba Linda Water District, who has confirmed that their previous will-serve letter remains valid. It should also be noted that on October 13, 2016, the District and the developer entered in an agreement regarding the construction of all necessary District-related infrastructure to serve the project.
- Water Quality Control - This project will be required to operate in accordance with requirements prescribed by the California Regional Water Quality Control Board. A Conceptual Water Quality Plan, revised to reflect the new access configuration has been approved.
- Fire Protection and Safety – A proposed mitigation measure within Revised FEIR 616 will require, prior to the issuance of a grading permit, that the developer enter into a Secured Fire Protection Agreement with the Orange County Fire Authority (OCFA), if determined necessary by OCFA. The developer has an approved Conceptual Fuel Modification Plan. During the review of the Specific Plan, Orange County Sheriff's Department stated that they had sufficient resources to serve the project.

Traffic/Circulation:

- Scenic Highway Corridors – There are no scenic highway dedications associated with the project. The project area will be visible in a long-range view from the SR-91 Freeway (a Cal-Trans-designated Scenic Highway and a County-designated Scenic Highway – Viewscape Corridor). FEIR 616 assessed the potential impacts to this specially designated roadway and concluded that the project impacts related to scenic vistas would be less than significant.
- Access/Highways/Streets/Roads - Access to the site will be via a new roadway extending Stonehaven Drive, an existing roadway within the City of Yorba Linda. All roadways, including the extension to Stonehaven Drive will be private streets. The project's main entry will be gated. The Specific Plan requires that necessary permissions and agreements either be secured or it is reasonably assured that access rights will be secured prior to the approval of the map. Facts and findings related to access rights are included below under Specific Plan Section 13.3 Findings.
- Major Thoroughfare and Bridge Fee Program - This project lies within the area of benefit of the Foothill Eastern Corridor Area of Benefit.
- Off-Site Fee Program – The project does not lie within the area of benefit of an off-site fee program.

**DEVIATIONS FROM STANDARDS OF DESIGN**

The developer may request deviations from County standard design criteria in accordance with Subdivision Code section 7-9-291. In the absence of any specifically approved deviation request, the County-approved standard design criteria will prevail. The developer requests the following deviations:

- A deviation from Orange County Highway Design Manual, Section 204.3 to allow grades on streets with residential driveway access to be greater than 10% but equal to or less than 12% grades for the following street:
  - “A” Street – adjacent to Lots 36 to 38
- A deviation from Orange County Highway Design Manual, Section 204.3 to allow grades on streets without residential driveway access to be greater than 10% but equal to or less than 12% grades for the following streets:
  - “X” Street
- A deviation from Orange County Highway Design Manual, Section 203.2(2) to allow a centerline of less than 550’ for the following street:
  - Esperanza Hills Parkway – 230’ radius

OCPW Traffic has concurred in the approval of these deviations.

### **SPECIFIC PLAN SECTION 13.3 FINDINGS**

Under the proposed provisions of Section 13.3 of the Esperanza Hills Specific Plan also requires additional findings to be made for the approval of the initial tentative map. It is noted that the Esperanza Hills Specific Plan currently under consideration and as reviewed by the Planning Commission on November 9 removes Finding No. 3 requiring a pre-annexation agreement with the City of Yorba Linda. The applicants have requested its removal stating that they are at an impasse with the City regarding the necessary components of a pre-annexation agreement, as the City is unwilling to continue discussions until such time as the applicant is able to secure rights-of-way across the Cielo Vista property (Options 2, 2A and 2B). Negotiations to secure access rights across Cielo Vista property were unsuccessful and have been terminated. Thus, the applicant is proposing the Option 1 Modified access which does not require the additional access rights negotiations.

As required by the proposed Esperanza Hills Specific Plan, staff recommends the following findings:

1. *That permission to gain access across land area not owned by the Project Applicant has been secured or it is reasonably assured that access rights will be secured.*
  - The main roadway access configuration of proposed VTTM 17522 would require access permissions across a portion of Tract 12850. These access rights were granted to David H. Murdock, the predecessor in interest to the Esperanza Hills property, as a perpetual easement for non-exclusive use of any roads or roadways now or hereafter located on or within the adjacent Ahmansen Development, Inc. (ADI) property (Tract 12850) for ingress and egress from all or any portion of the Esperanza Hills property. (See Attachment 4).
  - The access easement for the proposed emergency access-only road (and utility corridor), lies within a fifty foot wide easement for roadway and utility purposes granted by virtue of the Carrillo Partition Judgement action by the Orange County Superior Court in 1958. The existence of the easement was confirmed by an Orange County Superior Court judgement in October 2014, again confirmed on appeal by the California Court of Appeals in December 2015, and is now final. (See Attachment 5)

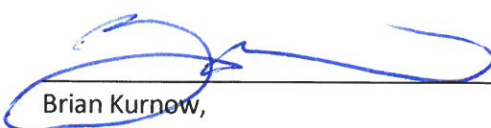


2. *That permission to allow for off-site grading has been secured or it is reasonably assured that permission will be secured*
  - All grading necessary for the full access off-site road connection is allowed by the ADI easement across Tract 12850 noted in Finding 1 above.
  - The easement confirmed by the Court allows for the easement to be used for road and utility purposes across the Richards Trust property, which is part of the Cielo Vista project, and then south to Stonehaven. Cielo Vista challenged the scope of the easement in the prior litigation, but the Court determined that any such challenges were pre-mature until the respective projects were entitled, and this decision was upheld on appeal.
  - Permission for off-site grading in the northwest area of the project site has been secured by a Borrow and Fill Agreement from Bridal Hills Estates LLC in May 2008. (See Attachment 6).
3. *Finding of consistency with Revised Final Environmental Impact Report No. 616*
  - The proposed map design is consistent with the project alternatives assessed in Revised Final EIR 616. Option 1 Modified has been determined to be in substantial conformance with alternatives analyzed within Revised Final EIR 616.
4. *Finding of consistency with Revised Final Environmental Impact Report No. 616 Mitigation Monitoring and Reporting Program*
  - VTTM 17522 has been found to be consistent with Revised Final EIR 616 Mitigation Monitoring and Reporting Program.
5. *Findings of consistency with this Specific Plan, the Orange County Zoning Code, the Orange County Subdivisions Code, and applicable laws and regulations.*
  - VTTM 17522 has been found to be consistent with the Esperanza Hills Specific Plan (as recommended for approval by the Planning Commission on November 9, 2016), Zoning Code, Subdivision Code and other applicable laws and regulations

## CONCLUSION

Staff recommends that the Subdivision Committee adopt Resolution No. 16-13, which would forward a recommendation to the Board of Supervisors for approval of VTTM 17522, subject to the Findings and Conditions of Approval and such additional findings required by Section 13.3 of the Specific Plan as are put forward within the Resolution.

Respectfully reviewed and submitted by:



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Brian Kurnow,  
Land Use Manager

**CERTIFICATION**

I hereby certify that on November 16, 2016 the Orange County Subdivision Committee adopted Resolution No. 16-13 recommending Board of Supervisors approval of VTTM 17522, subject to the findings and conditions contained in the Resolution.

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Colby Cataldi  
Chair, Subdivision Committee

**ATTACHMENTS**

1. Vesting Tentative Tract Map VTTM 17522
2. Subdivision Committee Report and Actions of October 7, 2015
3. Proposed Subdivision Committee Resolution No. 16-13
4. Access rights to Stonehaven Drive documentation (Esperanza Hills Parkway)
  - a. ADI Easement Agreement with highlights
  - b. Tract 12850
5. Access rights to emergency-only access documentation
  - a. Carrillo Partition Judgement
  - b. OC Superior Court decision October 2015
  - c. Court of Appeals decision December 2015
6. Off-site grading agreement with Bridal Hills Estates
7. Planning Commission Staff Report dated October 26, 2016

All Planning Commission Staff Report Attachments can be found at

[http://ocplanning.net/planning/projects/esperanza\\_hills](http://ocplanning.net/planning/projects/esperanza_hills)





**ITEM #1**

**FINAL  
SUBDIVISION COMMITTEE REPORT**

**DATE:** October 7, 2015

**TO:** OC Subdivision Committee

**FROM:** OC Development Services

**SUBJECT:** Vesting Tentative Tract Map 17522, Esperanza Hills Specific Plan area

**PROPOSAL:** The applicant requests the approval of VTTM 17522, which would allow the creation of 340 single family lots, 5 lots for utility or community uses, and various lettered lots for private streets, open space, park and landscaped slope lots. The map will also establish the main project access configuration from San Antonio Road and a secondary public access from Stonehaven Drive.

**ZONING:** Esperanza Hills Specific Plan

**GENERAL PLAN:** 1B "Suburban Residential"

**LOCATION:** The Project is located within the unincorporated area of Orange County north of the SR-91 freeway off Yorba Linda Boulevard, south and west of Chino Hills State Park, east and north of the proposed Cielo Vista project and adjacent to the existing residential development located in the City of Yorba Linda, within the Third (3<sup>rd</sup>) Supervisorial District.

**LANDOWNER/  
SUBDIVIDER:** Yorba Linda Estates, LLC (Douglas Wymore)

**APPLICANT:** Yorba Linda Estates, LLC (Douglas Wymore)

**STAFF** Kevin Canning, Contract Planner  
**CONTACT:** Phone: (714) 667-8847 Email: [Kevin.Canning@ocpw.ocgov.com](mailto:Kevin.Canning@ocpw.ocgov.com)

**RECOMMENDED ACTIONS**

Development Services/Planning recommends that the Subdivision Committee:

- a) Receive staff report and public comment, as appropriate;
- b) Find that proposed project (VTTM17522) is covered by Final EIR No. 616, previously certified BY THE Board of Supervisors on March 10, 2015, satisfies the requirements of CEQA; and,
- c) Recommend to the Board of Supervisors that Vesting Tentative Tract Map 17522 be approved, subject to the attached Findings and Conditions of Approval (Appendices A and B),

and such additional findings that the Board shall determine appropriate under Section 13.3 of the Esperanza Hills Specific Plan

NOTE: Per State Law, for any improvements required prior to the recordation of a final map, the developer may instead enter into an agreement with the County of Orange guaranteeing all required improvements. Said agreement shall be accompanied by financial security.

## **BACKGROUND AND EXISTING CONDITIONS**

The subject property (APN 351-031-04, APN 351-031-06 and APN 326-031-06) is a privately-owned, 469 acre landholding within unincorporated Orange County generally bounded by Chino Hills State Park on the north and east, existing residential communities to the south and west and a proposed adjacent residential subdivision within the unincorporated County to the west and southwest (see Figure 1). The property is owned by three entities including OC 33, LLC, Yorba Linda Estates LLC and the Nicholas/Long family trusts. OC 33, LLC owns approximately 33 acres on the western portion of the project. Yorba Linda Estates, LLC owns approximately 279 acres in the center of the project and the Nicholas/Long family owns approximately 157 acres that form the northeast portion of the project. The site is within the City of Yorba Linda Sphere of Influence.

The property is currently undeveloped with the exception of several oil wells that will be closed or relocated subject to appropriate requirements.

The Esperanza Hills project, including a General Plan Amendment, Zone Change and adoption of the Esperanza Hills Specific Plan (Specific Plan), received approval from the Board of Supervisors on June 2, 2015. The Esperanza Hills Specific Plan which will serve as the zoning and development regulatory document for the project. Final EIR 616 was previously certified as a project EIR on March 10, 2015.

The Esperanza Hills Specific Plan, as approved, includes two different public access roadway configurations from existing roadways to the development area. One configuration proposes the primary public access from San Antonio Road; the other alternative provides primary access from Aspen Way. Both alternatives would have a secondary public access from Stonehaven Drive. The pattern of development within the approved project area would not differ significantly for either access alternative.

Utilization of either configuration for the primary access roadway requires that additional off-site agreements or permissions be secured for right of way improvements. At the time of the Specific Plan approval these actions had not been completed.

To address these additional agreements and permissions, the Board included special provisions within the Specific Plan (Section 13.3) that required the Board of Supervisors' approval for the first tentative tract map that would establish the public access roadway configuration. Any and all subsequent tentative maps would be reviewed per standard procedures, that is, requiring only Subdivision Committee action.

To implement the Board's condition, Section 13.3 of the Specific Plan specifies that the tentative map that would establish the route of the primary access roadway must first be reviewed by the Subdivision Committee and then forwarded to the Board with the Committee's recommendations and findings.

With the Subdivision Committee's recommendation, the Board will then address the additional findings per Section 13.3 of the Esperanza Hills Specific Plan necessary for map approval, as follows:

- 1. That permission to gain access across land area not owned by the Project Applicant has been secured or it is reasonably assured that access rights will be secured*
- 2. That permission to allow for off-site grading has been secured or it is reasonably assured that permission will be secured*
- 3. That a Pre-annexation Agreement between the City of Yorba Linda and the developer has been completed*
- 4. Finding of consistency with Final Environmental Impact Report No. 616*
- 5. Finding of consistency with Final Environmental Impact Report No. 616 Mitigation Monitoring and Reporting Program*
- 6. Findings of consistency with this Specific Plan, the Orange County Zoning Code, the Orange County Subdivisions Code, and applicable laws and regulations.*

Therefore, the Subdivision Committee is being asked to review VTTM 17522, as it would any proposed tentative tract map, and then to forward to the Board the Committee's recommendation regarding map approval. With this recommendation, the Board will also consider compliance with the six special findings noted above prior to acting upon the map.

## **PROJECT PROPOSAL SUMMARY**

The applicant proposes a Vesting Tentative Tract Map for the Esperanza Hills Specific Plan area. The proposed map covers the entire development area within the Specific Plan. The map includes:

- 340 residential lots (including two estate lots)
- 4 reservoirs or booster station lots
- 1 lot for a community office
- 9 private park lots (including two that will also serve drainage and WQMP purposes)
- various lettered lots for:
  - private streets
  - natural open space
  - slope lots and fuel modification areas
  - OCFA staging areas

All streets within the gated community will be private. Project access street lots will be public streets up to the point of the gated entries, however it is anticipated that these streets will be maintained by the project's master association. Because the project access streets will be largely within the City of Yorba, the maintenance of the roadways is subject to separate agreements between the developer and the City, and such agreements are currently being discussed.

## **SURROUNDING LAND USE**

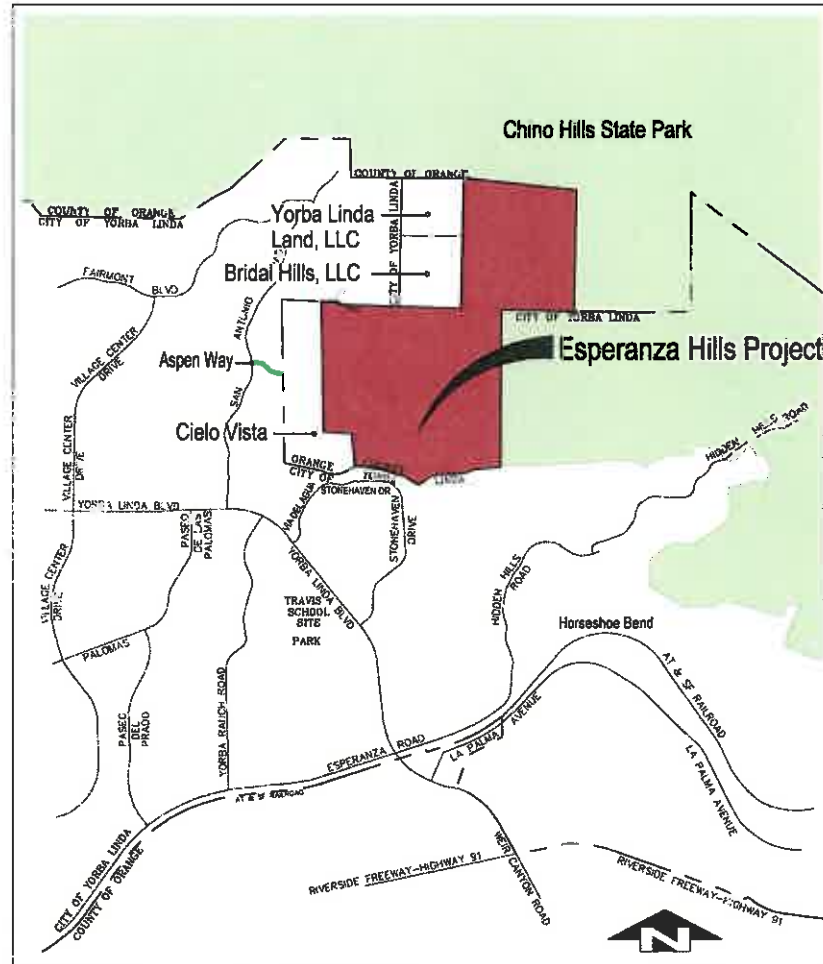
Land uses immediately surrounding the project site include the following:

- Northerly: Chino Hills State Park and undeveloped unincorporated properties
- Easterly: Chino Hills State Park, developed and undeveloped City of Yorba Linda



- Southerly: Existing City of Yorba Linda residential development
- Westerly: Undeveloped unincorporated property and City of Yorba Linda residential

### LOCATION MAP



### REFERRAL FOR COMMENT AND PUBLIC NOTICE

Copies of the map were distributed for review and comment to County staff and all comments were addressed through plan revisions and incorporated into the Board's approval action for the construction and creation of the project. Through focused coordination meetings and a collaborative effort with County staff, the applicant adequately addressed all comments. As of the writing of this staff report, no further comments have been received by any County divisions.

VTM 17522 was also referred to the City of Yorba Linda for review and comment. The City responded that because the project was within the County, the City did not have a responsibility to review the map. They further noted that the City had not yet taken the necessary action regarding map's proposal to utilize the San Antonio Road access configuration. Staff notes that this action by the City is one of the Board of Supervisor's conditions for map approval noted within Specific Plan Section 13.3.

Public notices were mailed to all owners of record within 300 feet of the subject property, and posted in front of the project site, the Orange County Hall of Administration at 333 W. Santa Ana Boulevard, and in the lobby at the HGO building located at 300 N. Flower Street at least ten days prior to this public hearing, as required by established public hearing posting procedures. No public comments have been received to date.

## AERIAL OF PROJECT SITE



## CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

On March 10, 2015, the Board of Supervisors certified Esperanza Hills Final EIR No. 616 ("FEIR616") thereby finding it in compliance with CEQA and the CEQA Guidelines to serve as a Project EIR as defined by CEQA Guidelines Section 15161, and that it addressed the potentially significant environmental impacts associated with the Project, including the approval of a Specific Plan, a General Plan Amendment, a Zone Change and related programs and entitlements, as well as

the impacts anticipated from subsequent implementing steps in the chain of contemplated actions designed to carry out the final planning and development of the Project. The Board action included adoption of a Mitigation Measure and Reporting Program (MMRP) that includes mitigations measures, project design features and conditions of approval to address identified potential impacts. The requirements of the MMRP will continue to be implemented through all stages of project approvals and implementation. The MMRP is attached as a reference for Subdivision Committee members.

## **DISCUSSION/ANALYSIS**

### Consistency Analysis:

The proposed map is consistent with the County General Plan designation of 1B Suburban Residential and the Esperanza Hills Specific Plan.

### Drainage:

The map has been reviewed by Orange County Flood Control District who found that the project can be implemented in compliance with their requirements and standards subject to review and approval of further detailed and engineered plans by the District. Following meetings with the District and the developer, staff worked in coordination with the District and proposes Condition of approval No. 9 which will require the review and approval of the necessary detailed engineering plans prior to the recordation of a map or issuance of a grading permit, whichever comes first.

### Recreation and Open Space:

- Master Plan of Regional Recreation Facilities - There are no regional park dedication requirements of the subject map.
- Master Plan of Regional Riding and Hiking Trails - There are no County riding and hiking trail requirements of the subject map. However, the project will extend and connect trails within the City of Yorba Linda and Chino Hills State Park. There will be a total 6.7 miles of multi-use and equestrian trails and in-tract pedestrian pathways (separate from sidewalks) constructed as part of the project.
- Master Plan of Local Parks (Local Park Code) – The Local Park Code requirement for the project is 2.72 acres (340 dwelling units at 0.008 acres per unit). The subject map, in compliance with the approved Esperanza Hills Specific Plan, proposes nine private park facilities, both passive and active, within the community, with additional recreational facilities proposed in conjunction with dual uses for drainage and WQMP facilities. The Specific Plan includes conceptual park development plans for each proposed site. The park sites are spread throughout the community. The total area of proposed private parks is estimated by the approved Specific Plan to be up 12 acres (gross), although no park credit above the minimum requirement of 2.72 acres is permitted, and the determination of actual local park credit will be subject to refined plans. Condition of approval No. 8B will require the developer to receive Subdivision Committee approval of a Local Park Implementation Plan (LPIP) prior to recordation of the first map. The LPIP will provide details regarding the area, improvements and phasing of the park sites.
- Resources Element - Open Space Component - There are no open space dedication requirements of the subject map.



- OCTA Strategic Plan for Bikeways – There are no bikeways within Specific Plan area.

**Public Services & Utilities:**

- Schools - This property is within the boundaries of the Placentia-Yorba Linda Union School District. Appropriate fees will be paid at the issuance of the building permit.
- Facilities Fees Programs - This project area is not included within a facilities fee program area.
- Water/Sewer - This project is served by the Yorba Linda Water District, who has indicated in a will-serve letter the ability to serve the project, subject to the completion of specified improvements by the developer.
- Water Quality Control - This project will be required to operate in accordance with requirements prescribed by the California Regional Water Quality Control Board. A Conceptual Water Quality Plan was approved prior to the approval of the Specific Plan.
- Fire Protection and Safety – As a mitigation measure within FEIR 616, prior to the issuance of a grading permit, the developer will be required to enter into a Secured Fire Protection Agreement with the Orange County Fire Authority (OCFA), if determined necessary by OCFA. During the review of the Specific Plan, Orange County Sheriff's Department stated that they had sufficient resources to serve the project.

**Traffic/Circulation:**

- Scenic Highway Corridors – There are no scenic highway dedications associated with the project. The project area will be visible in a long-range view from the SR-91 Freeway (a Cal-Trans-designated Scenic Highway and a County-designated Scenic Highway – Viewscape Corridor). FEIR 616 assessed the potential impacts to this specially designated roadway and concluded that the project impacts related to scenic vistas would be less than significant.
- Access/Highways/Streets/Roads - Access to the site will be via a new roadways extending from San Antonio Road and Stonehaven Drive, existing roadways within the City of Yorba Linda. The new roadway extensions will be public streets up to the point of the gated project entries. The Specific Plan requires that necessary permissions and agreements either be secured or it is reasonably assured that access rights will be secured prior to the approval of the map. It is the Board of Supervisor's responsibility and discretion to assess and make the findings that these agreements and permission are adequate to allow approval of VTM 17522.
- Major Thoroughfare and Bridge Fee Program - This project lies within the area of benefit of the Foothill Eastern Corridor Area of Benefit.
- Off-Site Fee Program – The project does not lie within the area of benefit of an off-site fee program.

**DEVIATIONS FROM STANDARDS OF DESIGN**

The developer may request deviations from County standard design criteria in accordance with Subdivision Code section 7-9-291. In the absence of any specifically approved deviation request, the County-approved standard design criteria will prevail. The developer requests the following deviations:

- To allow grades on streets with residential driveway access to be greater than 10% but equal to or less than 12% grades for the following street:
  - “A” Street – adjacent to Lots 39 to 43
- To allow grades on streets without residential driveway access to be greater than 10% but equal to or less than 12% grades for the following streets:
  - Esperanza Hills Parkway
  - “C” Street

OCPW Traffic has concurred in the approval of these deviations.

### CONCLUSION

Staff recommends that the Subdivision Committee forward a recommendation to the Board of Supervisors for approval of VTTM 17522, subject to the attached Findings and Conditions of Approval, and such additional findings that the Board shall determine appropriate under Section 13.3 of the Esperanza Hills Specific Plan.

Respectfully reviewed and submitted by:

  
\_\_\_\_\_  
Jerome Olivera, Manager, Land Use Development  
OC Development Services

### CERTIFICATION

I hereby certify that Vesting Tentative Tract Map 17522 was recommended for Board of Supervisors approval by the Orange County Subdivision Committee on October 8, 2015, subject to the findings in Appendix A and the conditions of approval in Appendix B.

  
\_\_\_\_\_  
Colby Cataldi  
Chair, Subdivision Committee

### APPENDICES

- A. Recommended Findings
- B. Recommended Conditions of Approval

### ATTACHMENTS

1. Proposed Subdivision Committee Resolution to Board of Supervisors
2. Board Resolution 15-018 Certification of FEIR 616, Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program
3. Esperanza Hills Specific Plan (located at <http://ocplanning.net/code> )



## Appendix A Findings VTTM17522

### 1 **GENERAL PLAN** **VTTM17522**

That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.

### 2 **DESIGN & IMPROVEMENT** **VTTM17522**

That the design and improvement of the proposed subdivision are consistent with the Orange County General Plan.

### 3 **GENERAL PLAN CONSISTENCY** **VTTM17522**

That the proposed map is consistent with the Orange County General Plan.

### 4 **PROJECT LEVEL EIR** **VTTM17522**

That Final EIR No. 661, previously certified by the Board of Supervisors on March 10, 2015 reflects the independent judgment of the County of Orange and satisfies the requirements of CEQA for VTTM 17522, which is a necessarily included element contemplated as part of the whole of the action.

A. The circumstances of the project are substantially the same as described in FEIR No. 661 which adequately addressed the effects of the proposed project. No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken, and no new information of substantial importance to the project which was not known or could not have been known when the previous FEIR No. 661 was adopted has become known, and no further environmental review is required.

B. FEIR No. 661 is adequate to satisfy the requirements of CEQA for VTTM 17522.

C. The Board of Supervisors as the decision-maker adopted Resolution No. 15-018, attached hereto, which includes:

1. Findings for each of the significant impacts identified in the Final EIR;
2. A Statement of Overriding Consideration; and,
3. A Mitigation Monitoring and Reporting Program.

D. All mitigation measures are fully enforceable pursuant to CEQA (Public Resources Code) Section 21081.6(b) and have either been adopted as conditions, incorporated as part of the project design, or included in the procedures of project implementation.

### 5 **DEVELOPMENT TYPE** **VTTM17522**

That the proposed site is physically suitable for the proposed type of development.

### 6 **DEVELOPMENT DENSITY** **VTTM17522**

That the proposed site is physically suitable for the proposed density of development.



**7 NCCP NOT SIGNIFICANT VTTM17522**

That the proposed project will not have a significant unmitigated impact upon Coastal Sage Scrub habitat and therefore, will not preclude the ability to prepare an effective subregional Natural Communities Conservation Planning (NCCP) Program.

**8 PUBLIC HEALTH VTTM17522**

That the design of the subdivision and the type of improvements proposed are not likely to cause serious public health problems.

**9 PUBLIC EASEMENTS VTTM17522**

That the design of the subdivision and the type of improvements proposed will not conflict with easements of record or established by court judgment acquired by the public-at-large for access through or use of property within the proposed subdivision.

**10 DESIGN COMPLIANCE VTTM17522**

That the design and improvement of the proposed subdivision is suitable for the uses proposed, and the subdivision can be developed in compliance with applicable zoning regulations pursuant to Section 7-9-254 of the Subdivision Code.

**11 COMPATIBILITY VTTM17522**

That the use, activity or improvement(s) proposed, subject to the specified conditions and adopted Mitigation Monitoring and Reporting Program (MMRP), is consistent with the provisions of the Zoning Code and the Esperanza Hills Specific Plan regulations applicable to the property.

**12 PUBLIC FACILITIES VTTM17522**

That the approval of the map is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).

**13 SUBDIVISION AND ZONING CODE COMPLIANCE TT1752**

That the proposed subdivision complies with the requirements set forth in the Orange County Subdivision Code and the Orange County Zoning Code.

**15 SPECIFIC PLAN CONSISTENCY VTTM17522**

That the proposed subdivision, together with the provisions for its design and improvement, is consistent with the Esperanza Hills Specific Plan.

**16 SEWER SYSTEM VTTM17522**

That the discharge of waste from the proposed subdivision into the existing sewer system of the Yorba Linda Water District will not result in violations of existing requirements prescribed by the California Regional Water Quality Control Board, Santa Ana Region.

**17 DEVIATION FROM STANDARD DESIGN VTTM17522**

That the Subdivision Committee has individually considered the requested two deviations from County standard designs and that based upon special circumstances in this situation, specifically the site topography, the proposed private street system and the desired avoidance of excessive retaining walls finds that the deviations are acceptable.



**Appendix B**  
**Conditions of Approval**  
**VTTM 17522**

**1** **BASIC/ZONING REG** **VTTM 17522**

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Subdivision and Zoning Codes and any other applicable zoning regulations, as amended. Approval does not include any action or finding as to compliance of approval of the project regarding any other ordinance, regulation or requirement.

**2** **BASIC/TIME LIMIT** **VTTM 17522**

This approval is valid for a period of 36 months from the date of final determination, unless an extension is otherwise allowable by State law. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

**3** **BASIC/COMPLIANCE** **VTTM 17522**

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Subdivision Committee.

**4** **INDEMNIFICATION** **VTTM 17522**

Applicant shall defend with counsel approved by the County of Orange in writing, indemnify and hold harmless the County of Orange, its officers, agents and employees from any claim, action or proceeding against the County, its officers, agents or employees to attack, set aside, void, or annul any approval of the application or related decision, or the adoption of any environmental documents, findings or other environmental determination, by the County of Orange, its Board of Supervisors, Planning Commission, Subdivision Committee, Zoning Administrator, Director of OC Public Works, or Director of Planning concerning this application. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition. Applicant shall reimburse the County for any court costs and attorney's fees that the County may be required to pay as a result of such action or the County's participation in such defense. The County shall promptly notify the applicant of any such claim, action or proceeding.

**5** **BASIC APPEAL/EXACTIONS** **VTTM 17522**

Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.

**6** **MAP NOTES** **VTTM 17522**

Prior to recordation of a subdivision map (except maps for financing and conveyance purposes only), the following notes shall be placed on the map in a manner meeting the approval of the Manager, OC Planning:

1. The subdivider/property owner is advised that the Mitigation Measures, Project Design Features and Conditions of Approval of FEIR 616 Mitigation Monitoring and Reporting Program (MMRP) shall be satisfied.
2. The property lies within a Fire Hazard Severity Zones within State Responsibility Areas (SRA) and

within a Very High Fire Hazard Severity Zones within the Local Responsibility Areas (LRA), and advising that all structures will be required to demonstrate compliance with all requirements of Chapter 47 and Chapter 7A or shall have and approved Fire Protection Plan which provides protection equivalent to the risk for the site and structure.

3. The property lies within a Major Thoroughfare and Bridge Fee Program, specifically the Foothill/Eastern Transportation Corridor and applicable fees pursuant to this program will be assessed at the issuance of building permits.
4. The private streets constructed within this map shall be owned, operated and maintained by the developer, successors or assigns. The County of Orange shall have no responsibility therefore unless pursuant to appropriate sections of the Streets and Highways Code of the State of California the said private streets have been accepted into the County Road System by appropriate resolution of the Orange County Board of Supervisors.

## **7 REQUEST FOR DEVIATIONS**

**VTTM 17522**

Prior to the recordation of a subdivision map, the subdivider shall place a note on the map, in a manner that meets the approval of the Manager, Permit Services. that states the following:

- (1) Deviation to Orange County Public Works centerline radius of 250 feet for local streets.
- (2) Deviation to Orange County Public Works Standard Plan 1107 for reduced parkway width – no sidewalks to be provided to be designed and constructed per the Foothill/Trabuco Specific Plan guidelines.

## **8 PRIVATE LOCAL PARK**

**VTTM 17522**

A. Prior to the recordation of an applicable subdivision map, the subdivider shall make an irrevocable offer to dedicate an easement over Lot(s) E, H, K, N, MM, NN, TT, VV, and NNN for private local park purposes to the County of Orange in a form approved by the Manager, OC Planning. The subdivider shall not grant any other easement over the private park easement which is inconsistent with the local park uses, unless that easement is made subordinate to said local park easement in a manner meeting the approval of the Manager, OC Planning.

B. Prior to the recordation of the first final subdivision map, the subdivider shall submit a Local Parks Implementation Plan (LPIP) for review and approval by the Subdivision Committee. The LPIP shall address estimated creditable park land, conceptual improvements and park phasing commensurate with housing occupancies.

Note: The irrevocable offer of dedication (IOD) may be satisfied per the appropriate designation (notes and delineation) on the subject final subdivision map.

## **9 REGIONAL DRAINAGE STUDIES**

**VTTM 17522**

Prior to the recordation of a subdivision map (except maps for financing and conveyance purposes only) or prior to the issuance of any grading permits, whichever comes first, a final drainage report shall be submitted to and approved by the County Manager, Permit Services. The final drainage report shall address Condition of Approval COA-1 and include detailed engineering analyses/calculations demonstrating:

- 1) Proposed mitigation basins shall, to extent feasible, reduce post-development runoff to pre-development levels, and
- 2) Post development impacts to downstream Esperanza Channel (OCFCD Facility No. E06) are mitigated to a level of insignificance.

Engineering analyses/calculations shall conform to the criteria and standards set forth in the 1986 Orange County Hydrology Manual and its Addendum No. 1, Orange County Flood Control Design Manual, Orange County Local Drainage Manual, and other appropriate County of Orange criteria.

**10****EASEMENT SUBORDINATION****VTTM 17522**

Prior to the recordation of a subdivision map (except maps for financing and conveyance purposes only), the applicant shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer to the County of Orange or the Orange County Flood Control District, unless such easements are expressly made subordinate to the easements to be offered for dedication to the County. Prior to granting any of said easements, the subdivider shall furnish a copy of the proposed easement to the Manager, Permit Services, for review and approval. Further, a copy of the approved easement shall be furnished to the Manager, Permit Services, prior to the final inspection approval.



**RESOLUTION NO. SC 15-08**  
**RESOLUTION OF THE SUBDIVISIONS COMMITTEE**  
**OF**  
**ORANGE COUNTY, CALIFORNIA**  
**RECOMMENDING BOARD OF SUPERVISORS APPROVAL**  
**OF VESTING TENTATIVE TRACT MAP 17522**

**October 7, 2015**

On Motion of Committee member Brommer, duly seconded and carried, the following Resolution was adopted:

WHEREAS, Yorba Linda Estates, LLC, OC 33, LLC and the Nicholas/Long family trusts (collectively "Applicant") have submitted Vesting Tentative Tract map (VTTM) 17522, requesting review and approval of the map; and

WHEREAS, the County of Orange ("County") has approved the Esperanza Hills Specific Plan to apply development regulations to the Project; and

WHEREAS, VTTM 17522, if approved, would allow the creation of 340 single family lots, 5 lots for utility or community uses, and various lettered lots for private streets, open space, park and landscaped slope lots.

WHEREAS, the map establishes the access configuration to the project via a public access roadway from San Antonio Road and a secondary public access roadway from Stonehaven Drive; and,

WHEREAS, Section 13.3 of the Esperanza Hills Specific Plan requires that a tentative map that establishes the public access roadway configuration requires Subdivision Committee review and subsequent Board of Supervisors review and action;

WHEREAS Section 13.3 of the Esperanza Hills Specific Plan requires the Subdivision Committee to make a written report to the Board of Supervisors containing its recommended findings (including those outlined in Orange County Subdivision Code section 7-9-255 and 7-9-256) for approval, conditional approval, or disapproval of the map;

WHEREAS, Section 13.3 further requires the Board of Supervisors to make the following additional findings prior to approval or conditional approval of the tentative map:

1. That permission to gain access across land area not owned by the Project Applicant has been secured or it is reasonably assured that access rights will be secured; 2. That permission to allow

for off-site grading has been secured or it is reasonably assured that permission will be secured; 3. That a Pre-annexation Agreement between the City of Yorba Linda and the developer has been completed; 4. A finding of consistency with Final Environmental Impact Report No. 616; 5. A finding of consistency with Final Environmental Impact Report No. 616 Mitigation Monitoring and Reporting Program; and, 6. Findings of consistency with this Specific Plan, the Orange County Zoning Code, the Orange County Subdivisions Code, and applicable laws and regulations. The Subdivision Committee is not making recommendations via this Resolution concerning these additional findings.

WHEREAS, this Resolution serves as the written report required by Section 13.3 of the Esperanza Hills Specific Plan and contains the Subdivision Committee's recommendations regarding findings, and approval, conditional approval, or disapproval of VTTM 17522;

WHEREAS, pursuant to the Orange County Subdivision Code, Orange County Codified Ordinances (OCCO) Subarticle 5 (Processing Procedures for Tentative Maps) and California Government Code Section 65000, *et seq.*, the Subdivision Committee has considered the map at a public meeting; and

WHEREAS, Esperanza Hills Final EIR No. 616 ("FEIR #616") was certified on March 10, 2015 as being in compliance with CEQA and the CEQA Guidelines and is a Project EIR as defined by CEQA Guidelines Section 15161, and as such addressed the potentially significant environmental impacts associated with the Project, including the approval of a Specific Plan, a General Plan Amendment, a Zone Change, a Vesting Tentative Tract Map and related programs and entitlements, as well as the impacts anticipated from subsequent implementing steps in the chain of contemplated actions designed to carry out the final planning and development of the Project; and

WHEREAS, the subsequent actions addressed in FEIR #616 include, but are not limited to, County approval of a Vesting Tentative Tract Map and site development permits; and

WHEREAS, the Subdivision Committee has reviewed and fully considered FEIR #616, the Specific Plan and the Zone Change and has heard and considered the public comments that were presented to it on this Project and has determined after review and consideration to recommend approval of (VTTM) 17522.

NOW, THEREFORE, BE IT RESOLVED THAT this Subdivision Committee hereby recommends approval of VTTM 17522 subject to the following recommended findings and conditions of approval and to the additional findings to be made by the Board of Supervisors as outlined in Section 13.3 of the Esperanza Hills Specific Plan: regarding:

**Recommended Findings:**

1. **GENERAL PLAN** - That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.
2. **DESIGN & IMPROVEMENT** - That the design and improvement of the proposed subdivision are consistent with the Orange County General Plan.
3. **GENERAL PLAN CONSISTENCY** - That the proposed map is consistent with the Orange County General Plan.
4. **PROJECT LEVEL EIR** - That Final EIR No. 661, previously certified by the Board of Supervisors on March 10, 2015 satisfies the requirements of CEQA for VTTM 17522, which is a necessarily included element contemplated as part of the whole of the action.
  - A. That the circumstances of the project are substantially the same as described in FEIR No. 661 which adequately addressed the effects of the proposed project. No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken, and no new information of substantial importance to the project which was not known or could not have been known when the previous FEIR No. 661 was adopted has become known, and no further environmental review is required.
5. **DEVELOPMENT TYPE** - That the proposed site is physically suitable for the proposed type of development.
6. **DEVELOPMENT DENSITY** - That the proposed site is physically suitable for the proposed density of development.
7. **NCCP NOT SIGNIFICANT** - That the proposed project will not have a significant unmitigated impact upon Coastal Sage Scrub habitat and therefore, will not preclude the ability to prepare an effective subregional Natural Communities Conservation Planning (NCCP) Program.
8. **PUBLIC HEALTH** - That the design of the subdivision and the type of improvements proposed are not likely to cause serious public health problems.
9. **PUBLIC EASEMENTS** - That the design of the subdivision and the type of improvements proposed will not conflict with easements of record or established by

court judgment acquired by the public-at-large for access through or use of property within the proposed subdivision.

10. **DESIGN COMPLIANCE** - That the design and improvement of the proposed subdivision is suitable for the uses proposed, and the subdivision can be developed in compliance with applicable zoning regulations pursuant to Section 7-9-254 of the Subdivision Code.

11. **COMPATIBILITY** - That the use, activity or improvement(s) proposed, subject to the specified conditions and adopted Mitigation Monitoring and Reporting Program (MMRP) is consistent with the provisions of the Zoning Code and the Esperanza Hills Specific Plan regulations applicable to the property.

12. **PUBLIC FACILITIES** - That the approval of the map is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).

13. **SUBDIVISION AND ZONING CODE COMPLIANCE** - That the proposed subdivision complies with the requirements set forth in the Orange County Subdivision Code and the Orange County Zoning Code.

14. **SPECIFIC PLAN CONSISTENCY** - That the proposed subdivision, together with the provisions for its design and improvement, is consistent with the Esperanza Hills Specific Plan.

15. **SEWER SYSTEM** - That the discharge of waste from the proposed subdivision into the existing sewer system of the Yorba Linda Water District will not result in violations of existing requirements prescribed by the California Regional Water Quality Control Board, Santa Ana Region.

16. **DEVIATION FROM STANDARD DESIGN** - That the Subdivision Committee has individually considered the requested two deviations from County standard designs and that based upon special circumstances in this situation, specifically the site topography, the proposed private street system and the desired avoidance of excessive retaining walls finds that the deviations are acceptable.

#### **Recommended Conditions of Approval:**

1. **BASIC/ZONING REGULATIONS** - This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange



County Subdivision and Zoning Codes and any other applicable zoning regulations, as amended. Approval does not include any action or finding as to compliance of approval of the project regarding any other ordinance, regulation or requirement.

2. **BASIC/TIME LIMIT** - This approval is valid for a period of 36 months from the date of final determination, unless an extension is otherwise allowable by State law. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.
3. **BASIC/COMPLIANCE** - Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Subdivision Committee.
4. **INDEMNIFICATION** - Applicant shall defend with counsel approved by the County of Orange in writing, indemnify and hold harmless the County of Orange, its officers, agents and employees from any claim, action or proceeding against the County, its officers, agents or employees to attack, set aside, void, or annul any approval of the application or related decision, or the adoption of any environmental documents, findings or other environmental determination, by the County of Orange, its Board of Supervisors, Planning Commission, Subdivision Committee, Zoning Administrator, Director of OC Public Works, or Director of Planning concerning this application. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition. Applicant shall reimburse the County for any court costs and attorney's fees that the County may be required to pay as a result of such action or the County's participation in such defense. The County shall promptly notify the applicant of any such claim, action or proceeding.
5. **BASIC APPEAL/EXACTIONS** - Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90 -day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.
6. **MAP NOTES** - Prior to recordation of a subdivision map (except maps for financing and conveyance purposes only), the following notes shall be placed on the map in a manner meeting the approval of the Manager, OC Planning:
  1. The subdivider/property owner is advised that the Mitigation Measures, Project Design Features and Conditions of Approval of FEIR 616 Mitigation Monitoring and Reporting Program (MMRP) shall be satisfied.

2. The property lies within a Fire Hazard Severity Zones within State Responsibility Areas (SRA) and within a Very High Fire Hazard Severity Zones within the Local Responsibility Areas (LRA), and advising that all structures will be required to demonstrate compliance with all requirements of Chapter 47 and Chapter 7A or shall have and approved Fire Protection Plan which provides protection equivalent to the risk for the site and structure.
  3. The property lies within a Major Thoroughfare and Bridge Fee Program, specifically the Foothill/Eastern Transportation Corridor and applicable fees pursuant to this program will be assessed at the issuance of building permits.
  4. The private streets constructed within this map shall be owned, operated and maintained by the developer, successors or assigns. The County of Orange shall have no responsibility therefore unless pursuant to appropriate sections of the Streets and Highways Code of the State of California the said private streets have been accepted into the County Road System by appropriate resolution of the Orange County Board of Supervisors.
7. **REQUEST FOR DEVIATIONS** - Prior to the recordation of a subdivision map, the subdivider shall place a note on the map, in a manner that meets the approval of the Manager, Permit Services that states the following:
- (1) Deviation to allow grades on streets with residential driveway access to be greater than 10% but equal to or less than 12% grades for the following street:
    - a. "A" Street – adjacent to Lots 39 to 43
  - (2) Deviation to allow grades on streets without residential driveway access to be greater than 10% but equal to or less than 12% grades for the following streets:
    - a. Esperanza Hills Parkway
    - b. "C" Street
8. **PRIVATE LOCAL PARK –**
- A. Prior to the recordation of an applicable subdivision map, the subdivider shall make an irrevocable offer to dedicate an easement over Lot(s) E, H, K, N, MM, NN, TT, VV, and NNN for private local park purposes to the County of Orange in a form approved by the Manager, OC Planning. The subdivider shall not grant any other easement over the private park easement which is inconsistent with the local park uses, unless that easement is made subordinate to said local park easement in a manner meeting the approval of the Manager, OC Planning.
  - B. Prior to the recordation of the first final subdivision map, the subdivider shall submit a Local Parks Implementation Plan (LPIP) for review and approval by the Subdivision Committee. The LPIP shall address estimated creditable park land,

conceptual improvements and park phasing commensurate with housing occupancies.

Note: The irrevocable offer of dedication (IOD) may be satisfied per the appropriate designation (notes and delineation) on the subject final subdivision map.

9. **REGIONAL DRAINAGE STUDIES** - Prior to the recordation of a subdivision map (except maps for financing and conveyance purposes only) or prior to the issuance of any grading permits, whichever comes first, a final drainage report shall be submitted to and approved by the County Manager, Permit Services. The final drainage report shall address Condition of Approval COA-1 and include detailed engineering analyses/calculations demonstrating:

- 1) Proposed mitigation basins shall, to extent feasible, reduce post-development runoff to pre-development levels, and
- 2) Post development impacts to downstream Esperanza Channel (OCFCD Facility No. E06) are mitigated to a level of insignificance.

Engineering analyses/calculations shall conform to the criteria and standards set forth in the 1986 Orange County Hydrology Manual and its Addendum No. 1, Orange County Flood Control Design Manual, Orange County Local Drainage Manual, and other appropriate County of Orange criteria.

10. **EASEMENT SUBORDINATION** - Prior to the recordation of a subdivision map (except maps for financing and conveyance purposes only), the applicant shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer to the County of Orange or the Orange County Flood Control District, unless such easements are expressly made subordinate to the easements to be offered for dedication to the County. Prior to granting any of said easements, the subdivider shall furnish a copy of the proposed easement to the Manager, Permit Services, for review and approval. Further, a copy of the approved easement shall be furnished to the Manager, Permit Services, prior to the final inspection approval.

BE IT FURTHER RESOLVED that the Subdivision Committee recommends that the Board of Supervisors approve Vesting Tentative Tract Map (VTTM) 17522 subject to the findings and conditions contained herein.

The foregoing resolution was carried by the following vote:

Ayes: 6

Noes: 0

Absent: 0

I HEREBY CERTIFY that the foregoing Resolution No. SC 15-08 was adopted on October 7, 2015 by the Orange County Subdivision Committee.



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By: Colby Cataldi, Chairman  
ORANGE COUNTY SUBDIVISION COMMITTEE



RESOLUTION NO. 15-018  
 RESOLUTION OF THE BOARD OF SUPERVISORS OF  
 ORANGE COUNTY, CALIFORNIA  
 CERTIFYING FINAL ENVIRONMENTAL IMPACT REPORT 616  
 FOR THE ESPERANZA HILLS RESIDENTIAL DEVELOPMENT PROJECT

March 10, 2015

WHEREAS, Yorba Linda Estates, LLC, OC 33, LLC and the Nicholas/Long family trusts (collectively "Applicant") have submitted Planning Application 120037 ("PA120037"), requesting approval of a residential development consisting of 340 single-family residential units including adoption of a General Plan Amendment (Land Use Element) ("GPA LUE 14-02"), adoption of a Specific Plan, and certification of an Environmental Impact Report ("EIR") (collectively, the "Project"); and

WHEREAS, the County of Orange ("County") is the lead agency under the California Environmental Quality Act ("CEQA"), for the proposed Project; and

WHEREAS, in accordance with Section 15063 of the CEQA Guidelines, the County prepared an Initial Study/Environmental Checklist for the Project and distributed it, along with the Notice of Preparation ("NOP") to responsible and interested agencies and key interest groups for comment for a 42-day public review period from December 22, 2012 to February 1, 2013; and

WHEREAS, pursuant to the Initial Study prepared for the Project and in recognition of the comments received in response to the NOP, the County of Orange prepared Draft Environmental Impact Report #616 dated November 27, 2013 ("DEIR #616"); and

WHEREAS, the subsequent actions addressed in DEIR #616 include, but are not limited to, County approval of a Vesting Tentative Tract Map and site development permits; and

WHEREAS, a Notice of Availability for DEIR #616 was filed with the State Clearinghouse and posted on December 2, 2013, giving public notice of the availability of DEIR #616 for review and comment; and

WHEREAS, copies of DEIR #616 were circulated for public review and comment for a 62-day period between December 4, 2013 and February 3, 2014; and

WHEREAS, a public meeting was held on January 16, 2014 to solicit comments from interested parties; and

WHEREAS, during the public review period, a total of 85 letters and emails were received and 19 public meeting commenters made comments on DEIR #616; and

WHEREAS, in accordance with the requirements of CEQA, full and complete responses to those comments received during the public review period were prepared and included in Esperanza Hills Final EIR No. 616 ("FEIR #616"); and

WHEREAS, All the information comprising the FEIR #616 is on file with OC Public Works/Planning Division, 300 North Flower Street, Santa Ana, California; and

WHEREAS, in furtherance of CEQA's goal of promoting public participation in the environmental review process, the Orange County Planning Commission ("Planning Commission") conducted a public hearing on January 14, 2015 to receive and consider information, including the staff report and public testimony with respect to the Esperanza Hills development and FEIR #616 and reviewed the findings contained in the Statement of Findings, attached hereto as Exhibit A, with respect to significant impacts identified in FEIR #616; and

WHEREAS, in connection with the January 14, 2015 public hearing, the County of Orange Planning Commission approved Resolution No. 15-01 recommending that the Board of Supervisors find FEIR #616 adequate and complete and certify that FEIR #616 in compliance with CEQA Guidelines Section 15090; and

WHEREAS, proposed FEIR #616 will be comprised of (i) DEIR #616, (ii) the Responses to Comments which includes a list of persons, organizations and public agencies commenting on DEIR #616 along with the letters and emails received from such commenters, public meeting testimony and corresponding responses to comments, (iii) revisions to the DEIR #616 reflecting changes made in response to comments and other information as detailed in the Response to Comments Errata and (iv) all attachments and documents incorporated by reference into DEIR #616; and

WHEREAS, FEIR #616 is in compliance with the CEQA (California Public Resources Code, Sections 21000 *et seq.*) and the CEQA Guidelines (Title 14, California Code of Regulations, Sections 15000 *et seq.*) ("CEQA Guidelines") and is a Project EIR as defined by CEQA Guidelines Section 15161, and as such addressed the potentially significant environmental impacts associated with the Project, including the approval of a Specific Plan adoption, GPA LUE 14-02, a Zone Change and related programs and entitlements, as well as the impacts anticipated from subsequent implementing steps in the chain of contemplated actions designed to carry out the final planning and development of the Project; and

WHEREAS, the subsequent actions addressed in FEIR #616 include, but are not limited to, County approval of Vesting Tentative Tract Map and site development permits, a Biological Opinion Section 404 Permit, Section 401 certification, Local Agency Formation Commission consideration of potential annexation and City of Yorba Linda for an encroachment permit; and

WHEREAS, the Board of Supervisors has reviewed the findings contained in the Statement of Findings, attached hereto as Exhibit A and incorporated herein by this reference, with respect to significant impacts identified in FEIR #616; and

WHEREAS, included in the Statement of Findings is a Statement of Overriding Considerations listing the Unavoidable Adverse Significant Impacts of the Project; and

WHEREAS, as part of the certification of the adequacy of FEIR #616, per California Public Resources Code Section 21081.6, a Mitigation Monitoring and Reporting Program ("MMRP") is included identifying Mitigation Measures ("MM(s)") and Standard Conditions

("SC(s)"), all of which have been identified as measures to reduce potential adverse significant impacts; and

WHEREAS, the principal purpose of the MMRP is to ensure that the approved mitigation measures for the adopted Project are implemented and monitored for compliance during subsequent planning stages and, ultimately, during project implementation; and

WHEREAS, a copy of the MMRP is attached hereto as Exhibit B and incorporated herein by reference; and

WHEREAS, the Board of Supervisors conducted a public hearing on March 10, 2015 regarding PA120037, including FEIR #616, GPA LUE 14-02, the Specific Plan and the Zone Change; and

WHEREAS, the Board of Supervisors reviewed all documentation and materials comprising FEIR #616 and found that FEIR #616 reflects the independent judgment and analysis of the County, considers all environmental effects of the Project and is complete and adequate and fully complies with all requirements of CEQA and CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED that:

1. The Board of Supervisors hereby certifies FEIR #616 as complete and adequate in that it addresses all environmental effects of the Project and fully complies with the requirements of CEQA, the CEQA Guidelines and the County of Orange CEQA Guidelines. All of the information comprising FEIR #616 is on file with the County of Orange/OC Development Services at 300 N. Flower Street, Santa Ana, California.
2. The Board of Supervisors approves and adopts the Statement of Findings, including the Statement of Overriding Considerations prepared for the Project, attached as Exhibit A. Specifically, the Board of Supervisors finds that each fact in support of the individual findings is true and based upon substantial evidence in the record, including FEIR #616.
3. The Board of Supervisors finds that FEIR #616 identifies all significant environmental effects of the Project, and that there are no known potential environmental impacts which are not specifically and adequately addressed in FEIR #616.
4. The Board of Supervisors finds that although FEIR #616 identifies certain significant environmental effects that will result if the Project is approved; those significant effects which can be feasibly mitigated or avoided have been reduced to an acceptable level by the incorporation in the approved Project of the individual mitigation measures identified in the Statement of Findings, included as Exhibit A, and the MMRP, included in Exhibit B.
5. The Board of Supervisors finds that FEIR #616 describes a reasonable range of alternatives to the Project that could feasibly obtain most of the basis objectives of the Project but would avoid or substantially lessen one or more of the significant effects associated with the proposed project (including the "No Project Alternative") even though these alternatives might be more costly or infeasible.

6. The Board of Supervisors finds that no substantial evidence has been presented which would call into question the facts and conclusions appearing in FEIR #616.
7. The Board of Supervisors finds that no significant new information has been added to FEIR #616 such that recirculation for additional public review is necessary or required pursuant to CEQA Guidelines Section 150885.5.
8. The Board of Supervisors finds that the MMRP, attached as Exhibit B, establishes a mechanism and procedures for implementing and verifying the project mitigation prior to or concurrent with Project approval and implementation.
9. The Board of Supervisors hereby adopts the MMRP, and directs that the mitigation measures be incorporated into the Project prior to or concurrent with Project approval and implementation.
10. The Board of Supervisors finds that the unavoidable adverse effects of the Project (as identified in the "Statement of Overriding Considerations," included in the Statement of Findings as Exhibit A) that have not been reduced to a level of less than significant have been, nonetheless, lessened in their severity by the imposition of the mitigation measures identified in the MMRP. The Board further finds that any remaining, unavoidable significant impacts are clearly outweighed by the specific economic, legal, social, and other benefits of the Project (as more particularly described in the Statement of Overriding Considerations) and that the adverse environmental effects are therefore considered acceptable.
11. The Board of Supervisors adopts the Statement of Overriding Considerations, included in Exhibit A, which identifies the economic, legal, social, and other benefits of the Project which support approval of the Project notwithstanding certain unavoidable significant environmental effects which cannot be feasibly and substantially mitigated, and finds that the Statement of Overriding Considerations sets forth all of the facts upon which it is based.
12. The Board of Supervisors finds that FEIR #616 reflects the independent review and judgment of the County.
13. The Board of Supervisors finds that FEIR #616 serves as adequate and appropriate to comply with the requirements of CEQA.



## Exhibit A

**ESPERANZA HILLS  
DRAFT ENVIRONMENTAL IMPACT REPORT No. 616  
CEQA FINDINGS OF FACT  
SCH No: 2012121071  
Project No. PA120037  
County of Orange**

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**I. INTRODUCTION**

The California Environmental Quality Act (CEQA) requires that written findings be made by the lead agency in connection with certification of an Environmental Impact Report (EIR) prior to approval of the project (Sections 15091 and 15093 of the CEQA Guidelines and Section 21081 of the State of California Public Resources Code). CEQA Guidelines Section 15091 states:

- a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
  - 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR;
  - 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can or should be adopted by such other agency.
  - 3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.

- f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

CEQA Guidelines Section 15093 provides that:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological or other benefits, including region-wide or statewide environmental benefits of a proposed project, against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological or other benefits, including region-wide or statewide environmental benefits, or a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of de3terminatin. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

The County of Orange, as lead agency, having received, reviewed and considered the Draft Environmental Impact Report (DEIR) and the Final Environmental Impact Report (FEIR) for the Esperanza Hills Project, SCH No. 2012121071, as well as all other information in the record of proceedings on this matter, hereby adopts the following Findings and Facts in Support of Findings (Findings) and Statement of Overriding Considerations (SOC).

These Findings set forth the environmental basis for the discretionary actions to be undertaken by the County of Orange for the development of the Project. This action includes the approval of the following:

- Draft Environmental Impact Report SCH No. 201212107
- A) Document Format

These Findings have been organized into the following sections:

- 1) Section 1 - Introduction to these Findings
- 2) Section 2 – Summary of the project, including an overview of the discretionary actions required for project approval and a statement of the project objectives
- 3) Section 3 – Findings regarding the environmental impacts that were determined as a result of the Initial Study, Notice of Preparation (NOP) and consideration of comments received during the NOP comment period.
- 4) Section 4 – Findings regarding significant or potentially significant environmental impacts identified in the DEIR that the County has determined are either not significant or can feasibly be mitigated to a less than significant level through project design features (PDFs), conditions of approval (COAs), standard conditions of approval or mitigation measures (MMs). All of these measures will be included in a Mitigation Monitoring and Reporting Program (MMRP) in order

to ensure compliance with all conditions adopted by the Lead Agency. Where potentially significant impacts can be reduced to less than significant levels through adherence to PDFs and COAs, these Findings specify how those impacts were reduced to an acceptable level. This section also includes findings regarding significant or potentially significant environmental impacts identified in the DEIR that will or may result from the project and which the County has determined cannot feasibly be mitigated to a less than significant level.

5) Section 5 – Findings regarding Alternatives to the proposed project.

B) Record of Proceedings

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- The NOP and all other public notices issued by the County in conjunction with the proposed project.
- The Draft EIR for the proposed project
- All written comments submitted by agencies or members of the public during the public review comment period on the DEIR
- The reports and technical memoranda included or referenced in the Response to Comments
- All written and verbal public testimony presented during a noticed public hearing for the proposed project
- The Mitigation Monitoring and Reporting Program
- All documents, studies, EIRs or other materials incorporated by reference in the DEIR and FEIR
- The Resolutions adopted by the County of Orange in connection with the proposed project and all documents incorporated by reference therein, including comments received after the close of the comment period and responses thereto
- Matters of common knowledge to the County, including but not limited to federal, state and local laws and regulations
- Any documents expressly cited in these Findings
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e)
- The Final EIR for the proposed project

C) Custodian and Location of Records

The documents and other material that constitute the record of proceedings on which these findings are based are located at the County of Orange, OC Public Works/OC Planning Department. The custodian for these documents is the County of Orange. Copies of these documents which constitute the record of proceedings are and at all relevant times have been and will be available upon request at the County of Orange. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and 14 California Code of Regulations, Title 14, Chapter 3, Section 15091(e).

## II. PROJECT SUMMARY

### A) Project Location

The proposed Project, known as Esperanza Hills, is located within unincorporated area of the County of Orange, east of San Antonio Road and north of Stonehaven Drive (Via del Agua) near the City of Yorba Linda. The site is north of Yorba Linda Boulevard and east of SR-90 (Imperial Highway). To the south and west are existing residential communities previously approved and developed in the City of Yorba Linda. To the north and east the site is bordered by Chino Hills State Park.

### B) Project Description

The Project site contains a total area of approximately 468.9 acres and has been designed to provide a maximum of 340 residences in large-lot, low-density neighborhoods. The site has been utilized historically for animal grazing and oil production beginning in the mid 1950's. Currently, the major use of the site is as open space, for energy transmission associated with Southern California Edison, for water transmission for the Metropolitan Water District and the Yorba Linda Water District, and for some limited oil production. The existing land use is consistent with County of Orange General Plan Land Use designation of Open Space (5) and Zoning Code designation of General Agricultural (A1) and with a General Agriculture/Oil Production overlay (O) for the property.

Development will occur in two phases (Planning Area 1 and Planning Area 2). Planning Area 1 provides up to 218 lots on 310 acres with a minimum lot size of approximately 12,000 square feet and building pads that are 70 feet wide and 140 feet deep. Planning Area 1 contains four parks, an underground water reservoir, open space, existing natural open space, riparian areas and a trail corridor linking the Project to surrounding properties. Planning Area 1 is located on land owned by Yorba Linda Estates, LLC and Yorba Trails, LLC.

Planning Area 2 provides 122 units (including two estate lots) on 159 acres located at the higher elevation on the portion of the property owned by the Nicholas Long family. The minimum size of building pads is 90 feet wide and 110 feet deep. Planning Area 2 will contain five parks, an underground water reservoir, open space, existing natural open space, a trail system that connects to Canyon B to the west and two estate lots that have the opportunity for ancillary uses such as equestrian and/or viticulture. The estate lots are 1.11 acres).

Project construction is anticipated to take one to two years for grading and three to seven years for construction. Construction will include rough grading, relocation/cleanup of oil wells, trenching, foundation work and construction of housing, parks, roadways and reservoirs.

The Esperanza Hills Specific Plan has been prepared to provide for the development of a low-density master planned community. The Specific Plan includes regulatory text and maps necessary to provide for the described development, maintenance and use of the Esperanza Hills property in compliance with the policies and programs of the County of Orange General Plan. The specific plan includes two possible access configurations. The primary access configuration is from Stonehaven Drive with emergency access through

the adjacent property known as the proposed Cielo Vista project. The alternate access configuration is from San Antonio Road, with secondary access from Stonehaven Drive.

These access configurations are described and analyzed in the EIR. Specifically, the Stonehaven Drive access configuration is identified as Option 1 in the EIR, and the San Antonio Road access configuration is identified as Alternative 3, Option 2B. Both access configurations is fully analyzed in the EIR and impacts associated with both configurations are disclosed and mitigated. The Specific Plan provides a listing of conditions precedent to implementation of the alternate San Antonio Road access configuration, along with a timing mechanism, which is recordation of a tentative vesting tract map (VTTM). Only one access configuration will be part of the VTTM considered by the County Subdivision Committee.

C) Discretionary Actions

Implementation of the project requires several actions by the County, including:

- Draft Environmental Impact Report (SCH 2012121071). Certification of the Draft Environmental Impact Report (DEIR) evaluating the environmental impacts resulting from the proposed project, in accordance with the California Environmental Quality Act of 1970 (CEA), as amended (Public Resources Code Sections 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.)
- Final DEIR. The Final DEIR would also provide environmental information to responsible agencies, trustee agencies, and other public agencies that may be required to grant approvals and permits or coordinate with the County as part of project implementation.
- Esperanza Hills Specific Plan. Adoption of a Specific Plan will replace the existing A1 and A1(O) zoning designations and to regulate and guide development of the property. The Specific Plan will serve as the regulatory and policy document for future development.
- Vesting Tentative Map (VTTM 17522). Approval of the vesting tentative map to confer a vested right to proceed with development in substantial compliance with the ordinances, policies and standards in effect at the time the vesting tentative map is approved or conditionally approved. Approval of a VTTM is anticipated to be a future action considered by the County Subdivision Committee.

D. Statement of Project Objectives

The statement of objective sought by the project and set forth in the Final DEIR is provided as follows:

- Create a low-density single-family development
- Create a planned community of appropriate density and scale that respects the existing topography and natural backdrop of the Project Site.
- Create clustered residential neighborhoods buffered from adjacent development by abundant open space while preserving and enhancing permanent open space and habitat.
- Provide recreational opportunities for residents in the project vicinity for access to Chino Hills State Park from the west to Old Edison Trail.
- Design compatible land uses within the project and to surrounding areas.



- Preserve open space, natural landforms and vegetation surrounding and within planned and developed residential areas.
- Preserve the northern and eastern ridgelines adjacent to Chino Hills State Park.
- Provide fire breaks, firefighting staging areas, access points, and emergency ingress/egress plans to enhance safety to the residents and surrounding community.
- Provide construction standards and requirements that meet or exceed Orange County Fire Authority requirements for communities bordered by wildland areas.
- Enhance the visual quality of the areas around the oil extraction operations to the extent that extraction operations are continued.
- Integrate hydromodification principles with biological resources to create bio-retention and bio-detention areas passive parks and aesthetically pleasing landscape features.

### III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

In conformance with CEQA and the State CEQA Guidelines the County conducted an extensive environmental review of the proposed project.

- The County determined that a DEIR would be required for the proposed project and issued a Notice of Preparation (NOP) and Initial Study on December 21, 2012. The NOP was distributed to all public agencies, trustee agencies and the State Office of Planning Research and posted at the Orange County Clerk-Recorder's office and on the County's website on December 21, 2012. The public review period was extended beyond the 30-day period to 42 days from December 21, 2012 to February 1, 2013.
- Based on the Initial Study and Environmental Check List Form (CEQA Appendix G), the County staff determined that a Draft Environmental Impact Report (DEIR) should be prepared for the proposed project. A scoping meeting was held during the NOP review period to allow local residents and interested persons an opportunity to review the proposed project and provide input on issues to be addressed in the DEIR. The scoping meeting was held on January 31, 2013 at Travis Ranch School in the City of Yorba Linda. Notice of the scoping meeting was sent to state and local agencies, cities, individuals who expressed interest in the project and residents/occupants within a 2,000' radius of the project boundaries.
  - The scope of the DEIR was determine based on the County's Initial Study, comments received in response to the NOP and comments received at the scoping meeting conducted by the County. Section 1.3 of the DEIR summarizes the issues identified for analysis.
  - The County of Orange prepared a Draft EIR, which was made available for a 60-day public review period beginning on December 4, 2013 and ending on February 3, 2014. The Notice of Completion was sent to all interested persons, agencies, cities and organizations. The Notice of Completion was also sent to the State Clearinghouse for distribution to additional public agencies. Copies of the DEIR were made available at the City of Yorba Linda, the City of Yorba Linda Public Library, the East Anaheim Library, the County Planning Services Department and on the County website.
  - The DEIR consists of seven volumes including fifteen technical studies:
    - Volume I – DEIR
    - Volume II – Appendices A through G (IS/NOP, Air Quality/Greenhouse Gas Emissions, Biological Resources,

- Jurisdictional Delineation, Archaeological/Paleontological Resources, Geotechnical Report)
- Volume III – Appendices H through J (Fault Hazard Assessment, Phase I ESA, Fire Protection and Emergency Evacuation Plan)
- Volume IV – Appendix K (Preliminary Drainage Reports)
- Volume V – Appendices L through N (Conceptual Water Quality Management Plans and Addendums, Noise Impact Analysis)
- Volume VI – Appendices O through Q (Traffic Impact Analysis, Preliminary Water Reports, Preliminary Sewer Reports)
- Volume VII – Appendices R through U (Northeast Area Planning Study, Yorba Linda Water District 2005 Domestic Water System Master Plan, Yorba Linda Water District 2010 Urban Water Management Plan, Service Request Letters)
- A study session was held by the County Planning Commission on November 6, 2014 in the Hall of Administration, 333 W. Santa Ana Boulevard, Santa Ana CA. The meeting was noticed on the County's website.
- In compliance with Section 15088(b) of Title 14 of the California Code of Regulations (State CEQA Guidelines), the County has met its obligation to provide written Responses to Comments to public agencies at least 10 days prior to certifying the Final EIR.
- Preparation of the Final DEIR includes comments on the DEIR, responses to those comments, clarifications/revisions to the DEIR and appended documents. The Final DEIR was released on December 5, 2014 and posted on the County's website.
- A Board of Supervisors public hearing was held on March 10, 2015 in the Board Chambers at 333 W. Santa Ana Boulevard, Santa Ana, CA. A notice of time, place and purpose of the aforesaid meeting was provided in accordance with CEQA and the County's noticing requirements. Notices were mailed to property owners within a 2000' radius of the project, as well as to agencies, cities and interested parties. The mailing and notifications occurred at a minimum 10 days in advance of the meeting, consistent with the Board of Supervisors noticing requirements. The Draft and Final EIR, staff report and evidence, both written and oral, were presented to and considered by the Board of Supervisors at this hearing.

#### **IV. ENVIRONMENTAL ISSUES THAT WERE DETERMINED NOT TO BE POTENTIALLY AFFECTED BY THE PROPOSED PROJECT**

##### **A. Impacts determined to be Less Than Significant in the Initial Study**

As a result of the project scoping process including the NOP circulated by the County on December 21, 2012, in connection with preparation of the Draft EIR, the preparation of the Initial Study and the Public Scoping meeting, the County determined, based upon the threshold criteria for significance that the project would have no impact or a less than significant impact on the following potential environmental issue.

Agricultural Resources – No farmland exists on or near the site and no farmland will be converted to non-agriculture use.

Mineral Resources – The project would not result in the loss of availability of a known mineral resource or locally important mineral resource recovery site.

## **B. Impacts Determined To Be Less Than Significant in the DEIR**

This section identifies impacts of the proposed project determined to be less than significant without implementation of project-specific mitigation measures. This determination, however, does assume compliance with existing regulations, conditions of approval and relevant General Plan policies as detailed in each respective topical section of Chapter 5 in the DEIR.

Hydrology and Water Quality – The project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality. Conditions of approval applied to the project will ensure that project is consistent with County requirements related to drainage, sewer erosion and water quality, thereby reducing impacts to less than significant.

Land Use and Planning – The project would not conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

Population and Housing – The project will not conflict with population and housing projections and housing needs, displace existing housing or displace substantial numbers of people.

Recreation – The project would not have a substantial adverse effect on recreational facilities or require additional facilities beyond those provided in the DEIR. The project will provide in excess of County requirements for the provision of parkland.

## **V. FINDINGS REGARDING POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS**

The following potentially significant environmental impacts were analyzed in the Draft EIR and the effects of the project were considered. Identification of relevant General Plan policies, compliance with existing laws, codes and statutes and the identification of feasible mitigation measures, project design features and conditions of approval have reduced potential impacts to a level of less than significant as determined by the County. Therefore, the County has determined, in accordance with CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1) that “Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment” are referred to as Finding 1 herein.

Where the County has determined, pursuant to CEQA Section 21081(a)(2) and State CEQA Guidelines Section 15091(a)(2) that “Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency,” the County’s finding is referred to as Finding 2.

Where the County has determined that either (1) even with identification of project design features, compliance with existing laws, codes and statutes, and/or the identification of feasible mitigation measures, project design features or conditions of approval, potentially significant impacts cannot be reduced to a level of less than significant, or (2) no feasible mitigation measures or alternatives are available to mitigate the potentially significant impact, the County

has found in accordance with CEQA Section 21081(1)(3) and State CEQA Guidelines Section 15091(a)(3) that “Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.” Per CEQA Guidelines, this is herein referred to as Finding 3.

#### **A. Impacts Mitigated to Less Than Significant**

The following summary describes impacts of the proposed project that, without mitigation would result in significant adverse impacts. Upon implementation of the mitigation measures, project design features or conditions of approval provided in the DEIR, the impacts would be considered less than significant.

##### **1. Aesthetics**

**Environmental Impact:** The proposed project will permanently alter portions of the site through landform modification. The project is designed to retain ridgelines whenever possible and includes development plan components and design features that will minimize impacts to aesthetics. Potential impacts from light and glare have been addressed with mitigation.

**Finding 1** – Mitigation Measure AE-1 would minimize visibility of light sources by directing lighting toward the on-site structures and not illuminating areas outside property boundaries. Therefore, the County makes Finding 1 that “Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

#### **Facts in Support of Finding**

The proposed project will not have a substantial adverse effect on a scenic vista, damage scenic resources or degrade the existing character or quality of the site. Development standards have been included in the DEIR that provide a framework for project implementation including design guidelines pertaining to the project’s community structure, visual appearance, walls and fences, community furnishings and landscape furnishings. Mitigation Measure AE-1 will reduce light and glare impacts by controlling light spill and confining lighting to within each property’s boundaries. Therefore, aesthetic impacts have been reduced to less than significant.

#### **Mitigation Measure**

The following Mitigation Measure has been included in the Draft EIR:

AE-1 Prior to the issuance of building permits, the Project Applicant shall demonstrate that all exterior lighting has been designed and located so that all direct rays are confined to the property in a manner meeting the approval of the Manager OC Planning, or designee. Lighting shall be designed to minimize visibility of light sources by directing lighting toward the on-site structures and not illuminating areas outside property boundaries.

## 2. Air Quality

**Environmental Impact:** Emissions modeling for construction of the project show that the emissions would remain below levels of significance for each of the air quality constituents for which the SCAB is currently in non-attainment. However, the project, in conjunction with growth and development within the SCAB, would hinder conformance with the regional AQMP. Because the SCAB has been classified as a non-attainment basin for compliance with the Federal Clean Air Act, the project will have an incremental impact on cumulative air quality conditions.

**Finding 1** – Mitigation Measures AQ-1, AQ-2 and AQ-3 would reduce air quality impacts to a less than significant level. The County therefore makes Finding 1 that “Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

### Facts in Support of Finding

Analysis in the DEIR shows that project construction or operational emissions will not exceed the SCAQMD recommended threshold levels and will not violate any air quality standard or contribute substantially to an existing or project air quality violation. Cumulatively, the project emissions would not add significantly to non-attainment criteria pollutants in the SCAB. Mitigation Measures have been incorporated into the project to reduce impacts to a less than significant level.

### Mitigation Measures

The following Mitigation Measures have been included in the Draft EIR:

- AQ-1 During construction, the Project Applicant shall ensure the use of enhanced control measures for diesel exhaust emissions to maintain NOX impacts at a less than significant level. These measures shall include:
- Utilize well-tuned off-road construction equipment
  - During grading, require that contractors use Tier 3 on all heavy equipment (excavators, graders, and scrapers exceeding 100 HP rated power) if the entire project is graded at one time for NOX emissions, unless use of such mitigation is demonstrated to be technically infeasible for a given piece of equipment
  - During grading, require that contractors employ oxidation catalysts during grading for excavation graders and scrapers exceeding 100 HP rated power if the entire project is graded at one time, unless use of such mitigation is demonstrated to be technically infeasible for a given piece of equipment.
  - Enforce 5-minute idling limits for on-road trucks and off-road equipment
- AQ-2 During construction, the Project Applicant shall ensure that standard construction practices as set forth in the SCAQMD Handbook shall be implemented.
- AQ-3 During construction, the Project Applicant shall ensure that best management practices for dust control are implemented. These include:
- Apply soil stabilizers or moisten areas that are inactive for 96 hours or more.
  - Prepare a high wind dust control plan
  - Address previously disturbed areas if subsequent construction is delayed more than 96 hours



- Water exposed surfaces as needed to avoid visible dust leaving the construction site (typically three times per day)
- Wet down or cover all stockpiles with tarps at the end of each day or as needed
- Provide water spray during loading and unloading of earthen materials
- Minimize in-out traffic from construction zone
- Cover all trucks hauling dirt, sand or loose material or require all trucks to maintain at least two feet of freeboard
- Sweep streets daily if visible soil material is carried out from the construction site
- Use perimeter sandbags and wind fences for erosion control

### 3. Biological Resources

**Environmental Impact:** The project has the potential to result in impacts to sensitive biological resources and place fill in drainages within ACOE, CDFW and RWQCB jurisdictions. Direct and indirect impacts have been identified in the DEIR related to walnut woodland and blue elderberry woodland, Braunton's milk-vetch, intermediate mariposa lily, catalina mariposa lily, small flowered microseris, least Bell's vireo, nesting birds, southern willow scrub, southern California walnut, special status wildlife, raptor foraging habitat and ACOE/CDFW/RWQCB jurisdictions.

**Finding 1** - Mitigation Measures Bio-1 through Bio-1 and project design features would reduce impacts to biological resources to a less than significant level. The County therefore makes Finding 1 that "Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment."

#### Facts in Support of Finding

Vegetation that will be directly impacted by removal will be replaced in accordance with a Habitat Mitigation and Monitoring Program. Avoidance of occupied riparian habitat will be implemented via monitoring and best management practices regarding nesting seasons, noise and coordination with resources agencies. Project design features, in addition to mitigation measures, have been incorporated into the project to minimize impacts related to trash and debris, light pollution, minimization of edge effects along open space areas and plants used for fuel modification areas. A wetland/riparian habitat restoration plan will be implemented to minimize impacts to resource agency jurisdictional areas. Therefore, the County finds that impacts related to biological resources will be reduced to a less than significant level.

#### Mitigation Measures

The following Mitigation Measures have been included in the Draft EIR:

**Bio-1** Prior to the issuance of grading permits, the Project Applicant shall prepare a re-vegetation plan for mulefat scrub, black willow riparian forest, and blue elderberry woodland located within Blue Mud Canyon. The plan will also incorporate California black walnut into the plant palette to mitigate the loss of 0.48 or 0.22 acre of walnut woodland associated with Options 1 and Option 2, respectively. The plan shall be prepared by a qualified biologist for review and approval by the Manager of OC Planning. At a minimum, the plan shall include restoration of mulefat scrub and black willow riparian forest vegetation that also includes a black walnut component. The plan

shall include replacement of habitat at a minimum a ratio of 1:1; responsibility and qualifications of the personnel to implement and supervise the plan; site selection; site preparation and planting implementation; schedule; maintenance plan/guidelines; monitoring plan; and long-term preservation.

Bio-2 Prior to the issuance of grading permits, a detailed restoration program shall be prepared by a qualified biologist for approval by the County of Orange. The program shall provide for planting of 326 greenhouse-propagated individuals of intermediate mariposa lily in the Study Area within an undisturbed area of coastal sage scrub. This mitigation program will be considered successful if at least 80% of 326 flowering individuals, or 261 flowering individuals, are observed five years after planting. If success criteria are not met after five years, remedial measures shall include greenhouse propagation and planting of additional individuals on the Project Site.

Bio-3 Prior to the issuance of grading permits, a detailed restoration program shall be prepared by a qualified biologist for approval by the County of Orange. The program shall provide for planting of 400 greenhouse-propagated individuals of Brauntown's milk-vetch in the Study Area within an undisturbed area of suitable habitat and soils, slope and exposure. This mitigation program will be considered successful if at least 80% of 400 individuals, or 320 individuals, flower and set seed prior to senescence. If success criteria are not met prior to senescence of the planted individuals, remedial measures shall include greenhouse propagation and planting of additional individuals on the Project Site.

Bio-4 Prior to the issuance of grading permits, the Project Applicant shall prepare a re-vegetation plan for mulefat scrub and black willow riparian forest located within Blue Mud Canyon. The plan will also incorporate California black walnut into the plant palette to mitigate the loss of walnut woodland as described in Mitigation Measure Bio-1. The plan shall be prepared by a qualified biologist for review and approval by the Manager of OC Planning. At a minimum, the plan shall include: restoration of mulefat scrub and black willow riparian forest vegetation at a ratio of 1:1; responsibility and qualifications of the personnel to implement and supervise the plan; site selection; site preparation and planting implementation; schedule; maintenance plan/guidelines; monitoring plan; and long-term preservation.

Bio-5 Prior to the issuance of grading permits, the Project Applicant shall include the following measures on the grading plan to be implemented with grading operations:

1. Prior to the commencement of clearing operations or other activities involving significant soil disturbance, all areas of mulefat scrub and black willow riparian forest habitat to be avoided shall be identified with temporary fencing or other markers that are clearly visible to construction personnel.
2. A USFWS-approved Biological Monitor shall be on-site during any clearing of mulefat scrub and black willow riparian forest. The Project Applicant shall advise the U.S. Fish & Wildlife Service at least 7 calendar days – but preferably 14 calendar days – prior to the clearing of mulefat scrub and black willow riparian forest. The Biological Monitor shall flush avian or other mobile species from habitat areas immediately prior to brush-clearing and earth-moving activities. It shall be the responsibility of the monitoring biologist to ensure that identified bird species are not directly impacted by brush-clearing and earth-moving equipment in a manner that also allows for construction activities to continue on a timely basis.
3. Following the completion of initial clearing activities, all areas of mulefat scrub and black willow riparian forest habitat to be avoided by construction equipment and

personnel shall be marked with temporary fencing or other clearly visible, appropriate markers. No construction access, parking, or storage of equipment shall be permitted within such marked areas.

Bio-6 Prior to the issuance of grading permits, the Project Applicant shall prepare a Restoration Plan for mulefat scrub, black willow riparian forest, coast live oak riparian woodland, and other appropriate wetland/riparian habitats at an acreage ratio of 1:1 to be located within Blue Mud Canyon. The plan shall be prepared by a qualified biologist for review and approval by the Manager of OC Planning. The Restoration Plan shall include the following:

1. Impacts to living coast live oak trees within CDFW jurisdiction will be mitigated through planting liners or locally collected acorns within Blue Mud Canyon at the following ratios:
  - For healthy trees to be removed for development:
    - trees less than 5 inches diameter at breast height (DBH) should be replaced at 3:1
    - trees between 5 and 12 inches DBH should be replaced at 5:1
    - trees between 12 and 36 inches DBH should be replaced at 10:1
    - trees greater than 36 inches DBH should be replaced at 20:1
  - For damaged trees (including trees damaged by construction and fire damaged trees to be removed for development):
    - trees less than 12 inches DBH should be replaced at 3:1
    - trees greater than 12 inches DBH should be replaced at 5:1
  - Impacts to trees that were killed by the 2008 Freeway Complex Fire do not require mitigation.
2. The sizes, condition, and total number of impacted trees will be determined after verification of the limits of CDFW jurisdiction and prior to issuance of any permit that results in ground disturbance.

Bio-7 Prior to the issuance of grading permits, the Project Applicant shall prepare a Habitat Mitigation and Monitoring Program (HMMP). The HMMP shall be prepared by a qualified biologist for review and approval by the Manager of OC Planning. The HMMP shall include responsibility and qualifications of the personnel to implement and supervise the plan; site selection; site preparation and planting implementation; schedule; maintenance plan/guidelines; monitoring plan; and long-term preservation. The Project Applicant shall be fully responsible for the implementation of the Habitat Mitigation and Monitoring Program until the restoration areas have met the success criteria outlined in the approved plan. The Manager of OC Planning shall have final authority over mitigation area sign-off.

Bio-8 Prior to the issuance of any grading permit the Project Applicant shall include the following measures on the grading plan to be implemented with grading operations:

1. Prior to the commencement of clearing operations or other activities involving significant soil disturbance, all areas of ACOE and CDFW jurisdiction to be avoided shall be identified with temporary fencing or other markers that are clearly visible to construction personnel.
2. A USFWS-approved Biological Monitor shall be on-site during any clearing of riparian vegetation. The Project Applicant shall advise the US Fish & Wildlife Service at least 7 calendar days – but preferably 14 calendar days – prior to the clearing of riparian vegetation. The Biological Monitor shall flush avian or other mobile species from habitat areas immediately prior to brush-clearing and earth-moving activities. It shall be the responsibility of the monitoring biologist to ensure

that identified bird species are not directly impacted by brush-clearing and earth-moving equipment in a manner that also allows for construction activities to continue on a timely basis.

3. Following the completion of initial clearing activities, all areas of ACOE and CDFW jurisdiction to be avoided by construction equipment and personnel shall be marked with temporary fencing or other clearly visible, appropriate markers. No construction access, parking, or storage of equipment shall be permitted within such marked areas.

Bio-9 Prior to the issuance of grading permits, the Project Applicant shall include the following condition on the grading plan for implementation during vegetation removal operations:

No vegetation removal shall occur between the dates of March 15 to August 31, unless a qualified biologist surveys the Project's impact area prior to disturbance to confirm the absence of active nests. If an active nest is discovered, vegetation removal within a particular buffer surrounding the nest shall be prohibited until nesting is complete; the buffer distance shall be determined by a qualified biologist (in consultation with the CDFW or the USFWS, if applicable) and in consideration of species sensitivity and existing nest site conditions. Limits of avoidance, which can be up to 300 feet for nesting raptors, shall be demarcated with flagging or fencing. The Biologist shall record the results of the recommended protective measures described above and shall submit a memo summarizing any nest avoidance measures to the Manager of OC Planning to document compliance with applicable state and federal laws pertaining to the protection of native birds, including nesting raptors.

Bio-10 Prior to the issuance of building permits, the Project Applicant shall prepare a resident Environmental Awareness Program to be reviewed and approved by the Manager of OC Planning. The Environmental Awareness Program is intended to increase awareness to residents of the sensitive plants, wildlife, and associated habitats that occur in the preserved open space areas. The intention of the program shall be to encourage active conservation efforts among the residents to help conserve the habitats in the preserved open space. The program shall address inadvertent impacts from the introduction of invasive plant species (including escapees), human intrusion, trash and debris, creation of ad hoc trails, domestic cats, and light pollution. At a minimum, the Environmental Awareness Program shall include the following components:

- Informational kiosks shall be constructed at entrance points to hiking and equestrian trails and at various locations along the fence line that separates the Project Site and the open space area to inform residents and trail users on the sensitive flora and fauna that rely on the habitats found within the preserved open space. The intent of these kiosks is to bring awareness to the sensitive plants, wildlife and associated habitats which occur in the area along with discouraging creation of ad hoc trails and trash and debris.
- The Project Applicant shall provide residents or the HOA for nearby subdivisions (if applicable) with a brochure that includes a list of plant species to avoid in residential landscaping to prevent the introduction of invasive plant species and impacts from human intrusion, light pollution and domestic cats to the surrounding natural communities.

- Bio-11 Prior to the issuance of grading permits the Project Applicant shall include the following measures on the grading plan to be implemented with grading operations:
- No clearing, grubbing, grading, or other construction activities shall occur within and in the vicinity of riparian habitat occupied by least Bell's vireo between March 15 and September 15, the breeding season of the least Bell's vireo, until the following requirements have been met:
1. A qualified biologist shall survey riparian areas that would potentially be subject to construction noise levels exceeding 60 decibels [dB(A)] hourly average for the presence of least Bell's vireo. Surveys for this species shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish & Wildlife Service within the breeding season prior to the commencement of construction. If the least Bell's vireo is present, then the following conditions must be met:
    - a. Between March 15 and September 15, no clearing, grubbing, or grading of occupied least Bell's vireo habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist;
    - b. Between March 15 and September 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB(A) hourly average at the edge of occupied least Bell's vireo habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat must be completed by a qualified acoustician and/or qualified biologist (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the U.S. Fish & Wildlife Service at least two weeks prior to the commencement of construction activities. Prior to the commencement of any construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist;
    - c. If it is desired to conduct construction activities adjacent to habitat determined to be occupied by least Bell's vireo during pre-construction surveys, then at least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician and/or qualified biologist, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dB(A) hourly average at the edge of habitat occupied by the least Bell's vireo. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring shall be conducted at the edge of occupied area to ensure that noise levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician and/or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (September 16). Construction noise shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60



dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

2. If least Bell's vireos are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the U.S. Fish & Wildlife Service that demonstrates whether or not mitigation measures such as noise walls are necessary between March 15 and September 15 as follows:
  - If this evidence indicates the potential is high for least Bell's vireo to be present based on historical records or site conditions, then condition 1.c shall be adhered to as specified above.
  - If this evidence concludes that no impacts to this species are anticipated, no further surveys or monitoring would be necessary.

#### **4. Cultural Resources**

**Environmental Impact:** The cultural resources impact analysis for the project determined that there is no evidence of historical resources, archaeological resources or human burials within the project boundaries. A historical and archaeological records search indicated that there are no known cultural resources within the project area. However, in the event such resources are encountered during the grading and excavation phase of the project, mitigation measures have been incorporated in the DEIR.

**Finding 1** – Mitigation Measures CR-1 and CR-2 would minimize any impacts by stopping grading and evaluating the find if resources are discovered. A Paleontological Resources Mitigation Plan would also require awareness training for earthmoving personnel, monitoring of excavations and recovery and curation of fossils meeting the significance criteria established in the plan. Therefore, the County makes Finding 1 that “Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

#### **Facts in Support of Finding**

The project will not cause a substantial adverse change in the significance of a historical or archaeological resource or directly or indirectly destroy a unique paleontological resource or site. No evidence of historical, archaeological or paleontological resources exists in the records or based on site reconnaissance. Mitigation Measure CR-1 will address the unanticipated discovery of cultural resources during grading operations. Mitigation Measure CR-2 will address the discovery of paleontological resources during project construction. The County has determined that impacts to cultural resources would be less than significant.

#### **Mitigation Measures**

The following Mitigation Measures have been included in the Draft EIR:

- CR-1** Prior to the issuance of any grading permit, a grading note shall be added to the grading plan that states: “If any unanticipated cultural resources, including human remains, are discovered during ground-disturbing activities; work in that location shall be temporarily diverted a minimum of 25 feet away until a County qualified archaeologist can evaluate the find. Recommendations by the archaeologist and as approved by the

County of Orange Planning Manager shall be complied with for any further ground-disturbing work.”

**CR-2** Prior to the issuance of any grading permit, the Project Applicant shall prepare and submit to the Manager, OC Planning for review and approval a Paleontological Resources Mitigation Plan as detailed in the “Archaeological and Paleontological Resources Assessment Update” for the Esperanza Hills Project, dated January 2013, prepared by Cogstone. The Paleontological Resources Mitigation Plan shall include the following: 1) paleontological resources awareness training for all earthmoving personnel, 2) monitoring of excavations more than five feet below the current surface (not for shallow excavations), 3) adjustments by the principal paleontologist to monitoring requirements based on fossil yield, depth and location of impact, and 4) recovery and curation of fossils meeting the significance criteria established in the Paleontological Resources Mitigation Plan.

## **5. Geology and Soils**

**Environmental Impact:** The DEIR identified potential geotechnical and engineering hazards related to primary and secondary impacts. Primary impacts could include gross slope stability, ground rupture, earthquake fault zones, landslide deposition/debris flows, ground water conditions and retaining wall stability. Secondary impacts could include surficial slope stability, strong ground shaking, deep fill settlement, steep cut/fill transitions, soils (compressible, corrosive, expansive) and liquefaction. Mitigation Measures Geo-1 through Geo-19 have been included to specifically address each potential impact.

**Finding 1** – Mitigation Measures Geo-1 through Geo 19 would minimize potential primary and secondary impacts due to geotechnical and soils constraints on the project site. A Fault Hazard Assessment was required due to the Project’s proximity to the Whittier Fault Zone which is designated as an Alquist-Priolo Earthquake Fault Zone. The Fault Hazard Assessment analyzed potential surface rupture. Adherence to recommendations in the Geotechnical Review and the Fault Hazard Report in the DEIR would further reduce impacts to the extent feasible. Therefore, the County makes Finding 1 that  
“Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

### **Facts in Support of Finding**

The Geotechnical Review and Fault Hazard Report have identified impacts that may be encountered during grading or construction including slope stability, ground rupture, retaining wall stability, ground shaking, fill settlement, compressible soils, liquefaction, groundwater and expansive soils. Development of the project will place housing in an area that is subject to earthquakes and seismic ground shaking. Strong seismic ground shaking is endemic in southern California and future residents of Esperanza Hills will be subject to this risk. The Fault Hazard Assessment included recommendations pertaining to implementation of the conceptual design plan to reduce potential impacts from faulting and seismicity. All feasible mitigation measures in the DEIR, along with adherence to state and local building and construction standards, will reduce potential impacts to a less than significant level.

## Mitigation Measures

The following Mitigation Measures have been included in the Draft EIR:

- Geo-1 Prior to issuance of building permits, the Project Applicant and the County shall ensure that geologic conditions underlying design slopes and those to remain natural in areas adjacent to the development perimeter shall be investigated and analyzed for gross stability in accordance with current geotechnical engineering practice. Investigation shall include areas where larger landslides are suspected to exist, mainly in natural slope areas bordering the development, including analysis of distribution and dimension regarding conditions of gross stability.
- Geo-2 During grading, the Project Applicant and the County shall ensure that unstable areas be avoided or that design slopes determined to be grossly unstable be stabilized by construction of buttresses or stabilization fills, flattening gradients, lowering overall heights, improving stability through use of tie-back/grade-beam systems, use of geogrid, use of cement-treated-soil or similar supplemental stabilization measures or combinations of these methods.
- Geo-3 During grading, the Project Applicant shall ensure that zones of weathered bedrock be removed from back cuts and/or areas upon which new fill is to be placed.
- Geo-4 Prior to issuance of building permits, the Project Applicant shall ensure that construction across the trace of active faults and/or outside the limits of the setback zone will be avoided to the maximum extent practicable, and no residential lots are designed within the setback zone established for the Whittier Fault. Where access roads, retaining walls, bridge structures or structural fills are planned within the setback zone, the direction and magnitude of anticipated fault offset and severity of anticipated ground shaking shall be incorporated into the design.
- Geo-5 Prior to issuance of building permits, the Project Applicant shall ensure that the design for improvements that cross the Whittier Fault should be minimal, and the trend in which crossings are made should be oriented as nearly perpendicular (20 degrees east of north) to the trend of the fault as possible. The prefabricated bridge structure spanning Blue Mud Canyon under Option 1 shall be positioned and designed to accommodate expected fault offset. The Project Applicant shall consider use of alternative geotechnical engineering technologies to minimize impacts to structures constructed above active fault strands. These may include the incorporation of geofabric materials into fill bodies to add to fill strength and/or select placement of gravel blankets within subgrade areas to diffuse shear forces relating to ground rupture.
- Geo-6 Prior to issuance of building permits, the Project Applicant shall ensure that utility lines located in or near the Whittier Fault incorporate flexible joints into their design, to accommodate anticipated ground rupture in a right-lateral strike-slip sense.
- Geo-7 Prior to issuance of building permits, the Project Applicant shall verify that the existing seismic setback zone margins are appropriate for encountered geologic conditions and, where changes are warranted, evaluate any impacts to design plan elements and assure any revisions to the margins are depicted on final plan sets.
- Geo-8 Prior to issuance of building permits, the County shall ensure that the Project Applicant has provided geotechnical investigations and engineering analyses to evaluate retaining wall design and stability, establish foundation design recommendations and determine conditions of gross and surficial stability of overall wall/slope combinations. In surficially unstable slopes where no remedial grading is permitted, wall foundations

shall be strengthened to accommodate a potential loss of lateral support. Where natural slopes are grossly unstable, possibly due to the presence of a larger landslide, the slope shall be stabilized or buttressed through grading methods. Where grading is not permitted, structural stabilization shall be accomplished through the design of retaining walls and/or soldier pile walls, tie backs, or some combination of both.

Geo-9 Prior to issuance of building permits, the Project Applicant shall ensure that natural slope areas adjacent to development are analyzed for stability and estimated volumes of failure material determined. Setback zones or design of a bench in the upper slopes shall be employed to reduce the potential for failures to migrate into graded areas. Areas of rock creep influence shall require use of tie-backs and structural sheets to prevent this occurrence.

Geo-10 Prior to issuance of building and grading permits, the Project Applicant shall ensure that the following methods are incorporated into the design to prevent slope failure:

- Where daylight fill lots lie adjacent to ascending natural slopes, building pad elevations shall be raised, and toe-of-slope catchment troughs have been designed into which the failure materials can accumulate. These areas should be designated as “common areas” and maintained by homeowners associations.
- In areas where a more significant volume of debris is expected, such as an area situated within the path of adjacent natural drainage swales, impact or deflection walls shall be installed.
- Use of design stabilization fills, which are typically the width of standard grading equipment, shall be used for surficially unstable cut or fill slopes.

Geo-11 During the conceptual design phase, the Project Applicant and the County shall ensure that no lots are designed with habitable structures within the fault hazard setback zone as determined in the Fault Study, and no building permits shall be applied for or granted for any habitable structures within the hazard fault setback zone in the future. Asymmetrical floor plans shall be avoided, because these kinds of buildings tend to twist in addition to shaking laterally.

Geo-12 Prior to issuance of building permits, the Project Applicant shall demonstrate to the County that deep fills have undergone a cycle of “primary” settlement sufficient to allow safe construction. The Project Applicant may opt to employ supplemental geotechnical measures to minimize anticipated settlement time. Such measures could include vertical wick-drain installation, use of higher fill compaction standards, use of granular fill zones prone to less settlement and/or placement of surcharge fills.

Geo-13 During construction, Project Applicant and the County shall ensure that appropriate conventional engineering measures are implemented to reduce impacts of excessive differential settlement in cut/fill transition areas as determined by the County building official. These measures can include a flattening of removal profiles to 2:1 or shallower, deepening over-excavation of building pads within zones of expected impacts, use of higher compaction standards, limiting construction of certain improvements within structural setback zones or construction of stiffened foundation systems including post-tension foundations caisson walls or mat slabs as determined feasible and appropriate.

Geo-14 During grading, the Project Applicant and the County shall ensure that removal and re-compaction of compressible native soils shall be performed in areas of proposed structural fills to minimize settlement of new fill and/or prevent loss of lateral support. The limits of removals shall extend beyond conceptual plan boundaries and potentially beyond the limits of grading into areas to remain natural. Where no removals are

permitted beyond the boundaries of design, engineered structures shall be installed such as pin piles to achieve proper slope stability.

- Geo-15 Prior to issuance of building permits, the County shall verify that testing has been conducted to evaluate the chemical character of fill soils. Result of such testing shall be used to formulate appropriate foundation design criteria to reduce the adverse effects of corrosive soils.
- Geo-16 Prior to issuance of building permits, the County shall ensure that the Project Applicant has provided geotechnical studies to evaluate the occurrence and character of expansive clay soil on the Project Site. Based on the results of the studies, criteria for foundation design shall be formulated to reduce adverse effects such as selective grading methods including placement of adverse clay soils in deeper fill areas, or non-bedrock and design structures through building pad over-excavation. Post grading studies and testing shall be conducted on finished building pads to verify the adequacy of foundation design.
- Geo-17 Prior to grading, the County shall ensure that the Project Applicant has conducted geotechnical investigations of recent alluvium deposits to evaluate the potential for liquefaction. Findings of such investigations shall be incorporated into the design of structures proposed in areas where there is a potential for liquefaction to occur.
- Geo-18 Prior to construction, the Project Applicant shall ensure that a network of subdrains and back-drains shall be installed in areas of expected groundwater or active seepage.
- Geo-19 Prior to issuance of building permits, the County shall ensure that the Project Applicant has conducted geotechnical investigations and engineering analyses in areas where proposed roadways cross existing natural gas pipelines or transmission towers exist adjacent to proposed cut slopes and designed roadway crossings to avoid or minimize damage to these facilities.

## **6. Hazards and Hazardous Materials**

**Environmental Impact:** The project is located within a Very High Fire Hazard Severity Zone, as designated by the County, and has historically experienced wildfires. The site is currently undeveloped with the exception of oil well operations in the western portion of the site where three operating oil wells are located. Fire protection has been a key element in the design of the project. A water distribution system has been incorporated that will achieve OCFA standards for the provision of adequate capacity for normal and fire-fighting use. The project also includes a community evacuation plan designed in conjunction with OCFA and OCSD. A Combustible Gas/Methane Assessment study is required to assess the release of combustible gas/methane from the continued operation of the oil wells. Mitigation Measures Haz 1 through Haz-14 have been incorporated to reduce hazards and hazardous materials impacts.

**Finding 1** – Mitigation Measures Haz-1 through Haz-14 would reduce impacts due to hazards and hazardous materials to a level of less than significance related to fire and oil well operations. A Fire Protection and Emergency Evacuation Plan (FPEP) prepared for the Project assessed fire risks and identified requirements and proposed recommendations for water supply, fuel modification, emergency access, building ignition and fire resistance, fire protection systems and wildfire emergency pre-planning and evacuation plans. The FPEP concluded that the recommendations would provide protection against wildfires spreading from Chino Hills State Park and significantly reduce the Project site as an ignition source, thereby providing a buffer as protection to adjacent existing residences. Therefore, the County makes Finding 1 that “Changes

or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

### **Facts in Support of Finding**

The project has a potential to expose people or structures to a significant risk of loss, injury or death involving wildfire given the climate, topography and wildland-urban interface. The project includes a reduction of roughly 70% of the native fuels on the site which will be replaced with lower flammability landscape. A fuel modification plan, approved by OCFA, will work in tandem with other components of the fire protection system including ignition-resistant construction, interior automatic fire sprinklers with attic heads in each structure, infrastructure upgrades and water supply. The project structural and infrastructural fire protection components will comply with the current Building and Fire Codes. Emergency ingress/egress plans for evacuation and entry of emergency vehicles simultaneously have been incorporated into the project's circulation design. Mitigation Measures Haz-1 through Haz-14, in addition to twelve Project Design Features will reduce impacts to a less than significant level.

### **Mitigation Measures**

The following Mitigation Measures have been included in the Draft EIR:

- Haz-1 Prior to the issuance of building permits the Project Applicant shall provide a Combustible Gas/Methane Assessment Study for review and approval by the OCFA. The Project Applicant shall submit and obtain OCFA approval for a Methane Control Plan to control the release of combustible gas/methane from operation oil wells in the event that measurable quantity of methane gas is identified in the Combustible Gas/Methane Assessment Study.
- Haz-2 Prior to the issuance of grading permits the Project Applicant shall ensure that a Phase II ESA is prepared for review and approval by the Manager of OC Planning. The Phase II ESA shall identify the abandoned well locations, and any hidden pits or accumulations of drilling mud in the vicinity of the wells. The assessment shall include a review of available well logs and abandonment documentation in order to verify regulatory compliance of previously abandoned wells. In the event pits are encountered during the Phase II ESA investigation or during grading, the pits will be sampled for hazardous substances and will be disposed of at a certified hazardous waste facility.
- Haz-3 Prior to the issuance of grading permits, the Project Applicant shall ensure that an RAP is prepared for the previously abandoned oil wells to address the appropriate measures consistent with state law.
- Haz-4 Prior to the closure of any existing oil wells, the Project Applicant shall ensure that the operators of the oil wells prepare an RAP to address appropriate measures for closure consistent with state law.
- Haz-5 Prior to the issuance of any grading permit that results in the disturbance of any vegetation, the Project Applicant shall submit a Fire Master Plan for review and approval by the OCFA. The Fire Master Plan shall be based on the Esperanza Hills FPEP and shall contain details regarding evacuation roads, including road surface type, firefighting staging areas, emergency secondary access, turning radii, vegetation clearance buffers along roadways, exits, and locations of hydrants and reservoir.



Haz-6 Prior to the issuance of any occupancy permit, the Project Applicant shall submit a Community Evacuation Plan (CEP) for the Project for review by the OCFA and the OCSD and approved by the OCFA. The CEP will incorporate the information on community plans from the Orange County Office of Emergency Services and the San Diego Office of Emergency Services. The Esperanza Hills FPEP shall be the basis of the CEP, which shall include provisions for:

- Pre-fire planning and preparations
- Post-fire recovery actions
- Communications/registering with Alert OC (Orange County's Reverse 911 system and sign-up for cell phone/text notice)
- Prevention (maintenance of fuels around buildings, gutter and roof clearance, vent protection)
- Emergency contact numbers
- Annual evacuation training schedule
- Fire Prevention Measures during High Fire Danger and Red Flag Warning periods
- Annual review and update requirements
- Wildfire Emergency Evacuation Plan Details
- On-site partial relocation versus off-site evacuation
- Revisions/updates to the CEP shall be reviewed and approved by OCFA

Haz-7 Prior to the recordation of the final tract map, the Project Applicant shall record the deed restrictions for each residential lot. The deed restriction shall include any portion of the FMZs on the private lot, approved plant palettes, and prohibitions regarding combustible structures, including fencing and other accessory structures. Deed restrictions will run with the land and be conveyed to any subsequent owner of the private lot.

Haz-8 Prior to the recordation of the Final Tract Map for Lots 7, 8, 9, 224, 225, 236, 237, 253, 254, and 278 in Option 1 and Lots 8, 9, 10, 224, 225, 236, 237, 253, 254, and 278 in Option 2 that include an FMZ that extends beyond the private lot or development, the Project Applicant shall obtain written legal permission in the form of a Fuel Modification Easement from any off-site landowners. The Fuel Modification Easement shall be recorded for each lot. In any situations where the FMZ extends into biological open space or other sensitive biological areas, or other areas controlled by the County and/or resource agencies, formal written permission shall be obtained from all applicable agencies.

Haz-9 Prior to the issuance of building permits, the Project Applicant shall prepare a Private Property Owners' Guide for fire-safe vegetation management, which shall be distributed by the Esperanza Hills HOA to each new home buyer. The Guide shall be based on the Orange County Fire Authority Vegetation Management Guidelines as approved in the Fuel Modification Plan approved by the OCFA. Periodic inspections by the OCFA shall be at the expense of the Esperanza Hills HOA.

Haz-10 Prior to the recordation of the final tract map, the Project Applicant shall submit the Project Covenants, Conditions, and Restrictions (CC&Rs) to the Manager of OC Planning for review and acceptance by County Counsel and will include:

- A reference to the Esperanza Hills FPEP to ensure compliance with the features with the plan. The HOA is required to enforce compliance with the Plan. Owners of private lots will be notified in the project's CC&Rs and property disclosures that they are prohibited from conducting any vegetation management activities outside their private property.

- Provisions for continuous maintenance of common areas by the Esperanza Hills Homeowners' Association and individual properties by owners. Maintenance refers to anything needed to maintain the fuel modification area in a fire safe condition as required by the OCFA, including periodic removal of undesirable, combustible vegetation; replacement of dead and dying fire-resistant plantings; maintenance of the operational integrity and programming of irrigation systems; and preservation of identification markers.
- A provision that the HOA is responsible for and has the authority to ensure long-term funding, and ongoing compliance with all provisions of the approved Fire Master Plan and Community Evacuation Plan, including vegetation planting, fuel modification, vegetation management, and maintenance requirements on all private lots, parks, common areas, roadsides, and open space under their control (if not considered biological open space). Any water quality basins, flood control basins, channels, and waterways should be kept clear of flammable vegetation, subject to the environmental restrictions.
- A provision that the HOA will annually fund and obtain an inspection and report from an OCFA-approved Wildland Urban Interface Fire Safety Inspector in June, certifying that vegetation management activities throughout the Project Site have been performed pursuant to the approved Fire Master Plan.

Haz-11 Prior to the issuance of building permits, the Project Applicant shall submit to the Manager of OC Planning plans demonstrating a water system for the Project capable of handling the minimum fire flow storage of 1,500 gallons per minute for a 2-hour duration with a minimum residual pressure of 20 pounds per square inch.

Haz-12 Prior to issuance of building permits, the Project Applicant shall provide a plan that depicts the appropriate number of fire hydrants and their specific locations to be constructed for each phase of development for review and approval by the OCFA Fire Marshal.

Haz-13 Prior to ground disturbance in environmentally sensitive areas that contain sensitive habitat, cultural sites, riparian areas, biological buffer areas, detention basins, etc., the Project Applicant shall obtain written permission from the OC Planning Manager, and the appropriate resource agencies (e.g., the CDFW, the USFWS, and the ACOE) prior to any vegetation management activities occurring.

Haz-14 Prior to the issuance of any building permit for access gates the Project Applicant shall submit for review and approval by the OCFA access gate plans consistent with the applicable Fire Code, and all operated gates shall be equipped with emergency opening devices approved by the OCFA.

## 7. Public Services

**Environmental Impact:** The project will add 340 dwelling units and an estimated 1,088 residents to a currently undeveloped site, requiring police protection, fire and emergency services, schools, libraries and medical facilities.

**Finding 1** – Mitigation Measures PS-1 would require the project applicant to enter into a Secured Fire Protection Agreement with the OCFA providing for payment of fair share fees towards fire protection needs. Mitigation Measure PS-2 would require the project applicant to pay applicable school fees. Therefore, the County makes the finding that “Changes or alterations have been

required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

### **Facts in Support of Finding**

The proposed project would increase the need for fire, police, schools, parks and public facilities by introducing an additional 340 houses and an estimated 1,088 persons to an existing urban area. The project has been designed to include features and technologies to assist the police and fire departments to protect the residents of both Esperanza Hills and adjacent communities. Provision of parks exceeds the County requirement. Payment of fees to OCFA and Placentia-Yorba Linda Unified School District will provide financing for additional services, if needed. Therefore, the County makes Finding 1 that “Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

### **Mitigation Measures**

The following Mitigation Measures have been included in the Draft EIR:

- PS-1 Prior to issuance of the grading permit, if deemed necessary by the Orange County Fire Authority, the Project Applicant shall enter into a Secured Fire Protection Agreement with the Orange County Fire Authority providing for payment of fair share fees for impacts to capital and infrastructure needs.
- PS-2 Prior to issuance of building permits, the Project Applicant will be required to comply with Senate Bill 50 and pay the applicable school impact fees as adopted by the Placentia-Yorba Linda Unified School District.

## **8. Transportation and Traffic**

**Environmental Impact:** Access to the site is currently via unpaved dirt roadways used to access oil well operations and utilities. Internal roadways have been designed to connect to existing streets via several access options analyzed in the DEIR. The project has the potential to impact surrounding intersections with an estimated average daily trip total of 3,617 trips.

**Finding 1** – Mitigation Measures T-1 through T-3 would reduce potential impacts to Traffic with the installation of a traffic signal and the payment of fair share fees to provide roadway improvements. Therefore, the County makes Finding 1 that “Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

### **Facts in Support of Finding**

The project will contribute to the installation of a traffic signal at Yorba Linda Boulevard and Via del Agua, which will alleviate the adverse conditions caused by the project. Mitigation Measure T-1 has been included for Option 1 and Option 2B to reduce impacts to a less than significant level at that intersection. However, the intersection is within the jurisdiction of the City of Yorba Linda and the County cannot compel the City to implement the proposed mitigation. Therefore, the impact if the signal is not installed is considered significant and unavoidable as outlined in Section B below due to the uncertainty related to mitigation implementation.

Payment of fair share fees for roadway improvements at Yorba Linda Boulevard at Savi Ranch Parkway (Anaheim) and Yorba Linda Boulevard at Via del Agua (Yorba Linda) will result in improved level of service at each intersection. Therefore, implementation of mitigation measures T-2 and T-3 included in the DEIR will reduce potentially significant impacts to a less than significant level. However, the intersections are within the jurisdictions of the Cities of Yorba Linda and Anaheim and the County cannot compel the Cities to implement the proposed mitigation. Therefore, if the Cities do not implement the improvements, the impact will be significant and unavoidable.

### **Mitigation Measures**

The following mitigation measures for roadway improvements have been included in the Draft EIR. Mitigation Measure T-2 applies to all Options. Mitigation Measure T-3 applies to Options 1 and 2B.

- T-1 For Option 1, prior to issuance of building permits, the Project Applicant shall contribute to the installation of a three-phase traffic signal at the Yorba Linda Boulevard/Via del Agua intersection in the event the Cielo Vista project is not constructed. The Project Applicant's fair share contribution shall be 39% with the proposed Cielo Vista project as part of the cumulative base traffic condition, and 46% without the Cielo Vista project. The first project to be constructed, either Esperanza Hills or Cielo Vista, will pay 100% for the signal installation with an agreement between applicants to reimburse the fair share amount at the time the second project is constructed. If the City does not implement the improvement, the impact will be significant and unavoidable.
- T-2 Prior to issuance of building permits, the Project Applicant shall pay a 9% fair-share contribution for the following improvement at Yorba Linda Boulevard at Savi Ranch Parkway: Widen and re-stripe the westbound approach to provide an additional (third) westbound left-turn lane.
- T-3 Prior to issuance of certificates of occupancy, Project Applicant shall pay a 9% fair-share contribution for the following improvement: extend the left-turn pocket along Yorba Linda Boulevard at Via del Agua from the existing 100 feet to 275 feet, with 11 feet in the transition area of the turn pocket to achieve 286 feet. However, the County cannot compel the City to implement such improvement. If the City does not implement the improvement, the impact will be significant and unavoidable.

## **9. Utilities and Service Systems**

**Environmental Impact:** The project will result in incremental increases in the demand for utilities and service systems. The demands are within the capacity of the existing service provides. However, the site is undeveloped and project design includes the extension of water, gas, electric, sewer and telephone/cable service. Water service will be provided from two underground reservoirs which are included in the project. Potential impacts related to utilities and service systems have been addressed with Mitigation Measures U-1 through U-6.

**Finding 1** – Mitigation Measures U-1 through U-6 would provide coordination with service and utility providers for the provision of water, sewer, electric, gas, telephone and cable services to

the site. Water and sewer service will be provided in compliance with existing master plans and facility design requirements of individual providers. Therefore, potential impacts are mitigated to a less than significant level and the County makes Finding 1 that “Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

### **Facts in Support of Finding**

Utilities and service systems are not anticipated to experience significant impacts due to developer and service fees typically allocated to fund necessary on-site and off-site improvements, as well as the provision of water and sewer system improvements identified in the DEIR. Mitigation Measures U-1 through U-6 have been identified to ensure coordination with service providers. Therefore, potential impacts have been reduced to a less than significant level.

### **Mitigation Measures**

The following mitigation measures have been included in the Draft EIR:

- U-1 Prior to issuance of building permits, the Project Applicant shall enter into a Development Agreement with the Yorba Linda Water District for the provision of water facilities and service.
- U-2 Prior to issuance of building permits, the Project Applicant shall enter into a Development Agreement with the Yorba Linda Water District for the provision of sanitary sewer facilities and service.
- U-3 Prior to issuance of building permits, project developer shall coordinate with Southern California Edison to identify the location of the connection to existing electric service lines based on the final determination of access and to protect existing transmission lines on the Project Site.
- U-4 Prior to issuance of building permits, project developer shall coordinate with Southern California Gas to identify the location of the connection to existing natural gas lines based on the final determination of access.
- U-5 Prior to issuance of building permits, project developer shall coordinate with AT&T to identify the location of the connection to existing telephone service lines based on the final determination of access via.
- U-6 Prior to issuance of building permits, project developer shall coordinate with Time Warner Cable to determine the location of the connection to existing cable service lines based on the final determination of access.

### **B. Significant Unavoidable Adverse Impacts**

The following summary describes the significant, unavoidable adverse impacts of the proposed project:

#### **1. Greenhouse Gas Emissions**

**Environmental Impact:** The project will add direct construction emissions and long-term operational emissions above the SCAQMD’s advisory level threshold of 3,000 MT CO<sub>2(e)</sub>. In

addition, the proposed project combined with “related projects” in the project vicinity will further contribute to an exceedance of GHG emissions resulting in a cumulative impact.

- GHG-1 Prior to issuance of building permits for residential units, the County shall ensure that all fireplaces are gas rather than wood burning.
- GHG-2 Prior to construction of project, the developer shall implement or develop a plan for implementation of one or more mitigation strategies for the reduction of greenhouse gas (GHG) emissions from the report “CEQA and Climate Change” prepared by the California Air Pollution Control Officers Association (CAPCOA) as updated in 2010. The total benefit of the mitigation strategies must result in a minimum 5% reduction in GHG emissions from the business-as-usual value. Alternative strategies not listed in the CAPCOA report may be used with approval of the Orange County Planning Director. The selected strategies, including measures for their long-term maintenance, must be described in a memo submitted to and approved by the County Planning Department prior to initial occupancy of any on-site facility.

**Finding 3** – The County hereby makes Finding 3 that “specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.” There are no mitigation measures to reduce this impact to a less than significant level. Therefore, this impact is significant and unavoidable and would require the adoption of a Statement of Overriding Considerations.

### **Facts in Support of Finding**

The size of the project is such that direct construction GHG emissions and indirect operational GHG emissions will exceed the SCAQMD screening level threshold (3,000 MT CO<sub>2(e)</sub>) by a large margin (3,889.6 MT per year). This finding is based on a Business As Usual assumption and does not include statewide or locally sponsored mitigation. However, even with the implementation of required and discretionary GHG reduction measures, annual emissions cannot be reduced below the ACAQMD advisory level and the impact remains significant and unavoidable.

## **2. Noise**

### **Environmental Impact:**

Under Option 2, the addition of project traffic to Aspen Way increases the noise levels by +14.6 dB under near term conditions and +10.6 dB in year 2020, which both exceed the +10 dB increase Caltrans threshold even though the noise levels do not exceed 65 dB CNEL County exterior noise level thresholds. Certification of Final EIR No. 616 requires a Statement of Overriding Considerations for this impact, for access Option 2 only. This is not an impact under Options 1, 2A and 2B.

- N-1 Prior to issuance of grading permit, the Project Applicant shall ensure that all construction activities shall be limited to the hours of 7:00 a.m. to 8:00 p.m. on weekdays and Saturdays with no construction permitted on national holidays or Sundays in compliance with the Orange County Noise Ordinance. High noise-

- producing activities should be scheduled between the hours of 8:00 a.m. and 5:00 p.m. to minimize disruption to sensitive uses.
- N-2 Prior to issuance of grading permit, the Project Applicant shall ensure that all construction and demolition equipment shall be fitted with properly operating and maintained mufflers.
  - N-3 Prior to issuance of grading permit, the Project Applicant shall ensure that all noise-generating construction equipment and construction staging areas should be located as far as possible from existing residences.
  - N-4 Prior to issuance of grading permit, the Project Applicant shall ensure that construction-related equipment, including heavy duty equipment, shall be turned off when not in use for more than 10 minutes.
  - N-5 Prior to issuance of grading permit, the Project Applicant shall prepare and submit to the County for approval a haul plan for construction-related traffic that limits impacts on residential development by avoiding such residential development areas where feasible.
  - N-6 Prior to issuance of grading permit, the Project Applicant shall ensure that construction hours, allowable work days and the telephone number of the job superintendent are clearly posted at all construction entrances to allow residents to contact the job superintendent. If the County of Orange or the job superintendent receives a complaint, the superintendent shall investigate, take appropriate corrective action and report the action taken to the appropriate reporting party. Contact specifications shall be included in the proposed project construction documents which shall be reviewed by the County of Orange prior to issuance of grading permits.

**Finding 3** - The County hereby makes Finding 3 that “specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.” This impact is significant and unavoidable and would require the adoption of a Statement of Overriding Considerations.

### **Facts in Support of Finding**

The Noise Analysis states that noise impacts are considered significant if they result in a substantial permanent or temporary increase above ambient noise levels. The term “substantial” is not quantified in CEQA guidelines but is generally identified as a +3dB increase. However, where the County’s 65 dB CNEL threshold is not exceeded, a noise increase above 3 dB may not be considered significant, because the 65 dB CNEL threshold is maintained. Some agencies such as Caltrans consider increases substantial if they are +10dB or more above ambient noise levels. For analysis purposes, the DEIR considered a +3dB increase as significant under CEQA, in addition to increases in the residential noise/land use guidelines that exceed 65 dBA CNEL. A +10 dB increase would also be considered significant even if the residential noise/land use guidelines of 65 dBA CNEL are not exceeded.

As shown in the Noise Impact Analyses, this increase is not realized under Options 1, 2A or 2B, because the levels will remain under the 65 dBA CNEL threshold, and increases in noise levels are less than +10 dBA CNEL and also less than the 65 dB CNEL. However, implementation of Option 2 would significantly increase noise related to traffic because ambient noise levels along



Aspen Way are low due to the very low traffic volume. Therefore, any increase in traffic noise results in a noise impact for Option 2 along Aspen Way.

While cumulative operational noise for typical residential uses will be within the County noise compatibility guidelines, a significant increase will occur under the +10dB CNEL threshold. There are no feasible mitigation measures to reduce the impact and the impact remains significant and unavoidable.

### 3. Traffic

**Environmental Impact:** Existing plus Option 1 Project and existing plus Option 2 traffic will significantly impact the intersection of Yorba Linda Boulevard at Via del Agua. Installation of a traffic signal will reduce the level of impact to less than significant. Therefore, Mitigation Measure T-1 has been included in the DEIR as follows:

- T-1 For Option 1, prior to issuance of building permits, the Project Applicant shall contribute to the installation of a three-phase traffic signal at the Yorba Linda Boulevard and Via del Agua intersection in the event the Cielo Vista project is not constructed. The Project Applicant's fair share contribution shall be 39% with the proposed Cielo Vista project as part of the cumulative base traffic condition, and 46% without the Cielo Vista project. The first project to be constructed will pay 100% for the signal installation with an agreement between applicants to reimburse the fair share amount at the time the second project is constructed. If the City does not implement the improvement, the impact will be significant and unavoidable.
- T-2 Prior to issuance of building permits, the Project Applicant shall pay a 9% fair-share contribution for the following improvement at Yorba Linda Boulevard at Savi Ranch Parkway: Widen and re-stripe the westbound approach to provide an additional (third) westbound left-turn lane.
- T-3 Prior to issuance of certificates of occupancy, Project Applicant shall pay a 9% fair-share contribution for the following improvement: extend the left-turn pocket along Yorba Linda Boulevard at Via del Agua from the existing 100 feet to 275 feet, with 11 feet in the transition area of the turn pocket to achieve 286 feet. However, the County cannot compel the City to implement such improvement. If the City does not implement the improvement, the impact will be significant and unavoidable.

**Finding 2** – The County hereby makes Finding 2 with regard to installation of a traffic signal and intersection improvements that “Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding.” This impact is significant and unavoidable and would require the adoption of a Statement of Overriding Considerations.

### Facts in Support of Finding

Mitigation Measure T-1 has been included in the DEIR for the installation of a traffic signal at Yorba Linda Boulevard and Via del Agua. Mitigation Measures T-2 and T-3 include payment of fair share fees by the Esperanza Hills and Cielo Vista projects at the intersections of Yorba Linda Boulevard at Savi Ranch Parkway (Anaheim) and Yorba Linda Boulevard at Via del Agua (Yorba Linda). However, the intersections are within the jurisdiction of the Cities of Yorba Linda and Anaheim and the County cannot compel the Cities to implement the mitigation

measures. While the traffic signal and intersection improvements would reduce impacts to a less than significant level, the impacts are only considered significant and unavoidable because of the uncertainty related to mitigation implementation. With installation, the impacts would be reduced to a less than significant level.

## **VI. FINDINGS REGARDING ALTERNATIVES**

### **A. Alternatives Considered and Rejected During the Scoping/Project Planning Process**

#### **Alternative Project Location**

CEQA requires that the discussion of alternatives focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effects of the project. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the DEIR (CEQA Guidelines Section 15126.6(f)(2)(A)).

The surrounding area is nearly built-out, and few larger tracts of vacant land remain for development within this area of unincorporated Orange County. The project site was designated in the Orange County General Plan as Open Space. This designation is not an indication of a long-term commitment to open space uses and may be developed for other uses. The Yorba Linda General Plan has identified the project site for future residential development. Because another site that meets the project objectives was not available or owned by project applicant, this Alternative was not considered.

#### **Option 1 (Stonehaven Drive) and Option 2 (Aspen Way) Access**

This alternative was based on a comment letter received during the IS/NOP public review period. The letter suggested that the Open 2 access (Aspen Way) could still be construction after another access was approved (Option 1 – Stonehaven Drive). The letter stated that cumulative impacts would result to on-site drainage and other local resources and these impacts should be analyzed.

The DEIR fully analyzed all potential ingress/egress options and considered all access points as both main access and emergency access. Therefore, all impacts have been fully analyzed and no further analysis is required. Only the Option approved by the County will be constructed.

### **B. Alternatives Selected for Further Analysis**

In accordance with CEQA Guidelines Section 15126.6, “An EIR shall describe a range of reasonable alternatives to the project . . .” including the “No Project” alternative. The following alternatives have been determined to represent a reasonable range of alternatives to supplement the access alternatives presented in the DEIR. The Alternatives presented could potentially attain most of the basic objectives of the project and have the potential to avoid or substantially lessen one or more of the significant effects of the project.

#### **Alternative 1 - No Project Alternative**

**Description:** This Alternative allows decision makers to compare the impacts of approving the Project with the impacts of not approving the Project and leaving the site in its current condition.

**Environmental Effects:** The No Project alternative would eliminate the significant impacts of the proposed project, including significant, unavoidable impacts related to greenhouse gas emissions and noise. The Project proposes less density than permitted under the existing County General Plan/Zoning designations. The General Plan Land Use Element allows for other types of development based on market pressures to serve a growing County population, allowing the site to be built to a more intense use than currently exists.

**Ability to Achieve Project Objectives:** With the exception of preserving the vast majority of the Project site as open space, the No Project Alternative is not capable of attaining most of the project objectives which include development of a single-family residential community in accordance with development envisioned in the County and City of Yorba Linda General Plans, providing facilities for upgrading existing water quality impacts due to runoff, enhancing vegetation and natural open space areas to promote recovery from recent wildfire damage, providing enhanced wildfire protection to enhance safety to existing and future residents and homes and creating new recreational opportunities including equestrian, hiking and biking trails with links to existing trails.

**Feasibility:** The No Project Alternative would be physically feasible but would not be as economically, legally or technologically feasible as the proposed Project. The County's General Plan allows for the uses proposed and the addition of 340 residences would meet the needs of a growing population. Advances in technology will be incorporated into the Project in terms of fire resistant structures and landscaping, as well as advanced fire-fighting capabilities via underground water reservoirs and water delivery systems. The Project will provide fair share fees to OCFA and the public school system that will provide a benefit to surrounding development areas.

**Finding:** The No Project Alternative would reduce impacts in the areas of aesthetics, air quality, biological resources, geology and soils, greenhouse gas emissions, land use, noise, population and housing, public schools and traffic, thereby eliminating the significant, unavoidable impacts identified in the DEIR. The No Project Alternative would not require the amendment of the County General Plan land use designation and a change in the zoning designation. However, if the Project site is left undeveloped, the risk from fire hazards on existing residential communities would remain and improved fire protection capabilities in the area would not be implemented. Therefore, the No Project Alternative has been rejected by the County.

### **Alternative 2 – Option 2A Access Alternative**

**Description:** This Alternative is substantially the same as Option 2 in the DEIR which provides a primary connection going west from the site to Aspen Way, which then connects to San Antonio Road. This Alternative provides access to the site via a main access roadway connected to San Antonio Road approximately 1,850 feet south of Aspen Way.

**Environmental Effects:** The realignment of the access roadway would result in fewer noise impacts to sensitive receptors under both short-term construction and long-term operational conditions due to a greater set-back. The same number of homes would be constructed and, therefore, construction activity, provision of water, sewer and utility services, traffic and the requirement for public services such as school, fire and police protection and libraries would remain substantially the same as with the proposed Project. Impacts would be similar with

respect to air quality (except with respect to sensitive receptors), aesthetics, geology and soils, recreation and the potential for wildfires. Impacts to biological resources would be greater than under Option 1.

**Ability to Achieve Project Objectives:** While this Alternative would achieve the majority of Project objectives and goals, it would create a greater impact to biological resources in the area of protection of habitat due to the off-site grading required to accomplish the access location.

**Feasibility:** The Option 2A access would require crossing open space owned by the City of Yorba Linda and the adjacent Cielo Vista property. Therefore, this Option may not be physically feasible if easements cannot be obtained from the City and the adjacent property owner. Without such easements, implementation of this Alternative would not be legally permitted.

**Finding:** The Option 2A Alternative would reduce impacts in the areas of air quality and noise to sensitive receptors by re-aligning the access roadway further from existing residences. It is unknown if the City of Yorba Linda and the adjacent property owner would provide the required easements for this Alternative. Therefore, the County has rejected the Option 2A Alternative.

### **Alternative 3 – Option 2B Access Alternative**

**Description:** This Alternative is substantially the same as Option 2A (Alternative 2) except for the provision of a secondary access road and a modification to the grading plan, which will reduce off-site grading and reduce retaining wall heights. Under this Alternative, access would be provided via both San Antonio Road approximately 1,850 feet south of Aspen Way and Stonehaven Drive. The San Antonio Road access will be the primary access and a secondary project access will be provided via Stonehaven Drive. Both access roadways will serve residents and guests, in addition to emergency access.

**Feasibility:** Environmental and economic impacts under this Alternative would be substantially the same as under Option 1 and Option 2A. However, the Option 2B access would require crossing open space owned by the City of Yorba Linda. Therefore, this Option may not be physically feasible if easements cannot be obtained from the City. Without such easements, implementation of this Alternative would not be legally permitted. This access configuration is identified in the Specific Plan, and could be implemented based on several conditions precedent to approval.

**Environmental Effects:** As with Option 2A, this Alternative would result in fewer noise impacts to sensitive receptors under both short-term construction and long-term operational conditions due to realignment of the roadway. The same number of homes would be constructed and, therefore, construction activity, provision of water, sewer and utility services, traffic and the requirement for public services such as school, fire and police protection and libraries would remain substantially the same as with the proposed Project. Impacts would be similar with respect to air quality (except with respect to sensitive receptors), aesthetics, geology and soils, recreation and the potential for wildfires. This Alternative would substantially alter views compared to the Project with the realignment of the roadway. Views would be improved at the western edge of the property where off-site grading would be avoided and lower retaining walls would replace higher walls. Less grading would occur on the western edge where development is pulled back. In the event of a fire evacuation, traffic would be diverted in two directions with the

provision of the two proposed access roads. This Alternative also reduces noise impacts to sensitive receptors with the road realignment. Public Services would result in fewer impacts than the proposed Project by providing easier access and potentially reduced response times. The only change related to traffic would result from the redistribution of traffic at certain intersections which is an improved condition compared to one main access point. However, this Alternative would result in a marginal increase in biological impacts compared to the proposed Project. Alternative 2B proposes the same roadway configuration as Option 2A and, therefore, would also result in greater impacts to vegetation than the proposed Project.

**Ability to Achieve Project Objectives:** This Alternative provides improvements in the areas of aesthetics and geology through redesign of the western edge, including a reduction in the amount of grading. The same number of homes would be constructed and, therefore, provision of water, sewer and utility services and the requirement for public services such as schools, fire and police protection and libraries would remain substantially the same as with the proposed Project. Impacts to recreation and the potential for wildfires would also remain the same. This Alternative would attain most of the Project goals and objectives, would reduce impacts on the environment compared to the proposed Project and would not result in greater impacts compared to Options 1, 2 and 2A.

**Finding:** The County has recommended Option 2B. Noise is not a significant unavoidable impact with this Option. However, due to the GHG emissions and traffic mitigation implementation uncertainty, a Statement of Overriding Considerations will be required. This access configuration is preferred by the Orange County Fire Authority and the Orange County Sheriff's Department because it provides two points of ingress and egress as compared to one access point, with a second emergency-only access. The Specific Plan includes this access configuration, which could be implemented based on several conditions precedent to approval, namely, legal authority, or permission, to allow for offsite grading and access across offsite property.

#### **Alternative 4 – Lower/Reduced Density**

**Description:** The Lower/Reduced Density Alternative assumes development of Planning Area 1 only, with Planning Area 2 remaining in its current condition. Planning Area 1 includes up to 218 residential lots on 310 acres and includes four parks, an underground water reservoir, open space, existing natural open space, riparian areas and a trail corridor linking to surrounding properties.

**Environmental Effects:** Aesthetic impacts would be reduced with the elimination of development on the higher elevations of the project site. This Alternative would reduce the disturbed area by up to 159 acres, resulting in fewer biological impacts. Grading and landform alteration would be reduced in addition to reductions in traffic, the need for public services such as police, fire, parks and schools and utilities and service systems. However, the County's General Plan and the City of Yorba Linda General Plan allow for a building intensity that exceeds the 0.73 unit per acre intensity with the proposed Project. Otherwise, this Alternative would remain consistent with long-range local and regional planning programs and policies. Greenhouse gas emissions would remain significant and unavoidable as with the Project because development under this Alternative would exceed the SCAQMD interim threshold.

**Ability to Achieve Project Objectives:** This Alternative achieves a majority of the goals and objectives of the proposed Project and fewer environmental impacts in the areas of aesthetics, air quality, geology, noise, public services and traffic. However, this Alternative would also reduce recreation opportunities with fewer parks and trails, including linkages proposed in Planning Area 2. The elimination of one underground reservoir would also reduce fire-fighting capabilities due to reduced water storage capacity and availability. The number of residences considered in the County's General Plan for future development would not be achieved under the Lower/Reduced Density Alternative.

**Feasibility:** A reduction in the number of residences for the Project site would impact economic viability, general plan consistency and the Project's ability to meet new housing needs and advance the County's goal of providing linkages to existing trails.

**Finding:** The Lower/Reduced Density Alternative would reduce impacts in the areas of aesthetics, biological resources, geology, noise, public services, traffic and utilities and service systems. However, it would increase impacts in the areas of hazards, population and housing and recreation in addition to being inconsistent with the County and City vision for residential development of the site. Therefore, the Lower/Reduced Density Alternative has been rejected by the County.

### **Alternative 5 – Yorba Linda General Plan**

**Description:** This Alternative considers development of the Project using the General Plan and Zoning designations established by the City of Yorba Linda for the 630-acre Murdock property, of which the Project site is a part. The General Plan contemplated an overall development density of 1.0 dwelling unit per acre with clustered residential units to allow open space and recreation opportunities, as well as consideration of the site's topography. Using the General Plan density, the Project would result in the construction of up to 469 residential units.

**Environmental Effects:** Under this Alternative, impacts to air quality, biological resources, noise, recreation and traffic would be greater than the proposed Project. Aesthetics impacts could be greater due to the increased hillside disturbance to accommodate the additional homes, which could be more visually apparent due to the increased density. The proposed Project provides more recreational opportunities with parks and trails than required by the General Plan. Traffic would be commensurately less with the Project which proposes 129 fewer residences. Utility and service system use would increase incrementally due to the additional residences. However, unavoidable impacts would remain substantially the same with either the Project of this Alternative.

**Ability to Achieve Project Objectives:** This Alternative meets the goals and objectives of the Project because the Project has been analyzed for potential annexation to the City of Yorba Linda. The Yorba Linda General Plan goals and policies were included in order to determine if the Project was consistent. Thresholds established by the City were also included to analyze deficiencies with the Project in meeting those thresholds.

**Feasibility:** Yorba Linda General Plan Alternative is feasible from an economic standpoint and the proposed Project has been designed to be consistent with the City's goals and policies. However, to date, The Orange County Local Agency Formation Commission (LAFCO) has

declined to advance the Applicant's request to consider annexation. Until such time as the City of Yorba Linda annexes the property, the Project is subject to the Orange County General Plan. Therefore, the County has rejected this Alternative.



**STATEMENT OF OVERRIDING CONSIDERATIONS**  
**Esperanza Hills**

**Introduction**

The County of Orange is the Lead Agency under CEQA responsible for preparation, review and certification of the Final EIR for the Esperanza Hills project. As the Lead Agency, the County is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant and can be mitigated through imposition of mitigation measures to avoid or minimize those impacts to a level of less than significant. CEQA then requires the Lead Agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed project (Project). In making this determination, the County is guided by State CEQA Guidelines Section 15093 which provides as follows:

15093. Statement of Overriding Considerations.

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological or other benefits including region-wide or statewide environmental benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

In addition, Public Resources Code Section 21081(b) requires that where a public agency finds that specific economic, legal, social, technological or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in an EIR and thereby leave significant unavoidable effects, the public agency must also find that overriding economic, legal, social, technological or other benefits of the project outweigh the significant effects of the project.

Pursuant to Public Resources Code Section 21081(b) and the State CEQA Guidelines Section 15093, the County has balanced the benefits of the Project against the following unavoidable adverse impacts associated with the Project and has adopted all feasible mitigation measures with respect to these impacts. The County also has examined alternatives to the Project, most of which do not meet the Project objectives and are environmentally preferable to the proposed Project for the reasons discussed in the Findings and Facts in Support of Findings. Option 2B

(Alternative 3) would result in only one unavoidable adverse impact (greenhouse gas emissions) as discussed herein.

The County of Orange, the Lead Agency for this Project, having reviewed the Final EIR for the Esperanza Hills Project and reviewed all written materials within the County's public record and heard all oral testimony presented at public hearings, adopts this Statement of Overriding Considerations, which has balanced the benefits of the proposed Project against its significant unavoidable adverse environmental impacts in reaching its decision to approve the Project.

### **Significant Unavoidable Adverse Environmental Impacts**

Although most potential Project impacts have been substantially avoided or mitigated, as described in the Findings and Facts in Support of Findings, there remain some Project impacts for which complete mitigation is not feasible. For some impacts, mitigation measures were identified, included within the Mitigation Monitoring and Reporting Program, and adopted by the County as Lead Agency. However, even with implementation of the measures, the County finds that the impact cannot be reduced to a level of less than significant. The impacts and alternatives are described below and were also addressed in the Findings.

The Draft EIR identified the following unavoidable adverse impacts of the proposed Project.

#### ***Greenhouse Gas Emissions***

The proposed Project includes Mitigation Measures and reasonable control measures as identified by the California Air Pollution Control Officers Association (CAPCOA) for the reduction of greenhouse gas emissions. However, the size of the Project is such that direct construction GHG emissions and indirect operations GHG emissions will exceed the SCAQMD screening level threshold (3,000 MT CO<sub>2(e)</sub>) by a large margin (+3,373 MT per year). This finding is based on a business-as-usual (BAU) assumption and does not include state-wide or locally sponsored mitigation. State program reductions reduce emissions in the BAU scenario by 23.9%. Feasible local reductions, with application of reasonable control measures, would result in an additional 5.8% reduction. Specific local reductions to be implemented on the site would be determined prior to construction based on then-current strategies and technologies and as required by Mitigation Measures in the DEIR. However, even with implementation of required and discretionary GHG reduction measures, annual emissions cannot be reduced below the SCAQMD's advisory level and the impact remains significant and unavoidable. The addition of the adjacent proposed Cielo Vista project (PA100004) and the 18 related projects identified in the Cumulative Impacts section of the DEIR will further contribute to an exceedance of GHG emissions and, therefore, cumulative impacts remain significant and unavoidable.

#### ***Noise***

Short-term construction noise and vibration impacts will be limited by the requirement for compliance with County of Orange regulations and ordinances. Peak daily construction traffic noise would be noticeable for either Stonehaven Drive (Option 1) or Aspen Way (Option 2) but is not expected to exceed the General Plan standard of 65 dB CNEL.

The Noise Analysis states that noise impacts are considered significant if they result in a substantial permanent or temporary increase above ambient noise levels. The term "substantial" is not quantified in CEQA guidelines but is generally identified as a +3dB increase. However,

where the County's 65 dB CNEL threshold is not exceeded, a noise increase above 3 dB may not be considered significant, because the 65 dB CNEL threshold is maintained. Some agencies such as Caltrans consider increases substantial if they are +10dB or more above ambient noise levels. For analysis purposes, the DEIR considered a +3dB increase as significant under CEQA, in addition to increases in the residential noise/land use guidelines that exceed 65 dBA CNEL. A +10 dB increase would also be considered significant even if the residential noise/land use guidelines of 65 dBA CNEL are not exceeded.

The +10 dB increase is not realized under Options 1, 2A or 2B, because the levels will remain under the 65 dBA CNEL threshold, and increases in noise levels are less than +10 dBA CNEL and also less than the 65 dB CNEL. There is no significant unavoidable noise impact related to Options 1, 2A or 2B. However, implementation of Option 2 would significantly increase noise related to traffic because ambient noise levels along Aspen Way are low due to the very low traffic volume. Therefore, any increase in traffic noise results in a noise impact for Option 2 along Aspen Way. The addition of project traffic increases the noise levels by +14.6 dB under near term conditions and +10.6 dB in year 2020, which both exceed the +10 dB increase threshold even though the noise levels do not exceed 65 dB CNEL. The permanent increase in ambient noise levels along Aspen Way, for Option 2, is considered a significant and unavoidable impact.

### ***Traffic***

Mitigation Measures T-1 through T-3 provide for traffic improvements at three separate intersections. These improvements are located within the jurisdiction of the Cities of Yorba Linda and Anaheim and the County cannot compel the implementation of the proposed mitigation measures. While Mitigation Measures T-1 through T-3 would reduce impacts to a less than significant level, the impact is only considered significant and unavoidable because of the uncertainty related to mitigation implementation by the Cities of Yorba Linda and Anaheim.

### **Alternatives**

The DEIR evaluated five Project Alternatives including the No Project Alternative, Option 2A Access Alternative, Option 2B Access Alternative, Lower/Reduced Density Alternative and the Yorba Linda General Plan Alternative. While the No Project Alternative would lessen and avoid some of the unavoidable impacts of the proposed Project, it would not achieve most of the project objectives.

The Option 2A Access Alternative would attain most of the Project objectives but would create a greater impact to biological resources due to off-site grading required to accomplish the access location. Discretionary approval from the City of Yorba Linda would be required under this Alternative to provide for access across City open space. This Alternative would reduce impacts related to air quality and noise.

The Option 2B Access Alternative is substantially the same as Option 2A in that it would achieve many of the Project objectives. An additional access road would be provided under this Option for resident and guest ingress/egress. Discretionary approval from the City of Yorba Linda would be required under this Alternative to provide for access across City open space. This Alternative would reduce impacts related to geology/soils, noise, public services and traffic

compared to the proposed Project. This access configuration is included in the Specific Plan and could be implemented based on conditions precedent to approval.

The Lower/Reduced Density Alternative achieves many of the project objectives. However, the reduction in residences, recreational amenities and one of the proposed underground water reservoirs would result in negative impacts. The reduction in housing stock would impact housing needs in the area, trails and linkages would be eliminated if Planning Area 2 is not developed and the elimination of a water reservoir would reduce capacity for fire-fighting purposes.

The Yorba Linda General Plan Alternative is feasible from an economic standpoint and achieves the project goals and objectives. The Project was analyzed in terms of future annexation to the City of Yorba Linda and is substantially consistent with the City's goals and policies. However, to date, LAFCO has declined to advance the Applicant's request to consider annexation and the Project remains subject to the County of Orange General Plan goals and policies.

The No Project Alternative would be the most successful in reducing the level of significant impacts associated with the proposed Project, including the unavoidable adverse impacts associated with greenhouse gas emissions and noise. As required by CEQA Guidelines Section 15126.6(e)(2), if the No Project Alternative is the environmentally superior alternative, the EIR shall also identify an environmentally superior alternative among the others analyzed. Chapter 6.10 – Environmentally Superior Alternative – in the DEIR indicates that the Lower/Reduced Density Alternative is the superior alternative. This Alternative would result in reduced impacts in the areas of Aesthetics, Air Quality, Biological Resources, Geology, Noise, Public Services and Transportation and Traffic compared to the proposed Project.

### **Overriding Considerations**

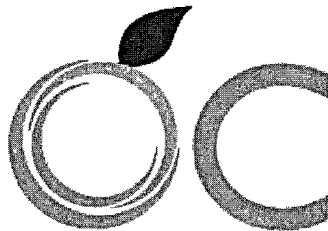
The County, after balancing the specific economic, legal, social, technological and other benefits, including region-wide or statewide environmental benefits of the proposed Project, has determined that the unavoidable adverse environmental impacts identified above may be considered acceptable due to the following specific considerations which outweigh the unavoidable, adverse environmental impacts of the proposed Project, in accordance with Public Resources Code Section 21081(b) and CEQA Guideline Section 15093. Each of the benefits identified below provides a separate and independent basis for overriding the significant environmental effects of the Project. The benefits of the Projects are as follows:

1. Consistency with County of Orange General Plan Land Use Element goals and associated policies for the development of the Project site.
2. Increase the number of housing units to meet Regional Housing Needs Assessment goals.
3. Provide construction standards and requirements that meet or exceed Orange County Fire Authority requirements for communities bordered by wildland fire zones.
4. Provide water storage capability for community use and to aid in fire-fighting in an area where no capacity of similar size exists.
5. Provide recreational amenities that link to existing County trails and access to Chino Hills State Park.

Exhibit B

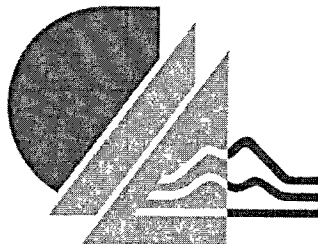
**EIR #616**  
**Mitigation Monitoring  
and Reporting Program (MMRP)**

**Esperanza Hills**  
**Project No. PA120037**  
**SCH #2012121071**



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**December 2014**

The California Environmental Quality Act (CEQA) requires that all public agencies establish monitoring and/or reporting procedures for mitigation measures adopted as conditions of approval in order to mitigate or avoid significant project impacts. Specifically, §21081.6(a)(1) states:

The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.

CEQA Guidelines §15097 provides clarification of mitigation monitoring and reporting requirements and guidance to local lead agencies on implementing strategies. It is the responsibility of the Lead Agency to ensure that implementation of the mitigation measures occurs in accordance with the Mitigation Monitoring and Reporting Program. The reporting or monitoring program must be designed to ensure compliance during project implementation. The following Mitigation Monitoring and Reporting Program includes mitigation measures from the Draft Environmental Impact Report (DEIR 616) (Project No. PA120037) for the Esperanza Hills Project in unincorporated Orange County.

Mitigation measures have been drafted to meet the requirements of *California Public Resources Code* §21081.6 as fully enforceable monitoring programs. The Mitigation Monitoring and Reporting Program defines the following for each mitigation measure:

1. **A time for performance.** In each case, a time for performance of the mitigation measure, or review of evidence that mitigation has taken place, is provided. The performance points selected are designed to ensure that impact-related components of project implementation do not proceed without establishing that the mitigation is implemented or assured.
2. **A responsible party for supervising performance.** In each case, a specific party is named in the as the person responsible for ensuring that the mitigation is carried out. To guarantee that the mitigation measure will not be inadvertently overlooked the responsible person is the official who grants the permit or authorization called for in the performance or the on-site authority during the identified phase of project development or operation.
3. **Definition of mitigation.** In each case (except where a mitigation measure, such as a geotechnical report, is a well-known procedure or term of art), the mitigation measure contains the criteria for mitigation, either in the form of adherence to certain adopted regulations or identification of the steps to be taken in mitigation.

### Matrix Orientation

The following matrix lists all mitigation measures from the DEIR referenced above. The matrix also identifies the required timing, the responsible parties for implementation, and the monitoring agency or party for the required mitigation.

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<b>Aesthetics</b>			
AE-1 Prior to issuance of building permits, the Project Applicant shall provide proof that demonstrates that all exterior lighting has been designed and located so that all direct rays are confined to the property in a manner meeting the approval of the Manager, Permit Services, or designee. Lighting shall be designed to minimize visibility of light sources by directing lighting toward the on-site structures and not illuminating areas outside property boundaries.	Prior to issuance of building permits	Manager, Permit Services	
<b>Air Quality</b>			
AQ-1 Prior to issuance of grading permit, the Project Applicant shall provide evidence that ensures the use of enhanced control measures for diesel exhaust emissions to maintain NOx impacts at a less than significant level to the Manager, Permit Services. These measures shall include: <ul style="list-style-type: none"> <li>Utilize well-tuned off-road construction equipment</li> <li>During grading, require that contractors use Tier 3 on all heavy equipment (excavators, graders, and scrapers exceeding 100 HP rated power) if the entire project is graded at one time for NOx emissions, unless use of such mitigation is demonstrated to be technically infeasible for a given piece of equipment</li> <li>During grading, require that contractors employ oxidation catalysts that shall achieve 40% reduction during grading for excavation graders and scrapers exceeding 100 HP rated power if the entire project is graded at one time, unless use of such mitigation is demonstrated to be technically infeasible for a given piece of equipment.</li> <li>Enforce 5-minute idling limits for on-road trucks and off-road equipment.</li> </ul>	Prior to grading permit Plans/Monitoring	Manager, Permit Services	
AQ-2 Prior to issuance of grading permit, the Project Applicant shall provide evidence, which ensures that standard construction practices as set forth in the SCAQMD Handbook shall be implemented, to the Manager, Permit Services.	During construction activities	Manager, Permit Services	
AQ-3 During construction, the Project Applicant shall ensure that best management practices for dust control are implemented. These include: <ul style="list-style-type: none"> <li>Apply soil stabilizers or moisten areas that are inactive for 96 hours or more</li> <li>Prepare a high wind dust control plan</li> <li>Address previously disturbed areas if subsequent construction is delayed more than 96 hours</li> <li>Water exposed surfaces as needed to avoid visible dust leaving the construction site (typically three times per day)</li> <li>Wet down or cover all stockpiles with tarps at the end of each day or as needed</li> <li>Provide water spray during loading and unloading of earthen materials</li> <li>Minimize in-out traffic from construction zone</li> </ul>	During construction activities	Manager, Permit Services	

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## Mitigation Monitoring and Reporting Program - Esperanza Hills

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<ul style="list-style-type: none"> <li>Cover all trucks hauling dirt, sand or loose material or require all trucks to maintain at least two feet of freeboard</li> <li>Sweep streets daily if visible soil material is carried out from the construction site</li> <li>Use perimeter sandbags and wind fences for erosion control</li> </ul>			
<b>Biological Resources</b>			
<p><b>Bio-1</b></p> <p>Prior to issuance of grading permits, the Project Applicant shall prepare a re-vegetation plan for mulefat scrub, black willow riparian forest, and blue elderberry woodland located within Blue Mud Canyon. The plan will also incorporate California black walnut into the plant palette to mitigate the loss of 0.48 or 0.22 acre of walnut woodland associated with Options 1 and Option 2, respectively. The plan shall be prepared by a qualified biologist for review and approval by the Manager of Planning, OC Development Services. At a minimum, the plan shall include restoration of mulefat scrub and black willow riparian forest vegetation that also includes a black walnut component. The plan shall include replacement of habitat at a minimum a ratio of 1:1; responsibility and qualifications of the personnel to implement and supervise the plan; site selection; site preparation and planting implementation; schedule; maintenance plan/guidelines; five year monitoring plan with reporting to the Orange County Manager of Planning, and long-term preservation.</p>	Prior to issuance of grading permits	Manager, Planning, OC Development Services	
<p><b>Bio-2</b></p> <p>Prior to issuance of grading permits, a Special Status Planting and Monitoring Plan detailed restoration program shall be prepared by a qualified biologist in consultation with the CDFW and the USFWS for approval by the Orange County Manager, Planning, OC Development Services. The plan program shall provide for planting at the appropriate time of the year for success of 326 greenhouse-propagated individuals of intermediate mariposa lily in the Study Area within an undisturbed area of coastal sage scrub of same habitat quality with respect to soil type and its characteristics. The plan shall include a maintenance program for weed removal, supplemental watering, fencing, and other forms of site protection. This mitigation plan program will be considered successful if at least 80% of 326 flowering individuals, or 261 flowering individuals, are observed five years after planting. If success criteria are not met after five years, remedial measures shall include greenhouse propagation and planting of additional individuals on the Project Site.</p>	Prior to issuance of grading permits	Manager, Planning, OC Development Services	
<p><b>Bio-3</b></p> <p>Prior to issuance of grading permits, a Special Status Planting and Monitoring Plan detailed restoration program shall be prepared by a qualified biologist in consultation with the CDFW and the USFWS for approval by the Orange County Manager, Planning, OC Development Services. The plan program shall provide for planting of 400 greenhouse-propagated individuals of Braunton's milk-vetch</p>	Prior to issuance of grading permits	Project Applicant/Manager, Planning, OC Development Services	

## Mitigation Monitoring and Reporting Program - Esperanza Hills

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
in the Study Area within an undisturbed area of suitable habitat and soils, slope and exposure. The plan shall include a maintenance program for weed removal, supplemental watering, fencing and other forms of site protection. This mitigation plan program will be considered successful if at least 80% of individuals, or 320 individuals, flower and set seed prior to senescence. If success criteria are not met prior to senescence of the planted individuals, remedial measures shall include greenhouse propagation and planting of additional individuals on the Project Site.			
Bio-4 Prior to the issuance of grading permits, the Project Applicant shall prepare a re-vegetation plan for mulefat scrub and black willow riparian forest located within Blue Mud Canyon. The plan will also incorporate California black walnut into the plant palette to mitigate the loss of walnut woodland as described in Mitigation Measure Bio-1. The plan shall be prepared by a qualified biologist for review and approval by the Manager of OC Development Services. At a minimum, the plan shall include: restoration of mulefat scrub and black willow riparian forest vegetation at a ratio of 1:1; responsibility and qualifications of the personnel to implement and supervise the plan; site selection; site preparation and planting implementation; schedule; maintenance plan/guidelines; monitoring plan; and long-term preservation.	Prior to issuance of grading permits	Manager, Planning, OC Development Services	
Bio-5 Prior to issuance of grading permits, the Project Applicant shall include the following measures on the grading plan to be implemented with grading operations: 1. Prior to the commencement of clearing operations or other activities involving significant soil disturbance, all areas of mulefat scrub and black willow riparian forest habitat to be avoided shall be identified with temporary fencing or other markers that are clearly visible to construction personnel. 2. A USFWS-approved Biological Monitor shall be on-site during any clearing of mulefat scrub and black willow riparian forest. The Project Applicant shall advise the U.S. Fish & Wildlife Service at least 7 calendar days – but preferably 14 calendar days – prior to the clearing of mulefat scrub and black willow riparian forest. The Biological Monitor shall flush avian or other mobile species from habitat areas immediately prior to brush-clearing and earth-moving activities. It shall be the responsibility of the monitoring biologist to ensure that identified bird species are not directly impacted by brush-clearing and earth-moving equipment in a manner that also allows for construction activities to continue on a timely basis. 3. Following the completion of initial clearing activities, all areas of mulefat scrub and black willow riparian forest habitat to be avoided by construction equipment and personnel shall be marked with temporary fencing or other clearly visible, appropriate markers. No construction access, parking, or storage of equipment	Prior to issuance of grading permits	Manager, Planning, OC Development Services	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<p>shall be permitted within such marked areas.</p> <p>Bio-6 Prior to issuance of grading permits, the Project Applicant shall prepare a Restoration Plan for mulletat scrub, black willow riparian forest, coast live oak riparian woodland, and other appropriate wetland/riparian habitats at an acreage ratio of 1:1 to be located within Blue Mud Canyon. The plan shall be prepared by a qualified biologist for review and approval by the Manager of OC Development Services. The Restoration Plan shall include the following:</p> <ol style="list-style-type: none"> <li>Impacts to living coast live oak trees within CDFW jurisdiction will be mitigated through planting liners or locally collected acorns within Blue Mud Canyon at the following ratios: <ul style="list-style-type: none"> <li>For healthy trees to be removed for development:</li> <li>trees less than 5 inches diameter at breast height (DBH) should be replaced at 3:1</li> <li>trees between 5 and 12 inches DBH should be replaced at 5:1</li> <li>trees between 12 and 36 inches DBH should be replaced at 10:1</li> <li>trees greater than 36 inches DBH should be replaced at 20:1</li> <li>For damaged trees (including trees damaged by construction and fire damaged trees to be removed for development):</li> <li>trees less than 12 inches DBH should be replaced at 3:1</li> <li>trees greater than 12 inches DBH should be replaced at 5:1</li> <li>Impacts to trees that were killed by the 2008 Freeway Complex Fire do not require mitigation</li> </ul> </li> <li>The sizes, condition, and total number of impacted trees will be determined after verification of the limits of CDFW jurisdiction and prior to issuance of any permit that results in ground disturbance.</li> <li>The plan shall include responsibility and qualifications of the personnel to implement and supervise the plan; site selection; site preparation and planting implementation; schedule; maintenance plan/guidelines; five year monitoring plan with reporting to the Orange County Manager of Planning; and long-term preservation.</li> <li>The Project Applicant shall notify CDFW, pursuant to Section 1600 of the <i>California Fish and Game Code</i>, of lake and streambed alterations (LSA), including activities in streams that will divert or obstruct the natural flow, or change the bed, channel, or bank of a river or stream, or use materials from a streambed. A copy of the LSA notice shall be provided to the Orange County Manager of Planning.</li> </ol> <p>Bio-7 Prior to issuance of grading permits, the Project Applicant shall prepare a Habitat Mitigation and Monitoring Program (H MMP). The H MMP shall be prepared by a qualified biologist for review and approval by the Manager of OC</p>	<p>Prior to issuance of grading permits</p>	<p>Manager, Planning, OC Development Services</p>	
	Prior to issuance of grading permits	Manager, Planning, OC Development Services	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<p>Development Services. The HMMP shall include responsibility and qualifications of the personnel to implement and supervise the plan; site selection; site preparation and planting implementation; schedule; maintenance plan/guidelines; five-year monitoring plan with reporting; and long-term preservation.</p> <p>The Project Applicant shall be fully responsible for the implementation of the Habitat Mitigation and Monitoring Program until the restoration areas have met the success criteria outlined in the approved plan. The Manager, Planning, OC Development Services shall have final authority over mitigation area sign-off.</p>			
<p><b>Bio-8</b></p> <p>Prior to issuance of any grading permit, the Project Applicant shall include the following measures on the grading plan to be implemented with grading operations:</p> <ol style="list-style-type: none"> <li>1. Prior to the commencement of clearing operations or other activities involving significant soil disturbance, all areas of ACOE and CDFW jurisdiction to be avoided shall be identified with temporary fencing or other markers that are clearly visible to construction personnel.</li> <li>2. A USFWS-approved Biological Monitor shall be on-site during any clearing of riparian vegetation. The Project Applicant shall advise the US Fish &amp; Wildlife Service at least 7 calendar days – but preferably 14 calendar days – prior to the clearing of riparian vegetation. The Biological Monitor shall flush avian or other mobile species from habitat areas immediately prior to brush-clearing and earth-moving activities. It shall be the responsibility of the monitoring biologist to ensure that identified bird species are not directly impacted by brush-clearing and earth-moving equipment in a manner that also allows for construction activities to continue on a timely basis.</li> <li>3. Following the completion of initial clearing activities, all areas of ACOE and CDFW jurisdiction to be avoided by construction equipment and personnel shall be marked with temporary fencing or other clearly visible, appropriate markers. No construction access, parking, or storage of equipment shall be permitted within such marked areas.</li> </ol>	Prior to issuance of grading permit	Manager, Planning, OC Development Services	
<p><b>Bio-9</b></p> <p>Prior to issuance of grading permits, the Project Applicant shall include the following condition on the grading plan for implementation during vegetation removal operations:</p> <p>Thirty days prior to the initiation of project activities, a qualified biologist shall conduct weekly bird surveys, with the last survey no more than 10 days prior to initiation of project activities, to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). No vegetation removal shall occur between the dates of February 15 and September 30, March 15 to August 31, unless a qualified biologist surveys</p>	Prior to issuance of grading permits	Manager, Planning, OC Development Services	

## Mitigation Monitoring and Reporting Program - Esperanza Hills

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<p>the Project's impact area 10 days prior to initiation of project activities prior to disturbance to confirm the absence of active nests. If an active nest is discovered, vegetation removal within a particular buffer surrounding the nest shall be prohibited until nesting is complete (i.e., nest is vacant and juveniles have fledged and there is no evidence of a second attempt at nesting); the buffer distance shall be determined by a qualified biologist (in consultation with the CDFW or the USFWS, if applicable) and in consideration of species sensitivity and existing nest site conditions. Limits of avoidance of 300 feet and up to 500 feet, which can be up to 300 feet for nesting raptors, shall be demarcated with flagging or fencing, and Project personnel, including contractors working on-site, shall be instructed on the sensitivity of the area. The Biologist shall record the results of the recommended protective measures described above and shall submit a written memo explaining justification of summarizing any nest avoidance measures to the Manager of OC Development Services to document compliance with applicable state and federal laws, specifically §3503 and §3503.5 of the <i>California Fish and Game Code</i>, pertaining to the protection of native birds, including nesting raptors.</p>			
<p><b>Bio-10</b></p> <p>Prior to issuance of building permits, the Project Applicant shall prepare a resident Environmental Awareness Program to be reviewed and approved by the Manager, Planning, OC Development Services. The Environmental Awareness Program is intended to increase awareness to residents of the sensitive plants, wildlife, and associated habitats that occur in the preserved open space areas. The intention of the program shall be to encourage active conservation efforts among the residents to help conserve the habitats in the preserved open space. The program shall address inadvertent impacts from the introduction of invasive plant species (including escapees), human intrusion, trash and debris, creation of ad hoc trails, domestic cats, and light pollution. At a minimum, the Environmental Awareness Program shall include the following components:</p> <ul style="list-style-type: none"> <li>• Informational kiosks shall be constructed at entrance points to hiking and equestrian trails and at various locations along the fence line that separates the Project Site and the open space area to inform residents and trail users on the sensitive flora and fauna that rely on the habitats found within the preserved open space. The intent of these kiosks is to bring awareness to the sensitive plants, wildlife and associated habitats which occur in the area along with discouraging creation of ad hoc trails and trash and debris.</li> <li>• The Project Applicant shall provide residents or the HOA for nearby subdivisions (if applicable) with a brochure that includes a list of plant species to avoid in residential landscaping to prevent the introduction of invasive plant species and impacts from human intrusion, light pollution and</li> </ul>	Prior to issuance of building permits	Manager, Planning, OC Development Services	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<p>domestic cats to the surrounding natural communities.</p> <p>Prior to issuance of grading permits, the Project Applicant shall include the following measures on the grading plan to be implemented with grading operations:</p> <ul style="list-style-type: none"> <li>No clearing, grubbing, grading, or other construction activities shall occur within and in the vicinity of riparian habitat occupied by least Bell's vireo between March 15 and September 15, the breeding season of the least Bell's vireo, until the following requirements have been met:</li> </ul> <ol style="list-style-type: none"> <li>1. A qualified biologist shall survey riparian areas that would potentially be subject to construction noise levels exceeding 60 decibels [dB(A)] hourly average for the presence of least Bell's vireo. Surveys for this species shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish &amp; Wildlife Service within the breeding season prior to the commencement of construction. If the least Bell's vireo is present, then the following conditions must be met: <ul style="list-style-type: none"> <li>a. Between March 15 and September 15, no clearing, grubbing, or grading of occupied least Bell's vireo habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist;</li> <li>b. Between March 15 and September 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB(A) hourly average at the edge of occupied least Bell's vireo habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat must be completed by a qualified acoustician and/or qualified biologist (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the U.S. Fish &amp; Wildlife Service at least two weeks prior to the commencement of construction activities. Prior to the commencement of any construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist;</li> <li>c. If it is desired to conduct construction activities adjacent to habitat determined to be occupied by least Bell's vireo during pre-construction surveys, then at least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician and/or qualified biologist, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dB(A) hourly average at the</li> </ul> </li> </ol>	Prior to issuance of grading permits	Manager, Permit Services, in consultation with Manager, Planning, OC Development Services	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<p>edge of habitat occupied by the least Bell's vireo. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring shall be conducted at the edge of occupied area to ensure that noise levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician and/or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (September 16). Construction noise shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level of it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.]</p> <p>2. If least Bell's vireos are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the U.S. Fish &amp; Wildlife Service that demonstrates whether or not mitigation measures such as noise walls are necessary between March 15 and September 15 as follows:</p> <ul style="list-style-type: none"> <li>▪ If this evidence indicates the potential is high for least Bell's vireo to be present based on historical records or site conditions, then condition 1.c shall be adhered to as specified above.</li> <li>▪ If this evidence concludes that no impacts to this species are anticipated, no further surveys or monitoring would be necessary.</li> </ul>			
<b>Cultural Resources</b>			
<p>CR-1 Prior to issuance of any grading permit, the Project Applicant shall provide evidence to the Manager, Permit Services that a grading note shall be added to the grading plan that states: "If any unanticipated cultural resources, including human remains, are discovered during ground-disturbing activities; work in that location shall be temporarily diverted a minimum of 25 feet away until a County qualified archaeologist can evaluate the find. Recommendations by the archaeologist and as approved by the Manager, Planning, OC Development Services shall be complied with for any further ground-disturbing work."</p>	Prior to issuance of grading permits	Manager, Permit Services/Planning, OC Development Services	



Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
CR-2 Prior to issuance of any grading permit, the Project Applicant shall prepare and submit to the Manager, Planning, OC Development Services for review and approval a Paleontological Resources Mitigation Plan as detailed in the "Archaeological and Paleontological Resources Assessment Update" for the Esperanza Hills Project, dated January 2013, prepared by Cogstone. The Paleontological Resources Mitigation Plan shall include the following: 1) paleontological resources awareness training for all earthmoving personnel, 2) monitoring of excavations more than five feet below the current surface (not for shallow excavations), 3) adjustments by the principal paleontologist to monitoring requirements based on fossil yield, depth and location of impact, and 4) recovery and curation of fossils meeting the significance criteria established in the Paleontological Resources Mitigation Plan.	Prior to issuance of grading permits	Manager, Permit Services/Planning, OC Development Services	
<b>Geology and Soils</b>			
Geo-1 Prior to issuance of building permits, the Project Applicant and the County shall ensure that geologic conditions underlying design slopes and those to remain natural in areas adjacent to the development perimeter shall be investigated and analyzed for gross stability in accordance with current geotechnical engineering practice. Investigation shall include areas where larger landslides are suspected to exist, mainly in natural slope areas bordering the development, including analysis of distribution and dimension regarding conditions of gross stability.	Prior to issuance of building permits	Manager, Permit Services	
Geo-2 During grading, the Project Applicant and the County shall ensure that unstable areas be avoided or that design slopes determined to be grossly unstable be stabilized by construction of buttresses or stabilization fills, flattening gradients, lowering overall heights, improving stability through use of tie-back/grade-beam systems, use of geogrid, use of cement-treated-soil or similar supplemental stabilization measures or combinations of these methods.	During grading activity	Manager, Permit Services	
Geo-3 During grading, the Project Applicant shall ensure that zones of weathered bedrock be removed from back cuts and/or areas upon which new fill is to be placed.	During grading activity	Manager, Permit Services	
Geo-4 Prior to issuance of building permits, the Project Applicant shall ensure that construction across the trace of active faults and/or outside the limits of the setback zone will be avoided to the maximum extent practicable, and no residential lots are designed within the setback zone established for the Whittier Fault. Where access roads, retaining walls, bridge structures or structural fills are planned within the setback zone, the direction and magnitude of anticipated fault offset and severity of anticipated ground shaking shall be incorporated into the design.	Prior to issuance of building permits	Manager, Permit Services	
Geo-5 Prior to issuance of building permits, the Project Applicant shall ensure that the design for improvements that cross the Whittier Fault should be minimal, and the	Prior to issuance of building permits	Manager, Permit Services	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
trend in which crossings are made should be oriented as nearly perpendicular (20 degrees east of north) to the trend of the fault as possible. The prefabricated bridge structure spanning Blue Mud Canyon under Option 1 shall be positioned and designed to accommodate expected fault offset. The Project Applicant shall consider use of alternative geotechnical engineering technologies to minimize impacts to structures constructed above active fault strands. These may include the incorporation of geo-fabric materials into fill bodies to add to fill strength and/or select placement of gravel blankets within subgrade areas to diffuse shear forces relating to ground rupture.			
Geo-6 Prior to issuance of building permits, the Project Applicant shall ensure that utility lines located in or near the Whittier Fault incorporate flexible joints into their design, to accommodate anticipated ground rupture in a right-lateral strike-slip sense.	Prior to issuance of building permits	Manager, Permit Services	
Geo-7 Prior to issuance of building permits, the Project Applicant shall verify that the existing seismic setback zone margins are appropriate for encountered geologic conditions and, where changes are warranted, evaluate any impacts to design plan elements and assure any revisions to the margins are depicted on final plan sets.	Prior to issuance of building permits	Manager, Permit Services	
Geo-8 Prior to issuance of building permits, the County shall ensure that the Project Applicant has provided geotechnical investigations and engineering analyses to evaluate retaining wall design and stability, establish foundation design recommendations and determine conditions of gross and surficial stability of overall wall/slope combinations. In surficially unstable slopes where no remedial grading is permitted, wall foundations shall be strengthened to accommodate a potential loss of lateral support. Where natural slopes are grossly unstable, possibly due to the presence of a larger landslide, the slope shall be stabilized or buttressed through grading methods. Where grading is not permitted, structural stabilization shall be accomplished through the design of retaining walls and/or soldier pile walls, tie backs, or some combination of both.	Prior to issuance of building permits	Manager, Permit Services	
Geo-9 Prior to issuance of building permits, the Project Applicant shall ensure that natural slope areas adjacent to development are analyzed for stability and estimated volumes of failure material determined. Setback zones or design of a bench in the upper slopes shall be employed to reduce the potential for failures to migrate into graded areas. Areas of rock creep influence shall require use of tie-backs and structural sheets to prevent this occurrence.	Prior to issuance of building permits	Manager, Permit Services	
Geo-10 Prior to issuance of grading or building permit, whichever comes first, the Project Applicant shall ensure that the following methods are incorporated into the design to prevent slope failure: <ul style="list-style-type: none"> <li>Where daylight fill lots lie adjacent to ascending natural slopes, building pad</li> </ul>	Prior to issuance of building and grading permits	Manager, Permit Services	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<p>elevations shall be raised, and toe-of-slope catchment troughs have been designed into which the failure materials can accumulate. These areas should be designated as "common areas" and maintained by homeowners associations.</p> <ul style="list-style-type: none"> <li>In areas where a more significant volume of debris is expected, such as an area situated within the path of adjacent natural drainage swales, impact or deflection walls shall be installed.</li> <li>Use of design stabilization fills, which are typically the width of standard grading equipment, shall be used for surficially unstable cut or fill slopes.</li> </ul>			
<p><b>Geo-11</b></p> <p>During the conceptual design phase, the Project Applicant and the County shall ensure that no lots are designed with habitable structures within the fault hazard setback zone as determined in the Fault Study, and no building permits shall be applied for or granted for any habitable structures within the hazard fault setback zone in the future. Asymmetrical floor plans shall be avoided, because these kinds of buildings tend to twist in addition to shaking laterally.</p>	During conceptual design phase	Managers, Permit Services/Planning, OC Development Services	
<p><b>Geo-12</b></p> <p>Prior to issuance of building permits, the Project Applicant shall demonstrate to the County that deep fills have undergone a cycle of "primary" settlement sufficient to allow safe construction. The Project Applicant may opt to employ supplemental geotechnical measures to minimize anticipated settlement time. Such measures could include vertical wick-drain installation, use of higher fill compaction standards, use of granular fill zones prone to less settlement and/or placement of surcharge fills.</p>	Prior to issuance of building permits	Manager, Permit Services	
<p><b>Geo-13</b></p> <p>Prior to issuance building permit, the Project Applicant shall ensure that appropriate conventional engineering measures are implemented to reduce impacts of excessive differential settlement in cut/fill transition areas as determined by the County building official. These measures can include a flattening of removal profiles to 2:1 or shallower, deepening over-excavation of building pads within zones of expected impacts, use of higher compaction standards, limiting construction of stiffened foundation systems including post-tension zones or construction of caisson walls or mat slabs as determined feasible and appropriate.</p>	During construction activities	Building Official, OC Building Department	
<p><b>Geo-14</b></p> <p>Prior to issuance of grading permit, the Project Applicant shall ensure that removal and re-compaction of compressible native soils shall be performed in areas of proposed structural fills to minimize settlement of new fill and/or prevent loss of lateral support. The limits of removals shall extend beyond conceptual plan boundaries and potentially beyond the limits of grading into areas to remain natural. Where no removals are permitted beyond the boundaries of design, engineered structures shall be installed such as pin piles to achieve proper slope stability.</p>	During grading activities	Manager, Permit Services/ OC Building Department	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
Geo-15 Prior to issuance of building permits, the County shall verify that testing has been conducted to evaluate the chemical character of fill soils. Result of such testing shall be used to formulate appropriate foundation design criteria to reduce the adverse effects of corrosive soils.	Prior to issuance of building permits	Manager, Permit Services/ OC Building Department	
Geo-16 Prior to issuance of building permits, the County shall ensure that the Project Applicant has provided geotechnical studies to evaluate the occurrence and character of expansive clay soil on the Project Site. Based on the results of the studies, criteria for foundation design shall be formulated to reduce adverse effects such as selective grading methods including placement of adverse clay soils in deeper fill areas, or non-bedrock and design structures through building pad over-excavation. Post grading studies and testing shall be conducted on finished building pads to verify the adequacy of foundation design.	Prior to issuance of building permits	Manager, Permit Services/ OC Building Department	
Geo-17 Prior to issuance of grading permit, the County shall ensure that the Project Applicant has conducted geotechnical investigations of recent alluvium deposits to evaluate the potential for liquefaction. Findings of such investigations shall be incorporated into the design of structures proposed in areas where there is a potential for liquefaction to occur.	Prior to issuance of grading permit	Manager, Permit Services/ OC Building Department	
Geo-18 Prior to construction, the Project Applicant shall ensure that a network of subdrains and back-drains shall be installed in areas of expected groundwater or active seepage.	Prior to construction	Project Applicant	
Geo-19 Prior to issuance of building permits, the County shall ensure that the Project Applicant has conducted geotechnical investigations and engineering analyses in areas where proposed roadways cross existing natural gas pipelines or transmission towers exist adjacent to proposed cut slopes and designed roadway crossings to avoid or minimize damage to these facilities.	Prior to issuance of building permits	Project Applicant/ OC Building Department	
<b>Geo-12</b>			
GHG-1 Prior to issuance of building permits for residential units, the County shall ensure that all fireplaces are gas rather than wood burning.	Prior to issuance of building permits	Manager, OC Development Services	
GHG-2 Prior to construction of project, the developer shall implement or develop a plan for implementation of one or more mitigation strategies for the reduction of greenhouse gas (GHG) emissions from the report "CEQA and Climate Change" prepared by the California Air Pollution Control Officers Association (CAPCOA) as updated in 2010. The total benefit of the mitigation strategies must result in a minimum 5% reduction in GHG emissions from the business-as-usual value. Alternative strategies not listed in the CAPCOA report may be used with approval of the Orange County Planning Director. The selected strategies, including measures for their long-term maintenance, must be described in a memo submitted to and approved by the County Planning Department prior to initial occupancy of any on-site facility.	Prior to construction	Project Applicant/ OC Development Services Director	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<b>Hazards and Hazardous Materials</b>			
Haz-1 Prior to issuance of building permits, the Project Applicant shall provide a Combustible Gas/Methane Assessment Study for review and approval by the OCFA. The Project Applicant shall submit and obtain OCFA approval for a Methane Control Plan to control the release of combustible gas/methane from operation oil wells in the event that measurable quantity of methane gas is identified in the Combustible Gas/Methane Assessment Study.	Prior to issuance of building permits	OC Fire Chief	
Haz-2 Prior to issuance of grading permits, the Project Applicant shall ensure that a Phase II ESA is prepared for review and approval by the Manager of Planning, OC Development Services in consultation with Hazardous Waste Specialist III, OC Environmental Health. The Phase II ESA shall identify the abandoned well locations, and any hidden pits or accumulations of drilling mud in the vicinity of the wells. The assessment shall include a review of available well logs and abandonment documentation in order to verify regulatory compliance of previously abandoned wells. In the event pits are encountered during the Phase II ESA investigation or during grading, the pits will be sampled for hazardous substances and will be disposed of at a certified hazardous waste facility.	Prior to issuance of grading permits	Manager, Hazardous Waste Specialist III OC Environmental Health/Planning, OC Development Services	
Haz-3 Prior to issuance of grading permits, the Project Applicant shall ensure that an RAP is prepared for the previously abandoned oil wells to address the appropriate measures consistent with state law.	Prior to issuance of grading permits	Manager, Permit Services	
Haz-4 Prior to the closure of any existing oil wells, the Project Applicant shall ensure that the operators of the oil wells prepare an RAP to address appropriate measures for closure consistent with state law.	Prior to closure of existing oil wells	Manager, Permit Services	
Haz-5 Prior to issuance of any grading permit that results in the disturbance of any vegetation, the Project Applicant shall submit a Fire Master Plan for review and approval by the OCFA and OCSD. The Fire Master Plan shall be based on the Esperanza Hills FPEP and shall contain details regarding evacuation roads, including road surface type, firefighting staging areas, emergency secondary access, turning radii, vegetation clearance buffers along roadways, exits, and locations of hydrants and reservoir.	Prior to issuance of grading permits	Orange County Fire Authority	
Haz-6 Prior to issuance of any Certificate of Use and Occupancy, the Project Applicant shall submit a Community Evacuation Plan (CEP) for the Project for review by the OCFA and the OCSD and approved by the OCFA. The CEP will incorporate the information on community plans from the Orange County Office of Emergency Services and the San Diego Office of Emergency Services. The Esperanza Hills FPEP shall be the basis of the CEP, which shall include provisions for: <ul style="list-style-type: none"> <li>• Pre-fire planning and preparations</li> <li>• Post-fire recovery actions</li> </ul>	Prior to issuance of Certificate of Use and Occupancy	Orange County Fire Authority/ Orange County Sheriff's Department	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<ul style="list-style-type: none"> <li>Communications/registering with Alert OC (Orange County's Reverse 911 system and sign-up for cell phone/text notice)</li> <li>Prevention (maintenance of fuels around buildings, gutter and roof clearance, vent protection)</li> <li>Emergency contact numbers</li> <li>Annual evacuation training schedule</li> <li>Fire Prevention Measures during High Fire Danger and Red Flag Warning periods</li> <li>Annual review and update requirements</li> <li>Wildfire Emergency Evacuation Plan Details</li> <li>On-site partial relocation versus off-site evacuation</li> <li>Revisions/updates to the CEP shall be reviewed and approved by OCFA</li> </ul>			
Haz-7 Prior to recordation of the final tract map, the Project Applicant shall record the deed restrictions for each residential lot. The deed restriction shall include any portion of the FMZs on the private lot, approved plant palettes, and prohibitions regarding combustible structures, including fencing and other accessory structures. Deed restrictions will run with the land and be conveyed to any subsequent owner of the private lot.	Prior to final tract map recordation	Manager, Permit Services	
Haz-8 Prior to recordation of the Final Tract Map for Lots 7, 8, 9, 224, 225, 236, 237, 253, 254, ad 278 in Option 1 and Lots 8, 9, 10, 224, 225, 236, 237, 253, 254, and 278 in Option 2 that include an FMZ that extends beyond the private lot or development, the Project Applicant shall obtain written legal permission in the form of a Fuel Modification Easement from any off-site landowners. The Fuel Modification Easement shall be recorded for each lot. In any situations where the FMZ extends into biological open space or other sensitive biological areas, or other areas controlled by the County and/or resource agencies, formal written permission shall be obtained from all applicable agencies.	Prior to final tract map	Manager, Permit Services	
Haz-9 Prior to issuance of building permits, the Project Applicant shall prepare a Private Property Owners' Guide for fire-safe vegetation management, which shall be distributed by the Esperanza Hills HOA to each new home buyer. The Guide shall be based on the Orange County Fire Authority Vegetation Management Guidelines as approved in the Fuel Modification Plan approved by the OCFA. Periodic inspections by the OCFA shall be at the expense of the Esperanza Hills HOA.	Prior to issuance of building permits	Manager, Permit Services	
Haz-10 Prior to recordation of the final tract map, the Project Applicant shall submit the Project Covenants, Conditions, and Restrictions (CC&Rs) to the Manager, Planning, OC Development Services for review and acceptance by County Counsel and will include: <ul style="list-style-type: none"> <li>A reference to the Esperanza Hills FPEP to ensure compliance with the</li> </ul>	Prior to recordation of final tract map	Manager, Planning, OC Development Services / County Counsel	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<p>features with the plan. The HOA is required to enforce compliance with the Plan. Owners of private lots will be notified in the project's CC&amp;Rs and property disclosures that they are prohibited from conducting any vegetation management activities outside their private property.</p> <ul style="list-style-type: none"> <li>Provisions for continuous maintenance of common areas by the Esperanza Hills Homeowners' Association and individual properties by owners. Maintenance refers to anything needed to maintain the fuel modification area in a fire safe condition as required by the OCFA, including periodic removal of undesirable, combustible vegetation; replacement of dead and dying fire-resistant plantings; maintenance of the operational integrity and programming of irrigation systems; and preservation of identification markers.</li> <li>A provision that the HOA is responsible for and has the authority to ensure long-term funding, and ongoing compliance with all provisions of the approved Fire Master Plan and Community Evacuation Plan, including vegetation planting, fuel modification, vegetation management, and maintenance requirements on all private lots, parks, common areas, roadsides, and open space under their control (if not considered biological open space). Any water quality basins, flood control basins, channels, and waterways should be kept clear of flammable vegetation, subject to the environmental restrictions.</li> <li>A provision that the HOA will annually fund and obtain an inspection and report from an OCFA-approved Wildland Urban Interface Fire Safety Inspector in June, certifying that vegetation management activities throughout the Project Site have been performed pursuant to the approved Fire Master Plan.</li> </ul>			
Haz-11 Prior to issuance of building permits, the Project Applicant shall submit to the Manager, Permit Services plans demonstrating a water system for the Project capable of handling the minimum fire flow storage of 1,500 gallons per minute for a 2-hour duration with a minimum residual pressure of 20 pounds per square inch.	Prior to issuance of building permits	Manager, Permit Services	
Haz-12 Prior to issuance of building permits, the Project Applicant shall provide a plan that depicts the appropriate number of fire hydrants and their specific locations to be constructed for each phase of development for review and approval by the OCFA Fire Marshal.	Prior to issuance of building permits	Manager, Permit Services/ OCFA Fire Marshal	



Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
Haz-13 Prior to ground disturbance in environmentally sensitive areas that contain sensitive habitat, cultural sites, riparian areas, biological buffer areas, detention basins, etc., the Project Applicant shall obtain written permission from the Manager, Planning, OC Development Services, and the appropriate resource agencies (e.g., the CDFW, the USFWS, and the ACOE) prior to any vegetation management activities occurring.	Prior to ground disturbance in environmentally sensitive areas	Manager, Planning, OC Development Services	
Haz-14 Prior to issuance of any building permit for access gates, the Project Applicant shall submit for review and approval by the OCFA access gate plans consistent with the applicable Fire Code, and all operated gates shall be equipped with emergency opening devices approved by the OCFA.	Prior to issuance of building permits for access gates	OCFA	
<b>Hydrology and Water Quality</b>			
No mitigation measures are required.			
<b>Land Use and Planning</b>			
No mitigation measures are required	None required	None required	None required
<b>Noise</b>			
N-1 Prior to issuance of grading permit, the Project Applicant shall ensure that all construction activities shall be limited to the hours of 7:00 a.m. to 8:00 p.m. on weekdays and Saturdays with no construction permitted on national holidays or Sundays in compliance with the Orange County Noise Ordinance. High noise-producing activities should be scheduled between the hours of 8:00 a.m. and 5:00 p.m. to minimize disruption to sensitive uses.	Prior to issuance of grading permit	Manager, Permit Services	
N-2 Prior to issuance of grading permit, the Project Applicant shall ensure that all construction and demolition equipment shall be fitted with properly operating and maintained mufflers.	Prior to issuance of grading permit	Manager, Permit Service	
N-3 Prior to issuance of grading permit, the Project Applicant shall ensure that all noise-generating construction equipment and construction staging areas should be located as far as possible from existing residences.	Prior to issuance of grading permit	Manager, Permit Service	
N-4 Prior to issuance of grading permit, the Project Applicant shall ensure that construction-related equipment, including heavy duty equipment, shall be turned off when not in use for more than 10 minutes.	Prior to issuance of grading permit	Manager, Permit Service	
N-5 Prior to issuance of grading permit, the Project Applicant shall prepare and submit to the County for approval a haul plan for construction-related traffic that limits impacts on residential development by avoiding such residential development areas where feasible.	Prior to issuance of grading permit	Manager, Permit Service	
N-6 Prior to issuance of grading permit, the Project Applicant shall ensure that construction hours, allowable work days and the telephone number of the job superintendent are clearly posted at all construction entrances to allow residents to contact the job superintendent. If the County of Orange or the job	Prior to issuance of grading permit	Manager, Permit Service	

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Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
superintendent receives a complaint, the superintendent shall investigate, take appropriate corrective action and report the action taken to the appropriate reporting party. Contact specifications shall be included in the proposed project construction documents which shall be reviewed by the County of Orange prior to issuance of grading permits.			
<b>Population and Housing</b>			
No mitigation measures are required.	None required	None required	None required
<b>Public Services</b>			
PS-1 Prior to issuance of grading permit, if deemed necessary by the Orange County Fire Authority, the Project Applicant shall enter into a Secured Fire Protection Agreement with the Orange County Fire Authority providing for payment of fair share fees for impacts to capital and infrastructure needs.	Prior to issuance of grading permits	Project Applicant/OCFA	
PS-2 Prior to issuance of building permits, the Project Applicant will be required to comply with Senate Bill 50 and pay the applicable school impact fees as adopted by the Placentia-Yorba Linda Unified School District.	Prior to issuance of building permits	Manager, Permit Services	
<b>Recreation</b>			
No mitigation measures are required.	None required	None required	None required
<b>Transportation and Traffic</b>			
T-1 For Option 1, prior to issuance of building permits, the Project Applicant shall contribute to the installation of a three-phase traffic signal at the Yorba Linda Boulevard/Via del Agua intersection in the event the Cielo Vista project is not constructed. The Project Applicant's fair share contribution shall be 39% with the proposed Cielo Vista project as part of the cumulative base traffic condition, and 46% without the Cielo Vista project. The first project to be constructed, either Esperanza Hills or Cielo Vista, will pay 100% for the signal installation with an agreement between applicants to reimburse the fair share amount at the time the second project is constructed. If the City does not implement the improvement, the impact will be significant and unavoidable.	Prior to issuance of building permits	Project Applicant/Manager, Permit Services	
T-2 Prior to issuance of building permits, the Project Applicant shall pay a 9% fair-share contribution for the following improvement at Yorba Linda Boulevard at Savi Ranch Parkway: Widen and re-stripe the westbound approach to provide an additional (third) westbound left-turn lane.	Prior to issuance of building permits	Manager, Permit Services	
T-3 Prior to issuance of Certificates of Use and Occupancy, the Project Applicant shall pay a 9% fair-share contribution for the following improvement: extend the left-turn pocket along Yorba Linda Boulevard at Via del Agua from the existing 100 feet to 275 feet, with 11 feet in the transition area of the turn pocket to achieve 286 feet. However, the County cannot compel the City to implement such improvement. If the City does not implement the improvement, the impact	Prior to issuance of Certificates of Use and Occupancy	Manager, Permit Services	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
will be significant and unavoidable.			
<b>Utilities and Service Systems</b>			
U-1 Prior to issuance of building permits, the Project Applicant shall enter into a Development Agreement with the Yorba Linda Water District for the provision of water facilities and service.	Prior to issuance of building permits	Manager, Permit Services	
U-2 Prior to issuance of building permits, the Project Applicant shall enter into a Development Agreement with the Yorba Linda Water District for the provision of sanitary sewer facilities and service.	Prior to issuance of building permits	Manager, Permit Services	
U-3 Prior to issuance of building permits, the project developer shall coordinate with Southern California Edison to identify the location of the connection to existing electric service lines based on the final determination of access via Option 1 or Option 2 and to protect existing transmission lines on the Project Site.	Prior to issuance of building permits	Manager, Permit Services	
U-4 Prior to issuance of building permits, the project developer shall coordinate with Southern California Gas to identify the location of the connection to existing natural gas lines based on the final determination of access via Option 1 or Option 2.	Prior to issuance of building permits	Manager, Permit Services	
U-5 Prior to issuance of building permits, the project developer shall coordinate with AT&T to identify the location of the connection to existing telephone service lines based on the final determination of access via Option 1 or Option 2.	Prior to issuance of building permits	Manager, Permit Services	
U-6 Prior to issuance of building permits, the project developer shall coordinate with Time Warner Cable to determine the location of the connection to existing cable service lines based on the final determination of access via Option 1 or Option 2.	Prior to issuance of building permits	Manager, Permit Services	
<b>Conditions of Approval</b>			
<b>Hydrology and Water Quality</b>			
COA-1 Prior to issuance of grading permit, the Project Applicant shall submit the following drainage studies for approval by the County Manager, Permit Services: 1. A final drainage study of the project incorporating the Preliminary Drainage Report for Esperanza Hills Property drainage features pursuant to the approved development option; and 2. Detailed drainage studies indicating how the project grading, in conjunction with the drainage conveyance systems including applicable swales, channels, street flows, catch basins, storm drains, and flood water retarding, will allow building pads to be safe from inundation from rainfall runoff which may be expected from all storms up to and including the theoretical 100-year flood.	Prior to issuance of grading permits	County Manager, Permit Services	
COA-2 Prior to issuance of any Certificates of Use and Occupancy, the Project Applicant shall not grant any new easements over any property subject to a requirement of dedication or irrevocable offer to the Orange County Flood	Prior to issuance of Certificates of Use and Occupancy	County Manager, Permit Services	

## ATTACHMENT J

## Mitigation Monitoring and Reporting Program - Esperanza Hills

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
Control District, unless such easements are expressly made subordinate to the easements to be offered for dedication to the County. Prior to granting any of said easements, the subdivider shall furnish a copy of the proposed easement to the County Manager, Permit Services for review and approval.			
COA-3 Prior to recordation of a subdivision map (except for financing and conveyance purposes only), the Project Applicant shall participate in the applicable Master Plan of Drainage in a manner meeting the approval of the Manager, Permit Services, including payment of fees and the construction, or provide evidence of financial security (such as bonding), of the necessary facilities. The applicant shall enter into an agreement with the County of Orange concerning payment and reimbursement of Master Plan Drainage Fees to the City as a condition of any future annexation for drainage facilities transferred from OCPW to the City.	Prior to recordation of subdivision map	County Manager, Permit Services	
COA-4 Prior to issuance of any grading or building permit, whichever comes first, the Project Applicant shall demonstrate compliance under California's General Permit for Storm Water Discharges Associated with Construction Activity by providing a copy of the Notice of Intent submitted to the State Water Resources Control Board and a copy of the subsequent notification of the issuance of a Waste Discharge Identification Number; or other proof of filing in a manner meeting the satisfaction of the Manager, Permit Services. Projects subject to this requirement shall prepare and implement a SWPPP. A copy of the current SWPPP shall be kept at the Project Site and be available for County review on request.	Prior to issuance of grading or building permits	Manager, Permit Services	
COA-5 Prior to issuance of any grading or building permit, whichever comes first, the Project Applicant shall submit an Erosion and Sediment Control Plan (ESCP) in a manner meeting approval of the Manager, Permit Services, to demonstrate compliance with the County's NPDES Implementation Program and state water quality regulations for grading and construction activities. The ESCP shall identify how all construction materials, wastes, grading or demolition debris, and stockpiles of soil, aggregates, soil amendments, etc. shall be properly covered, stored, and secured to prevent transport into local drainages by wind, rain, or tracking. The ESCP shall also describe how the applicant will ensure that all BMPs will be maintained during construction of any future public right-of-ways. A copy of the current ESCP shall be kept at the Project Site and be available for County review on request.	Prior to issuance of grading or building permits	County Manager, Permit Services	
COA-6 Prior to issuance of any grading or building permits, the Project Applicant shall submit for review and approval by the Manager, Permit Services, a final WQMP specifically identifying BMPs that will be used on-site to control predictable pollutant runoff. The Project Applicant shall utilize the DAMP, the Model WQMP, and Technical Guidance Manual for reference, and the County's WQMP	Prior to issuance of grading or building permits	County Manager, Permit Services	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<p>template for submittal. This final WQMP shall update the project's CWQMP based on the final design and include the following:</p> <ul style="list-style-type: none"> <li>• Detailed site and project description</li> <li>• Potential storm water pollutants</li> <li>• Post-development drainage characteristics</li> <li>• Low impact development (LID) BMP selection and analysis</li> <li>• Structural and non-structural source control BMPs</li> <li>• Site design and drainage plan (CWQMP BMP Exhibit)</li> <li>• GIS coordinates for all LID and treatment control BMPs</li> <li>• Operation and Maintenance (O&amp;M) Plan that: (1) describes the long-term operation and maintenance requirements for BMPs identified in the BMP Exhibit; (2) identifies the entity that will be responsible for long-term operation and maintenance of the referenced BMPs; and (3) describes the mechanism for funding the long-term operation and maintenance of the referenced BMPs</li> </ul> <p>The BMP map exhibit from the approved final WQMP shall be included as a sheet in all plan sets submitted for plan check and all BMPs shall be depicted on these plans. Grading and building plans must be consistent with the approved BMP map exhibit.</p>			
<p>COA-7 Prior to the recordation of any subdivision map, the Project Applicant shall prepare Covenants, Conditions &amp; Restrictions (CC&amp;Rs) for review and acceptance by the Manager of Permit Services for the HOA, including a section for surface water quality protection and the following prohibited activity restrictions:</p> <ul style="list-style-type: none"> <li>• Blowing, sweeping, or hosing of debris (e.g., leaf litter, grass clippings, litter) into storm drain inlets or other conveyances</li> <li>• On-site fueling</li> <li>• Dumping of any toxic substance or liquid waste on the pavement, on the ground, or toward a storm drain</li> <li>• Use of pesticides if rain is expected</li> <li>• Mixing or preparation of pesticides for application near storm drain inlets</li> <li>• Allowing wash water to enter storm drain</li> </ul> <p>The CC&amp;Rs shall require the HOA to maintain the debris basins, detention/debris basin #3 and water quality basins on an annual basis in order to maintain flood protection associated with the design of the Project's drainage system.</p>	Prior to recordation of subdivision map	Manager, Planning, OC Development Services/ County Manager, Permit Services	
<p>COA-8 Prior to issuance of a Certificate of Use and Occupancy, the Project Applicant shall demonstrate compliance with the County's NPDES Implementation Program in a manner meeting the satisfaction of the Manager, OC Inspection:</p>	Prior to issuance of Certificate of Use and Occupancy	Manager, OC Inspection	

Mitigation Measure	Timing	Responsible Agency/Party	Date Completed
<ul style="list-style-type: none"> <li>Demonstrate that all structural best management practices (BMPs) described in the BMP exhibit from the project's approved WQMP have been implemented, constructed and installed in conformance with approved plans and specifications;</li> <li>Demonstrate that the Project Applicant has complied with all non-structural BMPs described in the project's WQMP;</li> <li>Submit for review and approval, an Operations and Maintenance Plan for all structural BMPs (the plan shall become an attachment to the WQMP);</li> <li>Demonstrate that copies of the project's approved WQMP (with attached Operations and Maintenance Plan) are available for each of the initial occupants;</li> <li>Agree to pay for a Special Investigation from the County for a date 12 months after the issuance of a Certificate of Use and Occupancy for the project to verify compliance with the approved WQMP and Operations and Maintenance Plan;</li> <li>Demonstrate that the Project Applicant has recorded one of the following:               <ol style="list-style-type: none"> <li>The CC&amp;Rs (that must include the approved Water Quality Management Plan and Operations and Maintenance Plan) for the project's HOA;</li> <li>A water quality implementation agreement that has the approved Water Quality Management Plan and Operations and Maintenance Plan attached; or</li> <li>The approved final Water Quality Management Plan and Operations and Maintenance Plan</li> </ol> </li> </ul>			
COA-9 Prior to issuance of grading permit, the Project Applicant shall record a grant of easement for on-site public storm water pipes to the Orange County Flood Control District.	Prior to issuance of grading permits	Manager, Permit Services	

**Project Design Features**

Project Design Feature	Timing	Responsible Agency/Party	Date Completed
<b>Aesthetics</b>			
PDF 1 Density – The average density of the project is .73 dwelling units per acre. This is considered a low-density residential project that is consistent with the adjacent neighborhoods in the City, which protects the unique natural and topographic character.	At Vesting Tentative Map approval	Manager, Planning/OC Subdivision Committee	
PDF 2 Building Height – The maximum building height for all residential lots is 2 stories and 35 feet.	Prior to issuance of building permits	Manager, Planning	
PDF 3 Open Space – 62% of the Project Site is natural opens space, fuel modification zone, retention basin, parks, and trails.	At Vesting Tentative Map approval	Manager, Planning	
PDF 4 Color of Homes – In addition to grading concepts, landscaping and color will be utilized to soften the appearance of the homes visible from outside the Proposed Project. Home colors will be selected to be consistent with the surrounding natural landscape and with the color value of the specific hue close to the immediate landscape. Colors on the homes visible from outside Esperanza Hills will be predominantly earth tones, such as browns, ochres, sepias, and grays.	Prior to issuance of building permit	Manager, Planning	
PDF 5 Landscaping – The landscape plan includes native and architecturally thematic plant material used to establish entry monuments, signage, walls, fences, and hardscape elements complementing and evoking the same respect for the surrounding natural environment. All streetscapes, slopes, and neighborhood parks will be harmoniously interwoven with the natural hillside by utilizing trees, naturalized shrubs, and grasses that are drought tolerant and considerate of long-term maintenance needs. Pedestrian connections and residential streets will offer canopy trees and flowering accent trees to provide shade, while open spaces will host informal plant and tree groupings and large evergreen shrubs. Selected plant material will complement the scale of the architecture. View opportunities will be considered from the neighborhoods to the surrounding landscape, enhancing views outside the immediate Project limits wherever possible.	Prior to approval of landscaping plan	Manager, Planning	
PDF 6 Equipment – Air conditioners, heating, cooling, and ventilating equipment, and all other mechanical, lighting, or electrical devices shall be operated to minimize disturbance to adjacent and neighboring occupants, and shall be screened, shielded, and/or sound buffered from surrounding properties and streets. No roof-mounted air conditioning units will be allowed.	Prior to issuance of building permit	Manager, Planning	
PDF 7 Utilities – Above-ground utility boxes, telephone boxes, water lines, backflow preventers, cable boxes, or similar structures within public view shall be screened and painted to blend into surrounding areas. Satellite dishes shall be placed to minimize visual impact and painted to match surrounding areas.	Prior to issuance of building permit	Manager, Planning	



Project Design Feature	Timing	Responsible Agency/Party	Date Completed
PDF 8 Walls and Fencing – Walls that are viewed from the street may be of masonry block construction or vinyl fence material consistent with the architectural style of the home. Homeowner privacy fencing shall not exceed six feet in height. Other privacy fencing shall be made of durable, synthetic material, block, or wrought iron. Wall or fences shall not exceed 42 inches in height in any required front yard setback.	Prior to issuance of building permit	Manager, Planning	
PDF 9 Grading – The Proposed Project shall conform to the Orange County Grading Ordinance.	Prior to issuance of grading permits	Manager, Planning	
PDF 10 Glare – Building structures shall use non-reflective glass.	Prior to issuance of building permit	Manager, Planning	
PDF 11 Homeowners will be required, through the HOA's CC&Rs, to use only hooded and shielded down-lighting for all exterior lights, including landscape lighting.	Prior to issuance of building permit	Manager, Planning	
<b>Biological Resources</b>			
PDF 12 Introduction of Trash and Debris. The project landscape plan shall include trash receptacles placed in appropriate locations to ensure that trash and debris are controlled on-site and pose no risk to native habitats. The Homeowner's Association (HOA) shall be responsible daily to maintain the trash receptacles and remove trash to avoid accumulation.	Prior to approval of landscaping plan	Manager, Planning	
PDF 13 Impacts from Domestic Cats. Included in the HOA CC&Rs, domestic cats shall remain inside a home, or be leashed for walks or visits to the local outside environment. House cats shall not be permitted to range free outside the confines of a home.	Prior to issuance of Certificate of Use and Occupancy	Manager, Planning	
PDF 14 Impacts from Light Pollution 1. Provide homeowner education to limit outdoor lighting by using energy efficient low-voltage systems, photo sensors, solar and light emitting diode. 2. Lighting will be hooded, shielded, and pointed away from the sensitive habitat areas, and ambient light levels will be minimized to the maximum extent practicable.	Prior to issuance of building permits	Manager, Planning	
PDF 15 Short-term construction-related noise impacts will be reduced by the implementation of a number of measures including the following: 1. During all excavation and grading on-site, the construction contractors will equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturers' standards to reduce construction equipment noise to the maximum extent practicable. The construction contractor will place all stationary construction equipment so that emitted noise is directed away from Chino Hills State Park lands and staging areas will not be placed in proximity to sensitive habitats. 2. The construction contractor will stage equipment in areas that will create the greatest distance between construction-related noise sources and noise	Prior to issuance of grading permit	Manager, Planning	

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Project Design Feature	Timing	Responsible Agency/Party	Date Completed
<p>sensitive receptors (the preserved habitat areas) during all project construction.</p> <p>3. All construction work will occur during the daylight hours. Construction shall not take place between the hours of 8:00 p.m. and 7:00 a.m. AM on weekdays, including Saturday, or at any time on Sunday or a federal holiday. All construction operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).</p> <p>4. The construction contractor will limit haul truck deliveries to the same hours specified for construction equipment. To the extent feasible, haul routes will not pass through sensitive habitats and land uses or residential dwellings.</p>			
<p>PDF 16 Minimize Edge Effect. Best management practices will be incorporated into the project to ensure that indirect impacts (i.e., edge effects) are avoided or minimized to the maximum extent possible. Lighting will be shielded and directed away from adjacent natural habitat areas and ambient light levels will be minimized to the maximum extent practicable. Additionally, the project's Water Quality Management Plan and Storm Water Pollution Prevention Plan will ensure that project runoff will not adversely affect the drainage within the jurisdictional drainages. Noise standards will comply with County Codes and will be consistent with General Plan Policies. In addition, fencing will be limited to open fencing that does not exceed 40 inches in height. Vegetation thinning within the fuel modification area will only occur on occasion and during daylight hours.</p>	As applicable prior to issuance of building or grading permit	Manager, Planning	
<p>PDF 17 Fuel Modification Plan. To the extent feasible, native planting species approved for use in fuel modification zones by the Orange County Fire Authority will be used in fuel modification zones adjacent to natural habitat areas. Plants identified by the California Invasive Plant Council as an invasive risk in Southern California will be excluded from all landscaping.</p>	Prior to approval of fuel modification plan	OCFA Manager, Planning	
<b>Hazards and Hazardous Materials</b>			
<p>PDF 18 The Proposed Project includes that the Esperanza Hills HOA will provide a list of approved and prohibited plant pallet to all buyers in a Private Property Owners' Guide for Fire Safe Vegetation Management on private lots. The HOA will be responsible for enforcement.</p>	Prior to approval of landscaping plan	OCFA Manager, Planning	
<p>PDF 19 The Proposed Project includes a Precise Fuel Modification Plan that has been developed to provide a landscape transition area along the interface between residential development and adjacent open space to provide wildfire protection. The OCFA will require separate review of Estate Lot 1 with regard to fuel modification/fire protection requirements.</p>	Prior to approval of fuel modification plan	OCFA Manager, Planning	

Project Design Feature	Timing	Responsible Agency/Party	Date Completed
PDF 20 The Proposed Project includes that all new power lines will be underground, for fire safety during high wind conditions or during fires on a right of way which can expose above-ground power lines.	Prior to approval of Tentative Tract Map	Manager, Planning	
PDF 21 The Proposed Project includes that fuel management activities will be completed annually by June 1 and more often as needed for fire safety, as determined by the OCFA.	Prior to approval of fuel modification plan	OCFA	
PDF 22 The Proposed Project includes that all structures will be in strict, ongoing compliance with all County and other applied Fire and Building Code requirements.	Prior to issuance of building permit	OCFA/Manager, Planning	
PDF 23 The Proposed Project includes that the HOA will maintain FMZs annually by June 1 and more often as needed for fire safety as determined by the OCFA.	Prior to approval of fuel modification plan	OCFA	
PDF 24 The Proposed Project includes that the HOA will implement emergency evacuation routes in accordance with the approved Community Evacuation Plan. The Community Evacuation Plan will be reviewed by OCFA and OCSD before any changes are made. The Community Evacuation Plan includes a provision for annual review by residents through organized meetings and education outreach by the HOA.	Prior to issuance of first Certificate of Use and Occupancy	OCFA/OCSD/Manager, Planning	
PDF 25 The Proposed Project includes that automatic fire sprinkler systems will be installed for all homes, including in all attic spaces.	Prior to issuance of building permits	OCFA/Manager, Planning	
PDF 26 The Proposed Project includes a Fire Master Plan that has been reviewed by the OCFA providing enhanced construction features in certain areas adjacent to FMZs. These include enhanced fire sprinkler systems and construction features per California Building Code Chapter 7A.	Prior to issuance of grading permits	OCFA/Manager, Planning	
PDF 27 The Proposed Project includes earthquake preparedness and wildfire education materials will be distributed annually to each resident and annual evacuation planning meeting will be held by the HOA.	Prior to issuance of building permits	OCFA/OCSD/Manager, Planning	
PDF 28 The Proposed Project includes that all site access, emergency access, road widths and turn outs will comply with the requirements of the OCFA and the approved Fire Master Plan.	Prior to approval of Tentative Tract Map	OCFA	
PDF 29 The Proposed Project will include access gates that will comply with the Fire Code. Public roads will not be gated, per the Fire Code. Any gates on any private roads or on private driveways will be as follows, complying with the OCFA standards for electric gates. <ul style="list-style-type: none"> <li>Access gates will be equipped with a KNOX key switch, which overrides all command functions and opens the gate for entrance of emergency vehicles into the area. Gates serving more than 1 parcel will be equipped with sensors for detecting emergency vehicle "Opticom" strobe lights from any direction of approach. Strobe detection and key switches will be provided on the interior and exterior of gates.</li> </ul>	Prior to approval of Tentative Tract Map	OCFA/Manager, Planning	

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Project Design Feature	Timing	Responsible Agency/Party	Date Completed
<ul style="list-style-type: none"> <li>Switches will be dual keyed, or two switches provided, for Fire and Law Enforcement.</li> <li>Gate activation devices will be equipped with a battery backup or manual mechanical disconnect in case of power failure.</li> </ul>			
<b>Hydrology and Air Quality</b>			
<b>PDF 30</b> The project has been designed to treat development flows (runoff) with a dry extended detention water quality basin, while implementing the following low impact development techniques: <ul style="list-style-type: none"> <li>Conservation of natural areas, including existing trees, other vegetation and soils</li> <li>Keeping streets at minimum standard widths</li> <li>Minimizing the impervious footprint of the project</li> <li>Minimizing disturbances to natural drainages</li> </ul>	Prior to issuance of grading permits	Manager, Permit Services	
<b>PDF 31</b> The project will be designed to include the following best management practices to promote infiltration and slow down surface flows: <ul style="list-style-type: none"> <li>Impervious area dispersion</li> <li>Native drought-tolerant landscaping/efficient irrigation</li> </ul>	Prior to issuance of grading permits	Manager, Permit Services	

The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on March 10, 2015, to wit:


AYES:	Supervisors:	LISA A. BARTLETT, ANDREW DO, MICHELLE STEEL SHAWN NELSON, TODD SPITZER
NOES:	Supervisor(s):	
EXCUSED:	Supervisor(s):	
ABSTAINED:	Supervisor(s):	

  
\_\_\_\_\_  
CHAIRMAN

STATE OF CALIFORNIA    )  
                                      )  
COUNTY OF ORANGE    )

**I, ROBIN STIELER, Interim Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chairman of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors .**

**IN WITNESS WHEREOF, I have hereto set my hand and seal.**

  
\_\_\_\_\_  
ROBIN STIELER  
Interim Clerk of the Board  
County of Orange, State of California



Resolution No:   15-018  
Agenda Date:     03/10/2015  
Item No:         29



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors , Orange County, State of California

Robin Stieler, Interim Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

RESOLUTION NO. 16-13  
RESOLUTION OF THE SUBDIVISION COMMITTEE  
OF  
ORANGE COUNTY, CALIFORNIA  
RECOMMENDING BOARD OF SUPERVISORS APPROVAL  
OF VESTING TENTATIVE TRACT MAP 17522

November 16, 2016

On Motion of Committee member \_\_\_\_\_, duly seconded and carried, the following Resolution was adopted:

WHEREAS, Yorba Linda Estates, LLC, OC 33, LLC and the Nicholas/Long Family Trusts (collectively "Applicant") have submitted Vesting Tentative Tract Map (VTTM) 17522, requesting review and approval of the map; and

WHEREAS, VTTM 17522, if approved, would allow the creation of 340 single family lots, 5 lots for utility or community uses, and various lettered lots for private streets, open space, park and landscaped slope lots; and,

WHEREAS, the map proposes to establish the public access to the project via a private roadway from Stonehaven Drive and an emergency-only access drive to Via Del Agua; and,

WHEREAS, Section 13.3 of the Esperanza Hills Specific Plan requires that a tentative map that establishes the public access roadway configuration to the project requires Subdivision Committee review and subsequent Board of Supervisors review and action; and,

WHEREAS Section 13.3 of the Esperanza Hills Specific Plan requires the Subdivision Committee to review the map and make a written report to the Board of Supervisors containing its recommendations concerning findings, including those outlined in Orange County Subdivision Code section 7-9-255 and 7-9-256 and those contained in Section 13.3 of the Specific Plan, and for approval, conditional approval, or disapproval of the map; and,

WHEREAS, on October 26, 2016, the Orange County Planning Commission recommended that the Board of Supervisors certify Revised Final Environmental Impact Report No. 616 (Revised Final EIR No. 616), a General Plan Amendment a Zone Change and adoption of the Esperanza Hills Specific Plan; and,

WHEREAS, the Subdivision Committee has reviewed and fully considered the Planning Commission's actions and recommendations regarding the Esperanza Hills

applications, and pursuant to the Orange County Subdivision Code, Orange County Codified Ordinances (OCCO) Subarticle 5 (Processing Procedures for Tentative Maps) and California Government Code Section 65000, *et seq.*, the Subdivision Committee has considered the map at a public meeting; and,

WHEREAS, the Subdivision Committee has reviewed and fully considered Revised Final EIR No.616, the General Plan Amendment, the Zone Change and the Specific Plan and has heard and considered the public comments that were presented to it on this Project and has determined after review and consideration to recommend approval of (VTTM) 17522; and,

WHEREAS, this Resolution serves as the written report required by Section 13.3 of the Esperanza Hills Specific Plan and contains the Subdivision Committee's recommendations regarding findings and conditional approval of VTTM 17522.

NOW, THEREFORE, BE IT RESOLVED THAT this Subdivision Committee hereby recommends approval of VTTM 17522 based on the following findings and conditions of approval:

Subdivision Code Section 7-9-255 Findings:

1. GENERAL PLAN - That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.
2. DESIGN & IMPROVEMENT - That the design and improvement of the proposed subdivision are consistent with the Orange County General Plan.
3. GENERAL PLAN CONSISTENCY - That the proposed map is consistent with the Orange County General Plan.
4. PROJECT LEVEL EIR - That Revised Final EIR No. 661 satisfies the requirements of CEQA for VTTM 17522, which is a necessarily included element contemplated as part of the whole of the action.
5. DEVELOPMENT TYPE - That the proposed site is physically suitable for the proposed type of development.
6. DEVELOPMENT DENSITY - That the proposed site is physically suitable for the proposed density of development.

7. NCCP NOT SIGNIFICANT - That the proposed project will not have a significant unmitigated impact upon Coastal Sage Scrub habitat and therefore, will not preclude the ability to prepare an effective subregional Natural Communities Conservation Planning (NCCP) Program.
8. PUBLIC HEALTH - That the design of the subdivision and the type of improvements proposed are not likely to cause serious public health problems.
9. PUBLIC EASEMENTS - That the design of the subdivision and the type of improvements proposed will not conflict with easements of record or established by court judgment acquired by the public-at-large for access through or use of property within the proposed subdivision.
10. DESIGN COMPLIANCE - That the design and improvement of the proposed subdivision is suitable for the uses proposed, and the subdivision can be developed in compliance with applicable zoning regulations pursuant to Section 7-9-254 of the Subdivision Code.
11. COMPATIBILITY - That the use, activity or improvement(s) proposed, subject to the specified conditions and adopted Mitigation Monitoring and Reporting Program (MMRP) is consistent with the provisions of the Zoning Code and the Esperanza Hills Specific Plan regulations applicable to the property.
12. PUBLIC FACILITIES - That the approval of the map is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).
13. SUBDIVISION AND ZONING CODE COMPLIANCE - That the proposed subdivision complies with the requirements set forth in the Orange County Subdivision Code and the Orange County Zoning Code.
14. SPECIFIC PLAN CONSISTENCY - That the proposed subdivision, together with the provisions for its design and improvement, is consistent with the Esperanza Hills Specific Plan.
15. SEWER SYSTEM - That the discharge of waste from the proposed subdivision into the existing sewer system of the Yorba Linda Water District will not result in violations of existing requirements prescribed by the California Regional Water Quality Control Board, Santa Ana Region.



16. DEVIATION FROM STANDARD DESIGN - That the Subdivision Committee has individually considered the requested three deviations from County standards of design and that based upon special circumstances in this situation, specifically the site topography, the proposed private street system and the desired avoidance of excessive retaining walls finds that the deviations are acceptable.

Esperanza Hills Specific Plan Findings:

1. THAT PERMISSION TO GAIN ACCESS ACROSS LAND AREA NOT OWNED BY THE PROJECT APPLICANT HAS BEEN SECURED OR IT IS REASONABLY ASSURED THAT ACCESS RIGHTS WILL BE SECURED. The applicant has presented evidence that all legal entitlements for the proposed access to public roads are in place and are based on two easements documents. The first, for the proposed main access road to Stonehaven Drive, was granted to David H. Murdock, the predecessor in interest to the Esperanza Hills property, as a perpetual easement for non-exclusive use of any roads or roadways now or hereafter located on or within the adjacent Ahmansen Development, Inc. (ADI) property (Tract 12850) for ingress and egress from all or any portion of the Esperanza Hills property. The easement for the proposed emergency access-only road (and utility corridor), lies within a fifty foot wide easement for roadway and utility purposes granted by virtue of the Carrillo Partition Judgement action by the Orange County Superior Court in 1958. The existence of the easement was confirmed by an Orange County Superior Court judgement in October 2014, again confirmed on appeal by the California Court of Appeals in December 2015, and is now final. Copies of these documents were provided to the Subdivision Committee with the project staff report.

2. THAT PERMISSION TO ALLOW FOR OFF-SITE GRADING HAS BEEN SECURED OR IT IS REASONABLY ASSURED THAT PERMISSION WILL BE SECURED. All grading necessary for the full access off-site road connection is allowed by the ADI easement across Tract 12850 noted in Finding 1 above. All grading necessary for the full access off-site road connection is allowed by the ADI easement across Tract 12850 noted in Finding 1 above. The easement confirmed by the Court allows for the easement to be used for road and utility purposes across the Richards Trust property, which is part of the Cielo Vista project, and then south to Stonehaven. Cielo Vista challenged the scope of the easement in the prior litigation, but the Court determined that any such challenges were pre-mature until the respective projects were entitled, and this decision was upheld on appeal. Permission for off-site grading in the northwest area of the project site has been secured by a Borrow and Fill Agreement from Bridal Hills Estates LLC in May 2008. A copy of this agreement was provided to the Committee with the project staff report.

3. A FINDING OF CONSISTENCY WITH REVISED FINAL ENVIRONMENTAL IMPACT REPORT NO. 616. The Subdivision Committee has considered Revised Final EIR 616, the Specific Plan's Modified Access and the California Environmental Quality Act Substantial Conformance Review memorandum and finds VTTM 17522 to be consistent with those documents.

4. A FINDING OF CONSISTENCY WITH REVISED FINAL ENVIRONMENTAL IMPACT REPORT NO. 616 MITIGATION MONITORING AND REPORTING PROGRAM. The Subdivision Committee has considered Revised Final EIR 616 Mitigation Monitoring and Reporting Program and finds VTTM 17522 to be consistent with that document.

5. FINDINGS OF CONSISTENCY WITH THE SPECIFIC PLAN, THE ORANGE COUNTY ZONING CODE, THE ORANGE COUNTY SUBDIVISIONS CODE, AND APPLICABLE LAWS AND REGULATIONS. The Subdivision Committee has considered the Esperanza Hills Specific Plan (as recommended for approval by the Planning Commission on November 9, 2016), Zoning Code, Subdivision Code and other applicable laws and regulations and finds VTTM 17522 to be consistent with those regulations.

Recommended Conditions of Approval for VTTM 17522:

1. BASIC/ZONING REGULATIONS - This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Subdivision and Zoning Codes and any other applicable zoning regulations, as amended. Approval does not include any action or finding as to compliance of approval of the project regarding any other ordinance, regulation or requirement.

2. BASIC/TIME LIMIT - This approval is valid for a period of 36 months from the date of final determination, unless an extension is otherwise allowable by State law. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

3. BASIC/COMPLIANCE - Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Subdivision Committee.

4. INDEMNIFICATION - Applicant shall defend with counsel approved by the County of Orange in writing, indemnify and hold harmless the County of Orange, its

officers, agents and employees from any claim, action or proceeding against the County, its officers, agents or employees to attack, set aside, void, or annul any approval of the application or related decision, or the adoption of any environmental documents, findings or other environmental determination, by the County of Orange, its Board of Supervisors, Planning Commission, Subdivision Committee, Zoning Administrator, Director of OC Public Works, or Director of Planning concerning this application. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition. Applicant shall reimburse the County for any court costs and attorney's fees that the County may be required to pay as a result of such action or the County's participation in such defense. The County shall promptly notify the applicant of any such claim, action or proceeding.

5. BASIC APPEAL/EXACTIONS - Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90 -day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.

6. MAP NOTES - Prior to recordation of any subdivision map (except maps for financing and conveyance purposes only), the following notes shall be placed on the map in a manner meeting the approval of the Manager, OC Planning:

- A. The subdivider/property owner is advised that the Mitigation Measures, Project Design Features and Conditions of Approval of Revised FEIR 616 Mitigation Monitoring and Reporting Program (MMRP) shall be satisfied.
- B. The property lies within a Fire Hazard Severity Zones within State Responsibility Areas (SRA) and within a Very High Fire Hazard Severity Zones within the Local Responsibility Areas (LRA), and advising that all structures will be required to demonstrate compliance with all requirements of Chapter 47 and Chapter 7A or shall have and approved Fire Protection Plan which provides protection equivalent to the risk for the site and structure.
- C. The property lies within a Major Thoroughfare and Bridge Fee Program, specifically the Foothill/Eastern Transportation Corridor and applicable fees pursuant to this program will be assessed at the issuance of building permits.
- D. The private streets constructed within this map shall be owned, operated and maintained by the developer, successors or assigns. The County of Orange shall have no responsibility therefore unless pursuant to appropriate sections of the Streets and Highways Code of the State of California the said private streets have been accepted into the County Road System by appropriate resolution of the Orange County Board of Supervisors.

7. REQUEST FOR DEVIATIONS - Prior to the recordation of a subdivision map, the subdivider shall place a note on the map, in a manner that meets the approval of the Manager, Permit Services that states the following:

- (1) A deviation from Orange County Highway Design Manual, Section 204.3 to allow grades on streets with residential driveway access to be greater than 10% but equal to or less than 12% grades for the following street:
  - a. "A" Street – adjacent to Lots 36 to 38
- (2) A deviation from Orange County Highway Design Manual, Section 204.3 to allow grades on streets without residential driveway access to be greater than 10% but equal to or less than 12% grades for the following streets:
  - a. "X" Street
- (3) A deviation from Orange County Highway Design Manual, Section 203.2(2) to allow a centerline of less than 550' for the following street:
  - a. Esperanza Hills Parkway – 230' radius

8. PRIVATE LOCAL PARK –

A. Prior to the recordation of an applicable subdivision map, the subdivider shall make an irrevocable offer to dedicate an easement over Lot(s) E, H, K, N, MM, NN, TT, VV, and NNN or any other proposed park lot for private local park purposes to the County of Orange in a form approved by the Manager, OC Planning. The subdivider shall not grant any other easement over the private park easement which is inconsistent with the local park uses, unless that easement is made subordinate to said local park easement in a manner meeting the approval of the Manager, OC Planning.

B. Prior to the recordation of the first final subdivision map, the subdivider shall submit a Local Parks Implementation Plan (LPIP) for review and approval by the Subdivision Committee. The LPIP shall address estimated creditable park land, conceptual improvements and park phasing commensurate with housing occupancies.

Note: The irrevocable offer of dedication (IOD) may be satisfied per the appropriate designation (notes and delineation) on the subject final subdivision map.

9. REGIONAL DRAINAGE STUDIES - Prior to the recordation of a subdivision map (except maps for financing and conveyance purposes only) or prior to the issuance of any grading permits, whichever comes first, a final drainage report shall be submitted to and approved by the County Manager, Permit Services. The final drainage report shall address Condition of Approval COA-1 as contained within the MMRP and include detailed engineering analyses/calculations demonstrating:

- 1) Proposed mitigation basins shall, to extent feasible, reduce post-development runoff to pre-development levels, and
- 2) Post development impacts to downstream Esperanza Channel (OCFCD Facility No. E06) are mitigated to a level of insignificance.

Engineering analyses/calculations shall conform to the criteria and standards set forth in the 1986 Orange County Hydrology Manual and its Addendum No. 1, Orange County Flood Control Design Manual, Orange County Local Drainage Manual, and other appropriate County of Orange criteria.

10. EASEMENT SUBORDINATION - Prior to the recordation of a subdivision map (except maps for financing and conveyance purposes only), the applicant shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer to the County of Orange or the Orange County Flood Control District, unless such easements are expressly made subordinate to the easements to be offered for dedication to the County. Prior to granting any of said easements, the subdivider shall furnish a copy of the proposed easement to the Manager, Permit Services, for review and approval. Further, a copy of the approved easement shall be furnished to the Manager, Permit Services, prior to the final inspection approval.

The foregoing resolution was carried by the following vote:

Ayes:

Noes:

Absent:

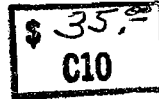
I HEREBY CERTIFY that the foregoing Resolution No. 16-01 was adopted on November 2, 2016 by the Orange County Subdivision Committee.

---

By: Colby Cataldi, Chairman

ORANGE COUNTY SUBDIVISION COMMITTEE

WHEN RECORDED RETURN TO:  
Murdock Development Company  
Attention: Ms. Lilymae Penton  
10900 Wilshire Boulevard  
Suite 1600  
Los Angeles, California 90024



RECORDED IN OFFICIAL RECORDS  
OF ORANGE COUNTY, CALIFORNIA

1:00 DEC 12 1988  
PM

AGREEMENT

*Lee A. Branch* RECORDER

THIS AGREEMENT ("Agreement" is made as of the 24th day of August, 1987 between DAVID H. MURDOCK, doing business as Murdock Investment Company (herein "DHM"), and AHMANSON DEVELOPMENTS, INC., a California corporation (herein "ADI").

ARTICLE I  
Recitals

1.1 ADI and M.J. BROCK & SONS, INC., a Delaware corporation, are the owners of fee estates in that certain real property described on Exhibit "A" attached hereto and incorporated herein by reference (herein the "ADI Property").

1.2 DHM is the owner of the fee estate in that certain real property described on Exhibit "B" attached hereto and incorporated herein by reference (herein the "DHM Property"). The southerly boundary of the DHM Property is contiguous to the northerly boundary of the ADI Property.

1.3 That portion of the DHM Property which is the southerly one hundred feet (100') thereof and more particularly described on Exhibit "C" attached hereto and incorporated herein by reference (herein the "MWD Easement Area") is subject to the rights of METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, a public corporation of the State of California (herein "MWD"), as granted by those certain instruments recorded in Book 4170, Page 220 and in Book 5049, Page 309 in the office of the County Recorder of Orange County, California, and any supplements thereto (herein the "MWD Easement"). The southerly boundary of the MWD Easement Area is contiguous to the northerly boundary of the ADI Property.

1.4 In order to facilitate the development and/or subdivision of all or any portion of the ADI Property, ADI desires DHM to grant to ADI certain temporary, non-exclusive rights affecting portions of the MWD Easement Area and to grant to YORBA LINDA MUNICIPAL WATER DISTRICT, a municipal corporation (herein "YLWD"), certain perpetual, non-exclusive rights affecting that portion of the MWD Easement Area more particularly described on Exhibit "D" attached hereto and incorporated herein by reference (herein the "YLWD Easement Area").

## ATTACHMENT 4a

1.5 As part of the consideration to induce DHM to enter into this Agreement, ADI has agreed to grant to DHM certain non-exclusive rights affecting portions of the ADI Property.

ARTICLE II  
Easement Burdening ADI Property

2.1 ADI for itself and its successors and assigns in interest to the ADI Property hereby grants to DHM and his successors and assigns (for the benefit of the DHM Property) a perpetual (subject to termination as provided in clause (v) of Section 2.2 below) easement for non-exclusive use of any roads or roadways now or hereafter located on or within the ADI Property for ingress to and egress from all or any portion of the DHM Property.

2.2 DHM for himself and his successors and assigns in interest hereby covenants with ADI and its successors and assigns in interest that (i) the owner(s) of the ADI Property shall have the right to close off or relocate any present or future private roadways on the ADI Property provided such closure or relocation does not unreasonably diminish freedom of transit to and from all or any portion of the DHM Property from such transit available immediately prior to such closure or relocation; (ii) the exercise of the rights herein granted shall be in compliance with reasonable security precautions in effect from time to time in the event development of the ADI Property may involve security entry gates or similar security measures; (iii) vehicles operated in the exercise of the rights herein granted shall be subject to the maximum load limits imposed on all other users of such roads and roadways; (iv) the owner(s) of the ADI Property shall have no liability to any party exercising the rights herein granted for any loss, cost, injury or damage to persons or property arising from the exercise of such rights; and (v) ADI shall have the right to dedicate all or any of said roads to governmental authority for use as public streets and upon such dedication and acceptance of said streets by governmental authority the easement granted hereby as to such public streets shall be extinguished and terminated without any further action by DHM.

ARTICLE III  
ADI's Temporary Right of Entry

3.1 Subject to all prior and paramount rights of MWD pursuant to the MWD Easement and further subject to faithful compliance with all covenants of ADI set forth in this instrument, DHM hereby grants to ADI permission to enter upon and use certain portions of the DHM Property for the following purposes:

A. To utilize such portions of the MWD Easement Area as may be reasonably necessary to grade the YLWD Easement Area and to construct within the YLWD Easement Area an

## ATTACHMENT 4a

underground twelve inch (12") diameter water main system intended for operation by YLWD and to pave an already existing twenty foot (20') wide road located wholly within the MWD Easement Area (the "Access Road"), all such grading and construction to be in strict accord with final plans and specifications therefor approved or subject to approval in advance by YLWD, MWD and DHM.

B. To utilize such portions of the MWD Easement Area as may be reasonably necessary to perform grading operations on the ADI Property required for the development thereof and as will not interfere with MWD's rights or operations pursuant to the MWD Easement.

C. To grade and/or fill such portions of the MWD Easement Area as may be reasonably necessary to accommodate development of the ADI Property in a manner which will not adversely affect slope, natural drainage and/or soil stability of the MWD Easement Area and the DHM Property.

D. To grade and/or fill such portions of the DHM Property lying northerly of the MWD Easement Area as DHM may reasonably require in order that development of the ADI Property will not adversely affect slope, natural drainage and/or soil stability of the DHM Property.

At DHM's option and upon notice to ADI, the permission herein granted shall be suspended from the time of any default in performance of ADI's covenants until such default is cured. The permission herein granted shall terminate upon completion of construction and grading and/or fill as applicable and in any event shall terminate absolutely on August 23, 1988. At ADI's option, the permission herein granted may be exercised by ADI, its affiliates, agents and/or contractors. Such of ADI's covenants and obligations hereunder as ADI causes to be satisfactorily performed by its affiliates, agents and/or contractors, DHM agrees to accept as if performed by ADI.

3.2 ADI covenants and agrees that:

A. Any grading or fill operation on the ADI Property will include appropriate treatment and/or capping of any abandoned wells or drillsites thereon in such manner as will prevent DHM and his affiliates, as the present or former holder of oil and other mineral rights on the ADI Property, from incurring any liability related thereto. Any grading or fill operation on the northerly one hundred feet (100') of the ADI Property in connection with the development thereof will not adversely affect the slope, natural drainage and/or soil stability of said portion of the ADI Property and the DHM Property and prior to commencing any such operation within one hundred feet (100') of the DHM Property it shall furnish plans therefor to DHM for review and approval, not to be unreasonably or unduly withheld or delayed;



## ATTACHMENT 4a

and, in addition and at its sole cost and expense, ADI will grade and fill such portions of the DHM Property as may be reasonably necessary to avoid any such adverse affect resulting by reason of development of the ADI Property and ADI's operations on the MWD Easement Area.

B. Any grading or fill operation on the DHM Property in connection with the development of the ADI Property will not adversely affect the slope, natural drainage and/or soil stability of the DHM Property.

C. It will not commence nor permit the commencement of any operation on the DHM Property without first submitting plans and specifications therefor to DHM for review and approval, not to be unreasonably or unduly withheld or delayed.

D. It will not commence nor permit the commencement of any operation on the MWD Easement Area without first submitting plans and specifications therefor to MWD for review and approval, and it will schedule and coordinate with MWD any such operations on the MWD Easement Area so as not to interfere with MWD's rights pursuant to the MWD Easement. It will not cause or permit any act or failure to act which may endanger or damage any of MWD's facilities within the MWD Easement Area including, without limitation, the underground eight foot (8') diameter water line.

E. At no cost to DHM it will cause the YLWD Easement Area to be surveyed and staked including its location with respect to the MWD Easement Area and will furnish such survey to DHM. Such survey and staking or updated revisions thereof shall include the as-built locations of the water main system and Access Road.

F. In connection with the development of the ADI Property, any operation by ADI on the DHM Property will be conducted so as to protect any livestock grazing on the DHM Property including installation by ADI at its cost of appropriate fencing, gates and/or cattleguards as may be reasonably necessary to retain such livestock within the DHM Property and not endangered by any excavation, grading or construction activities by ADI. To the extent requested by DHM, at its cost ADI will remove any such new fencing, gates and/or cattleguards and will replace in a satisfactory manner any existing fencing, gates or cattleguards which may be removed in order to accommodate ADI's operations.

G. All operations and construction on the DHM Property related to the development of the ADI Property will be promptly completed in accordance with all plans and specifications therefor and with all applicable regulations of governmental agencies and free and clear of any liens or claims, and construction of the water main system within the YLWD Ease-

ment Area and paving of the Access Road will be completed in compliance with requirements of YLWD.

H. It will maintain or cause to be maintained in full force and effect through insurer(s) reasonably satisfactory to DHM a noncontributing comprehensive general liability insurance policy or policies in the amount of Five Million Dollars (\$5,000,000.00) with ADI and DHM as named insureds with respect to the DHM Property, any such policy to be in form satisfactory to DHM. No less than ten (10) days prior to the commencement by ADI of any operation or construction on the DHM Property, ADI will furnish to DHM a certificate of insurance evidencing such policy which certificate shall provide that the insurance coverage represented by the certificate is noncancelable unless the insurer (i) gives DHM thirty (30) days advance written notice of such cancellation; and (ii) provides DHM with the right to cure any default of ADI causing or resulting in the cancellation of the coverage. ADI shall promptly reimburse DHM for any cost or expense incurred by DHM in curing any such default of ADI. In addition, ADI will maintain or cause to be maintained in full force and effect worker's compensation insurance as required by California law.

I. In the event the water main system to be constructed within the YLWD Easement Area may be utilized for the benefit of the DHM Property, ADI waives any right to payment or reimbursement for any portion of the cost of installation of such system.

J. It will indemnify, hold harmless and defend DHM and his successors and assigns against any and all liability, loss, cost or expense arising out of the exercise of any rights granted to ADI pursuant to this instrument and any act or failure to act on the part of ADI pursuant to this Section 3.2. Without limiting the aforesaid, it will pay or reimburse all reasonable attorneys' fees and costs incurred in the preparation of this instrument and any supplements hereto, including preparation of any easements granted pursuant to Article IV below.

As used in this Section 3.2, the phrase "adversely affect the slope, natural drainage and/or soil stability" includes but is not limited to cuts or fill which result in the threat or occurrence of landslides and/or mudslides and conditions which may permit or cause undue soil erosion.

3.3 ADI represents and warrants to DHM that ADI has posted all required performance bonds with all appropriate governmental authorities guaranteeing the satisfactory completion by ADI of all construction and operations on the ADI Property and the DHM Property contemplated by this Agreement in accordance with all plans and specifications therefor. ADI further represents and warrants that such bonds shall be kept in force until

the contemplated construction and operations are complete.

ARTICLE IV  
Proposed Easements Burdening DHM Property

DHM agrees that, if requested by ADI, the following perpetual, non-exclusive easements will be granted with respect to the YLWD Easement Area and the Access Road in form reasonably satisfactory to DHM:

A. To YLWD for the YLWD Easement Area for the water main system to be installed by ADI. The delivery of such easement to YLWD shall be contingent upon the receipt by DHM of a written agreement properly executed by YLWD, in form and effect reasonably satisfactory to DHM, pursuant to which YLWD covenants and agrees that:

(i) Upon compliance with usual and standard requirements of YLWD, DHM for the benefit of the DHM Property shall have the right from time to time to connect with or tap the water main system for metered water to supply that portion of the DHM Property which is at an elevation of between six hundred eighty feet (680') and nine hundred feet (900') above sea level; and

(ii) YLWD will indemnify, hold harmless and defend DHM and his successors and assigns against any and all liability, loss, cost or expense arising out of the use, operation, maintenance, inspection, repair, relocation, reconstruction, replacement or removal by YLWD of the water main system to be installed by ADI.

B. To YLWD for non-exclusive use of the Access Road.

C. To the City of Yorba Linda, California for non-exclusive use of the Access Road.

D. To the Orange County, California Fire Department for non-exclusive use of the Access Road.

Prior to granting any of the easements relating to the use of the Access Road described in Paragraphs B, C and/or D above, ADI will provide to DHM a legal description of the Access Road reasonably satisfactory to DHM.

Any such easement shall in all respects be subject and subordinate to the prior and paramount rights of MWD pursuant to the MWD Easement. All terms and conditions of any such easement shall be subject to the approval of DHM which shall not be unreasonably withheld or delayed.

ARTICLE V  
Miscellaneous

5.1 Any notices required or desired to be given pursuant to this Agreement shall be in writing and be deemed given upon receipt if personally delivered (including delivery by a recognized courier service such as Federal Express) or three (3) business days after deposit in the United States mail if sent by registered or certified mail with return receipt requested, addressed as follows:

For DHM if  
addressed to: Murdock Investment Company  
10900 Wilshire Boulevard  
Suite 1600  
Los Angeles, California 90024  
  
Attention: James F. Tatom  
  
with a copy to: De Castro, West, Chodorow  
& Burns, Inc.  
10960 Wilshire Boulevard  
Suite 1800  
Los Angeles, California 90024  
  
Attention: Saul L. Lessler, Esq.  
  
For ADI if  
addressed to: Ahmanson Developments, Inc.  
1123 South Parkview Drive  
Suite 360  
Covina, California 91724  
  
with a copy to: Hamilton & Samuels  
4000 MacArthur Boulevard  
Suite 5700  
Newport Beach, California 92660  
  
Attention: Herbert N. Samuels, Esq.

Either party may change its address for purposes of this section by giving the other party written notice of the new address in the manner set forth above.

5.2 This Agreement shall be governed by and construed

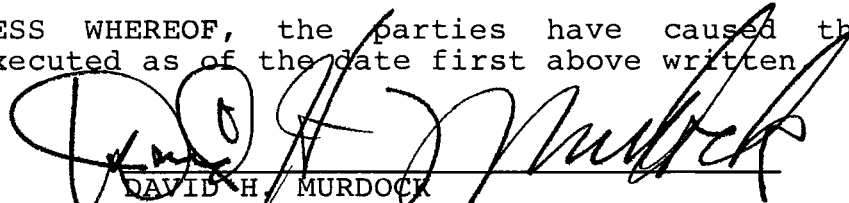
in accordance with the laws of the State of California.

5.3 This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted heirs, representatives, successors and assigns.

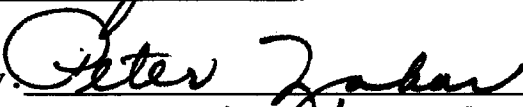
5.4 If either party brings any action for any damages or other relief against the other or for the declaration of any matter relating to this Agreement, the losing party shall pay to the prevailing reasonable attorneys' fees.

5.5 This Agreement may not be modified or changed except by written instrument signed by the parties.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed as of the date first above written

  
 DAVID H. MURDOCK  
 dba Murdock Investment Company

ARMANSON DEVELOPMENTS, INC., a  
*California* corporation

By:   
 Assistant VP

11-040DK201-131aSLL/DCR02010176/082587

## ATTACHMENT 4a

M.J. BROCK & SONS, INC., a Delaware corporation, for itself and its successors and assigns in interest, as the owner of a portion of the ADI Property as described in the foregoing agreement ("Agreement") hereby joins in the execution of the Agreement for the purpose of joining Ahmanson Developments, Inc., in granting to David H. Murdock, doing business as Murdock Investment Company, and his successors and assigns the easement burdening the ADI Property as provided for in the Agreement and pursuant to all of the terms and conditions relating to such grant as contained in the Agreement.

M.J. BROCK & SONS, INC.,  
a Delaware corporation

By: 

Date: 11-19-17

STATE OF CALIFORNIA )  
 ) ss.  
 COUNTY OF LOS ANGELES )

On this 29th day of September, 1987, before me, the undersigned, a Notary Public in and for said County and State, personally appeared DAVID H. MURDOCK, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within Instrument, and acknowledged that he executed the same.

WITNESS my hand and official seal.



Cheryl L. Smith  
 Notary Public in and for said  
 County and State

STATE OF CALIFORNIA )  
 )  
 COUNTY OF ORANGE )

On this 5TH day of NOVEMBER, 1987, before me, the undersigned, a Notary Public in and for said County and State, personally appeared PETER ZAKAR, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within Instrument as ASSIST VICE PRESIDENT on behalf of AHMANSON DEVELOPMENTS, INC., a CALIFORNIA corporation, the corporation therein named, and acknowledged to me that the corporation executed the same.

WITNESS my hand and official seal.

Kathy M. Crisp  
 Notary Public in and for said  
 County and State



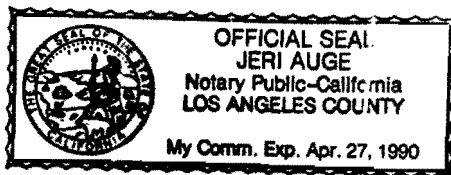
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STATE OF CALIFORNIA       )  
                                       )  
 COUNTY OF Los Angeles    )

On this 19<sup>th</sup> day of NOVEMBER, 1987, before me, the undersigned, a Notary Public in and for said County and State, personally appeared R. LAWRENCE OLIN, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as SENIOR VICE PRESIDENT on behalf of M.J. BROCK & SONS, INC., a Delaware corporation, the corporation therein named, and acknowledged to me that the corporation executed the same.

WITNESS my hand and official seal.

  
 Notary Public in and for said  
 County and State





## LEGAL DESCRIPTION

ALL OF TRACT NO. 12020, AS PER MAP RECORDED IN BOOK 538, PAGES 42 THROUGH 48 INCLUSIVE OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF ORANGE, STATE OF CALIFORNIA.

ALL OF TRACT NO. 12848, AS PER MAP RECORDED IN BOOK 579, PAGES 28 THROUGH 30 INCLUSIVE OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF ORANGE, STATE OF CALIFORNIA.

ALL OF TRACT NO. 12849, AS PER MAP RECORDED IN BOOK 579, PAGES 31 THROUGH 35 INCLUSIVE OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF ORANGE, STATE OF CALIFORNIA.

ALL OF TRACT NO. 12856, AS PER MAP RECORDED IN BOOK 578, PAGES 29 THROUGH 32 INCLUSIVE OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF ORANGE, STATE OF CALIFORNIA.

ALL OF TRACT NO. 12857, AS PER MAP RECORDED IN BOOK 579, PAGES 36 THROUGH 37 INCLUSIVE OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF ORANGE, STATE OF CALIFORNIA.

ALL OF TRACT NO. 12850, AS PER MAP RECORDED IN BOOK 579, PAGES 46 THROUGH 47 INCLUSIVE OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF ORANGE, STATE OF CALIFORNIA.

ALL OF TRACT NO. 12877, AS PER MAP RECORDED IN BOOK 580, PAGES 21 THROUGH 26 INCLUSIVE OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF ORANGE, STATE OF CALIFORNIA.

ALL OF TRACT NO. 12878, AS PER MAP RECORDED IN BOOK 581, PAGES 4 THROUGH 9 INCLUSIVE OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF ORANGE, STATE OF CALIFORNIA.

LOTS 6, 7, 8, 9, 10 AND 11 OF TRACT NO. 12821, AS PER MAP RECORDED IN BOOK 576, PAGES 16 THROUGH 28 INCLUSIVE OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF ORANGE, STATE OF CALIFORNIA.

(For informational purposes only, M.J. Brock and Sons, Inc., a Delaware corporation, is the owner of tracts 12850, 12856, 12857 and 12877 as described above, and Ahmanson Developments, Inc., a California corporation, is the owner of all other tracts and lots described above).

EXHIBIT "A"

D:\wp1\bs\legal.ahm

The land situated in the State of California, County of Orange and described as follows:

**PARCEL A:**

Those portions of the second class land allotted to P. Yorba and to W. McKee and that portion of the second and third class lands allotted to Jesus Wilson de Shorb and that portion of the second and third class lands allotted to R. G. de la Riva by Decree of partition rendered February 3, 1874 in the District Court of the State of California in and for the county of Los Angeles, in Case No. 1978 and shown on a map filed in said case, a certified copy of which was recorded February 6, 1874 in book 28, page 158 of Deeds, records of said Los Angeles County, California, together with those portions of Sections 17 and 18 in Township 3 south, Range 8 west, S. B. B. & M. bounded as follows:

Northerly by that certain boundary line described in boundary line agreements, recorded October 19, 1973 in book 10953, page 171, November 16, 1973 in book 10993, page 390, November 30, 1973 in book 11009, page 596, December 5, 1973 in book 11014, page 700 and January 17, 1974 in book 11059, page 228 of official records of Orange County, California, easterly by that certain line described in a boundary line agreement between Anaheim Union Water Company and Samuel Dakin and others recorded February 14, 1974 in book 11076, page 405 of said official records, westerly by that certain line described in an agreement recorded July 15, 1957 in book 3973, page 485 of said official records, and southerly by the northerly line of Parcel 2 as shown on a Map filed in book 121, pages 16 and 17 of Parcel Maps in the office of the county recorder of Orange County, California.

**PARCEL B:**

Parcel 2 as shown on a Map filed in book 121, pages 16 and 17 of Parcel Maps in the office of the county recorder of Orange County, California.

Except therefrom, all rights, title and interests of every kind and character whatsoever, in and to all of the minerals and mineral ores of every kind and character now known to exist or hereafter discovered, or that may be produced now or in the future, including, without limiting the generality of the foregoing, all oil, gas and other hydrocarbon or associated substances, gold, silver and other ores and base metals, coal, coal shale and oil shale, water, geopressured water, geothermal steam and heat, brines and minerals in solution, sand, gravel and aggregates, sulphur, nitrogen, carbon dioxide, helium, and other minerals and resources, whether or not similar to the foregoing enumerated substances, upon, within, underlying, below a depth of 500 feet from the surface, as granted to Pacific American Oil Company, a California corporation, in the deed recorded October 12, 1982 as Instrument No. 82-358567, Official Records, without any right to use the surface of the property, or portions of the property, above the depth of 500 feet below its surface.

EXHIBIT "B"

The southerly 100 feet of Parcel 2 as shown on a Map filed in Book 121, Pages 16 and 17 of Parcel Maps in the Office of the County Recorder of Orange County, California, which said southerly 100 feet is a portion of a longer strip of land 100 feet wide which is described in instruments recorded in Book 4170, Page 220 and in Book 5049, Page 313 in the Office of the County Recorder of Orange County, California.

EXHIBIT "C"

THAT PORTION OF PARCEL 2 IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 121, PAGES 16 AND 17 OF PARCEL MAPS ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY AND ALSO LYING WITHIN AN EASEMENT TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA AS RECORDED IN BOOK 4170, PAGE 220 AND IN BOOK 5049, PAGES 309 THROUGH 315 INCLUSIVE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A STRIP OF LAND 15.00 FEET IN WIDTH LYING 7.50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

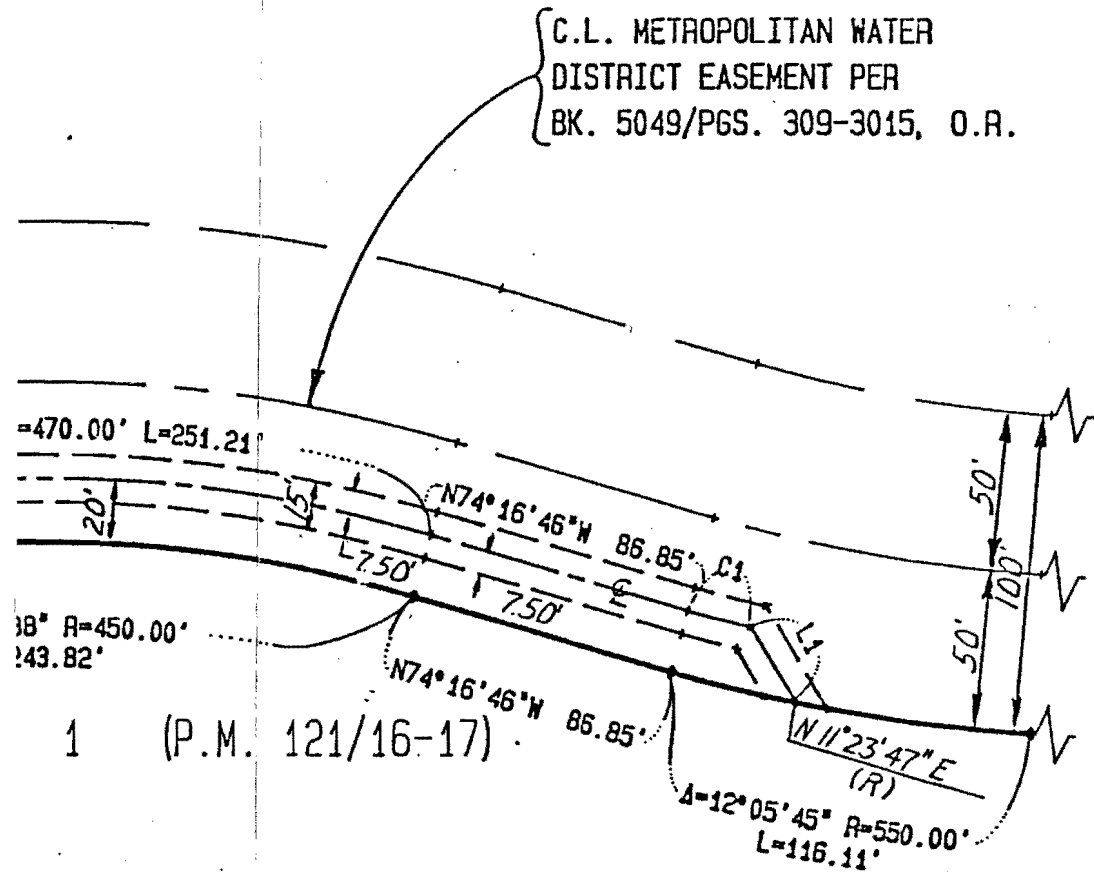
COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID PARCEL 2; THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID PARCEL 2 NORTH  $05^{\circ}32'30''$  WEST 20.28 FEET TO A POINT ON A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 470.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH  $14^{\circ}54'12''$  WEST, SAID CURVE BEING CONCENTRIC TO AND 20.00 FEET NORTHERLY OF SAID SOUTHERLY LINE, SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING; THENCE DEPARTING SAID WESTERLY LINE, EASTERLY ALONG SAID CONCENTRIC CURVE THROUGH A CENTRAL ANGLE OF  $30^{\circ}37'26''$  AN ARC DISTANCE OF 251.21 FEET; THENCE CONTINUING EASTERLY ALONG A LINE PARALLEL TO, AND 20.00 FEET NORTHERLY OF, MEASURED AT RIGHT ANGLES, SAID SOUTHERLY LINE SOUTH  $74^{\circ}16'46''$  EAST, 86.85 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 530.00 FEET, SAID CURVE BEING CONCENTRIC TO, AND 20.00 FEET NORTHERLY OF, SAID SOUTHERLY LINE; THENCE CONTINUING EASTERLY ALONG SAID CONCENTRIC CURVE THROUGH A CENTRAL ANGLE OF  $02^{\circ}16'14''$  AN ARC DISTANCE OF 21.00 FEET; THENCE DEPARTING SAID LAST MENTIONED CONCENTRIC CURVE SOUTH  $31^{\circ}38'26''$  EAST, 27.83 FEET TO A POINT ON SAID SOUTHERLY LINE OF PARCEL 2; SAID POINT BEING ON A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 550.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH  $11^{\circ}23'47''$  WEST.

THE SIDELINES OF SAID STRIP OF LAND 15.00 FEET IN WIDTH SHALL BE PROLONGED OR SHORTENED SO AS TO TERMINATE WESTERLY IN SAID WESTERLY LINE OF SAID PARCEL 2, AND TO TERMINATE SOUTHEASTERLY IN SAID SOUTHERLY LINE OF SAID PARCEL 2.

AS MORE PARTICULARLY SHOWN ON A MAP DESIGNATED AS EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.

EXHIBIT "D"

EXHIBIT "A"



### DATA

LINE	BEARING	DISTANCE
1	N31°38'26"W	27.83

CURVE	DELTA	RADIUS	TANGENT	LENGTH
1	2°16'14"	530.00	10.50	21.00

SCALE: 1" = 60'

SHEET 1 OF 2 SHEETS  
 A PORTION OF TENTATIVE  
 TRACT NO. 10144  
 NUMBER OF LOTS: 19 NUMBERED; 1 LETTERED  
 ACREAGE: 13.221 AC.  
 FEB., 1987  
 BLOCK: 6254 MODULES: 83, 84, 83 & 84  
 DATE OF SURVEY: JUNE, 1986  
 PHILIP A. GUSTAFSON, R.C.E. 13875  
 THE MCINTIRE GROUP

# TRACT NO. 12850

IN THE CITY OF YORBA LINDA  
 COUNTY OF ORANGE, STATE OF CALIFORNIA

BEING A SUBDIVISION OF LOT 8 OF TRACT NO. 12821 AS SHOWN ON THE MAP  
 RECORDED IN BOOK 576, PAGES 16 THROUGH 28, INCLUSIVE, OF  
 MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE  
 COUNTY.

ACCEPTED AND FILED AT THE  
 REQUEST OF  
 First American Title Ins. Co.  
 DATE June 17, 1987  
 TIME 3:15 PM FEE \$ 8.00  
 INSTRUMENT # 87-342875  
 BOOK 579 PAGE 46 M.M.  
 LEE A. BRANCH  
 COUNTY RECORDER  
 BY Diana Vitelli  
 DEPUTY

## OWNERSHIP CERTIFICATE

WE, THE UNDERSIGNED, BEING ALL PARTIES HAVING ANY RECORD TITLE INTEREST IN  
 THE LAND COVERED BY THIS MAP, DO HEREBY CONSENT TO THE PREPARATION AND  
 RECORDATION OF SAID MAP, AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

WE HEREBY DEDICATE TO THE PUBLIC FOR STREET PURPOSES: STONEHAVEN DRIVE,  
 DEVONPORT CIRCLE AND STIRLINGBRIDGE CIRCLE, AS SHOWN ON SAID MAP.

WE ALSO HEREBY DEDICATE TO THE CITY OF YORBA LINDA:

1. THE 15.00 FOOT SANITARY SEWER EASEMENT AS SHOWN ON SAID MAP.
2. SANITARY SEWER SYSTEM AND APPURTENANCES AS SHOWN ON THE  
IMPROVEMENT PLANS FOR THIS SUBDIVISION.
3. THE 15.00 FOOT STORM DRAIN EASEMENT AS SHOWN ON SAID MAP.
4. THE STORM DRAIN SYSTEM AND APPURTENANCES AS SHOWN ON  
THE IMPROVEMENT PLANS FOR THIS SUBDIVISION.
5. LOT A FOR OPEN SPACE PURPOSES AS SHOWN ON SAID MAP.

WE ALSO DEDICATE TO THE YORBA LINDA WATER DISTRICT THE 20.00 FT.  
 NON-EXCLUSIVE EASEMENT FOR WATERLINE, INGRESS & EGRESS, PUBLIC  
 UTILITIES AND INCIDENTAL PURPOSES, ALONG WITH THE RIGHT TO CONSTRUCT,  
 MAINTAIN, REPAIR AND REPLACE OVER, ACROSS, UNDER AND THROUGH,  
 AS SHOWN ON SAID MAP.

AHMANSON DEVELOPMENTS, INC., A CALIFORNIA CORPORATION,  
 WHO ACQUIRED TITLE AS AHMANSON  
 DEVELOPMENTS, A CALIFORNIA CORPORATION, AS RECORD OWNER.

BY: Craig Page  
 CRAIG PAGE  
 VICE PRESIDENT

BY: Jean Johnston  
 JEAN JOHNSTON  
 ASSISTANT SECRETARY

THE LUSK COMPANY, A CALIFORNIA CORPORATION, BENEFICIARY UNDER DEED  
 OF TRUST RECORDED AS INSTRUMENT NO. 86-235894 OF OFFICIAL RECORDS.

BY: James C. Waples  
 Senior Vice President  
 JAMES C. WAPLES

BY: Richard T. Deihl  
 Secretary  
 RICHARD T. DEIHL

STATE OF CALIFORNIA } ss  
 COUNTY OF LOS ANGELES

ON THIS 21<sup>st</sup> DAY OF APRIL, 1987, BEFORE ME, LOLA J. TAVALLRE,  
 A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED CRAIG PAGE  
 AND JEAN JOHNSTON, PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS  
 OF SATISFACTORY EVIDENCE) TO BE THE VICE PRESIDENT AND  
 ASS'T SECRETARY, RESPECTIVELY, OF AHMANSON DEVELOPMENTS, INC.,  
 THE CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT AND KNOWN TO ME (OR PROVED TO ME  
 ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSONS WHO EXECUTED THE WITHIN  
 INSTRUMENT ON BEHALF OF SAID CORPORATION AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION  
 EXECUTED THE SAME.

WITNESS MY HAND:

Lora J. Tavalire  
 NOTARY PUBLIC IN AND FOR SAID STATE  
 LORA J. TAVALLRE  
 MY PRINCIPAL PLACE OF BUSINESS  
 IS IN LOS ANGELES COUNTY.  
 MY COMMISSION EXPIRES Nov 23, 1990.

STATE OF CALIFORNIA } ss  
 COUNTY OF Orange

ON THIS 17<sup>th</sup> DAY OF March, 1987, BEFORE ME, Debbie DellaValle,  
 A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED James C. Waples  
 AND Richard T. Deihl, PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS  
 OF SATISFACTORY EVIDENCE) TO BE THE Senior Vice President AND  
 Secretary, RESPECTIVELY, OF THE LUSK COMPANY,  
 THE CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT AND KNOWN TO ME (OR PROVED TO ME  
 ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSONS WHO EXECUTED THE WITHIN  
 INSTRUMENT ON BEHALF OF SAID CORPORATION AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION  
 EXECUTED THE SAME AS BENEFICIARY.

WITNESS MY HAND:

Debbie DellaValle  
 NOTARY PUBLIC IN AND FOR SAID STATE  
 DEBBIE DELLA VALLE  
 MY PRINCIPAL PLACE OF BUSINESS  
 IS IN ORANGE COUNTY.  
 MY COMMISSION EXPIRES 10-8-90.



## ENGINEER'S CERTIFICATE

I HEREBY CERTIFY THAT I AM A REGISTERED CIVIL ENGINEER OF THE STATE OF  
 CALIFORNIA; THAT THIS MAP CONSISTING OF 2 SHEETS AND THE TRUE AND  
 COMPLETE SURVEY MADE IN JUNE, 1986, WHICH IT CORRECTLY REPRESENTS WERE  
 BOTH MADE BY ME OR UNDER MY DIRECTION; THAT THE MONUMENTS ARE OF THE  
 CHARACTER AND OCCUPY, OR WILL OCCUPY THE POSITIONS INDICATED BY SAID MAP  
 AND THE MONUMENT NOTES NOTED THEREON, AND THAT SAID MONUMENTS ARE SUFF-  
 ICIENT TO ENABLE THE SURVEY TO BE RETRACED.

Philip A. Gustafson  
 PHILIP A. GUSTAFSON, R.C.E. 13875  
 REG. EXPIRES 3-31-89

## CITY ENGINEER'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP AND HAVE FOUND IT TO BE  
 SUBSTANTIALLY IN CONFORMANCE WITH THE TENTATIVE MAP AS FILED WITH, AMENDED  
 AND APPROVED BY THE CITY PLANNING COMMISSION; THAT ALL PROVISIONS OF THE  
 SUBDIVISION MAP ACT AND CITY SUBDIVISION REGULATIONS HAVE BEEN COMPLIED  
 WITH AND THE MAP IS TECHNICALLY CORRECT IN ALL RESPECTS NOT CERTIFIED TO  
 BY THE COUNTY SURVEYOR.

DATED THIS 10<sup>th</sup> DAY OF June, 1987

ROY STEPHENSON, R.C.E. 20354  
 CITY ENGINEER  
 CITY OF YORBA LINDA

Roy Stephenson  
 REG. EXPIRES 9-30-89

## COUNTY SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP AND HAVE FOUND THAT ALL  
 MAPPING PROVISIONS OF THE SUBDIVISION MAP ACT HAVE BEEN COMPLIED WITH AND  
 I AM SATISFIED SAID MAP IS TECHNICALLY CORRECT RELATIVE TO THE TRACT MAP  
 BOUNDARY.

DATED THIS 15<sup>th</sup> DAY OF June, 1987

C.R. NELSON  
 COUNTY SURVEYOR

BY: Linda C. Nelson  
 DEPUTY

## CITY CLERK'S CERTIFICATE

STATE OF CALIFORNIA } ss  
 COUNTY OF ORANGE

I HEREBY CERTIFY THAT THIS MAP WAS PRESENTED FOR APPROVAL TO THE CITY COUNCIL  
 OF THE CITY OF YORBA LINDA AT A REGULAR MEETING THEREOF HELD ON THE 4<sup>th</sup> DAY  
 OF May, 1987, AND THAT THEREUPON SAID COUNCIL DID, BY AN ORDER DULY  
 PASSED AND ENTERED, APPROVE SAID MAP AND DID ACCEPT ON BEHALF OF THE PUBLIC  
 THE DEDICATION FOR STREET PURPOSES OF: STONEHAVEN DRIVE, DEVONPORT CIRCLE  
 AND STIRLINGBRIDGE CIRCLE.

- AND DID ALSO ACCEPT ON BEHALF OF THE CITY OF YORBA LINDA:
1. THE 15.00 FT. SANITARY SEWER AND 15.00 FT. STORM DRAIN EASEMENTS AS DEDICATED.
  2. THE SANITARY SEWER SYSTEM AND APPURTENANCES AS DEDICATED.
  3. THE STORM DRAIN SYSTEM AND APPURTENANCES AS DEDICATED.
  4. LOT A FOR OPEN SPACE PURPOSES AS DEDICATED.

AND DID ALSO APPROVE SUBJECT MAP PURSUANT TO THE PROVISIONS OF SECTION 66436(a)(3)  
 (A) OF THE SUBDIVISION MAP ACT.

DATED THIS 10<sup>th</sup> DAY OF June, 1987.

Diana M. Hickey Carol Wallace  
 CITY CLERK OF THE CITY OF YORBA LINDA

## YORBA LINDA WATER DISTRICT CERTIFICATE

I, RALPH C. SHOOK, THE DULY APPOINTED AND AUTHORIZED OFFICER OF THE YORBA LINDA  
 WATER DISTRICT BY ORDER OF THE BOARD OF DIRECTORS ON SEPTEMBER 25, 1961, DO  
 HEREBY CERTIFY THAT DEDICATION OF THE WATERLINE EASEMENT AS SHOWN ON THIS MAP  
 TO YORBA LINDA WATER DISTRICT, A PUBLIC CORPORATION, IS HEREBY ACCEPTED AND  
 CONSENT TO THE RECORDATION THEREOF.

DATED: 5-22-87

Ralph C. Shook  
 RALPH C. SHOOK

## COUNTY TREASURER - TAX COLLECTOR CERTIFICATE

STATE OF CALIFORNIA } ss  
 COUNTY OF ORANGE

I HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF MY OFFICE THERE ARE NO  
 LIENS AGAINST THE LAND COVERED BY THIS MAP OR ANY PART THEREOF FOR UNPAID  
 STATE, COUNTY, MUNICIPAL OR LOCAL TAXES OR SPECIAL ASSESSMENTS COLLECTED  
 AS TAXES, EXCEPT TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES  
 NOT YET PAYABLE.

DATED THIS 20 DAY OF May, 1987

ROBERT L. CITRON  
 COUNTY TREASURER - TAX COLLECTOR

BY: Cathy Patterson  
 DEPUTY TREASURER - TAX COLLECTOR

## CLERK OF THE BOARD OF SUPERVISORS' TAX CERTIFICATE

STATE OF CALIFORNIA } ss  
 COUNTY OF ORANGE

I HEREBY CERTIFY TO THE RECORDER OF ORANGE COUNTY THAT THE PROVISIONS OF  
 THE SUBDIVISION MAP ACT HAVE BEEN COMPLIED WITH REGARDING DEPOSITS TO  
 SECURE THE PAYMENT OF TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES  
 ON THE LAND COVERED BY THIS MAP.

DATED THIS 9<sup>th</sup> DAY OF June, 1987.

Linda D. Roberts  
 LINDA D. ROBERTS  
 CLERK OF THE BOARD OF SUPERVISORS

## SIGNATURE OMISSION NOTES:

THE SIGNATURES OF THE FOLLOWING HAVE BEEN OMITTED UNDER THE PROVISIONS OF SECTION  
 66436(a)(3)(A) & (3)(B)(C) OF THE SUBDIVISION MAP ACT. THEIR INTEREST IS  
 SUCH THAT IT CANNOT RISE INTO A FEE TITLE AND SAID SIGNATURES ARE NOT  
 REQUIRED BY THE LOCAL AGENCY:

1. PACIFIC AMERICAN PROPERTIES, INC., HOLDER OF AN EASEMENT FOR  
INGRESS AND EGRESS OVER EXISTING PRIVATE ROADS RECORDED IN  
BOOK 12803, PAGE 703 OF OFFICIAL RECORDS.
2. DAVID H. MURDOCK D.B.A. PACIFIC AMERICAN OIL COMPANY, HOLDER OF  
OIL AND MINERAL RIGHTS RECORDED IN BOOK 12803, PAGE 702  
OF OFFICIAL RECORDS.



SHEET 2 OF 2 SHEETS  
PORTION OF TENTATIVE  
TRACT NO. 10144  
NUMBER OF LOTS: 19 NUMBERED, 1 LETTERED  
ACREAGE: 13.221

# TRACT NO. 12850

IN THE CITY OF YORBA LINDA  
COUNTY OF ORANGE, STATE OF CALIFORNIA

DATE OF SURVEY: JUNE, 1986  
THE MCINTIRE GROUP  
PHILIP A. GUSTAFSON, R.C.E. 13875  
SCALE: 1" = 80'

## LINE DATA

LINE	BEARING	DISTANCE
1	N54°20'08"E	79.09
2	N56°54'35"E (R)	56.00
3	N86°22'31"W	41.67
4	N7°49'59"W	66.11
5	N59°20'15"W	29.09
6	N43°17'23"E (R)	135.00
7	N25°24'57"W (R)	66.41
8	N85°02'00"E	20.00
9	N. 23°05'25"W	22.88
10	N. 0°12'25"E	15.00
11	N. 89°47'35"W	56.00

## BASIS OF BEARINGS:

THE BEARING OF N5°32'30"W FOR THE WESTERLY LINE OF TRACT No 12821, AS SHOWN ON A MAP RECORDED IN BOOK 576, PAGES 16-28, INCL., OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY, WAS USED AS THE BASIS OF BEARINGS FOR THIS MAP.

## LINE DATA (CONT'D.)

LINE	BEARING	DISTANCE
12	N. 65°41'30"E	152.00
13	N. 24°18'21"W	15.00
14	N. 65°41'30"E	164.63

## CURVE DATA

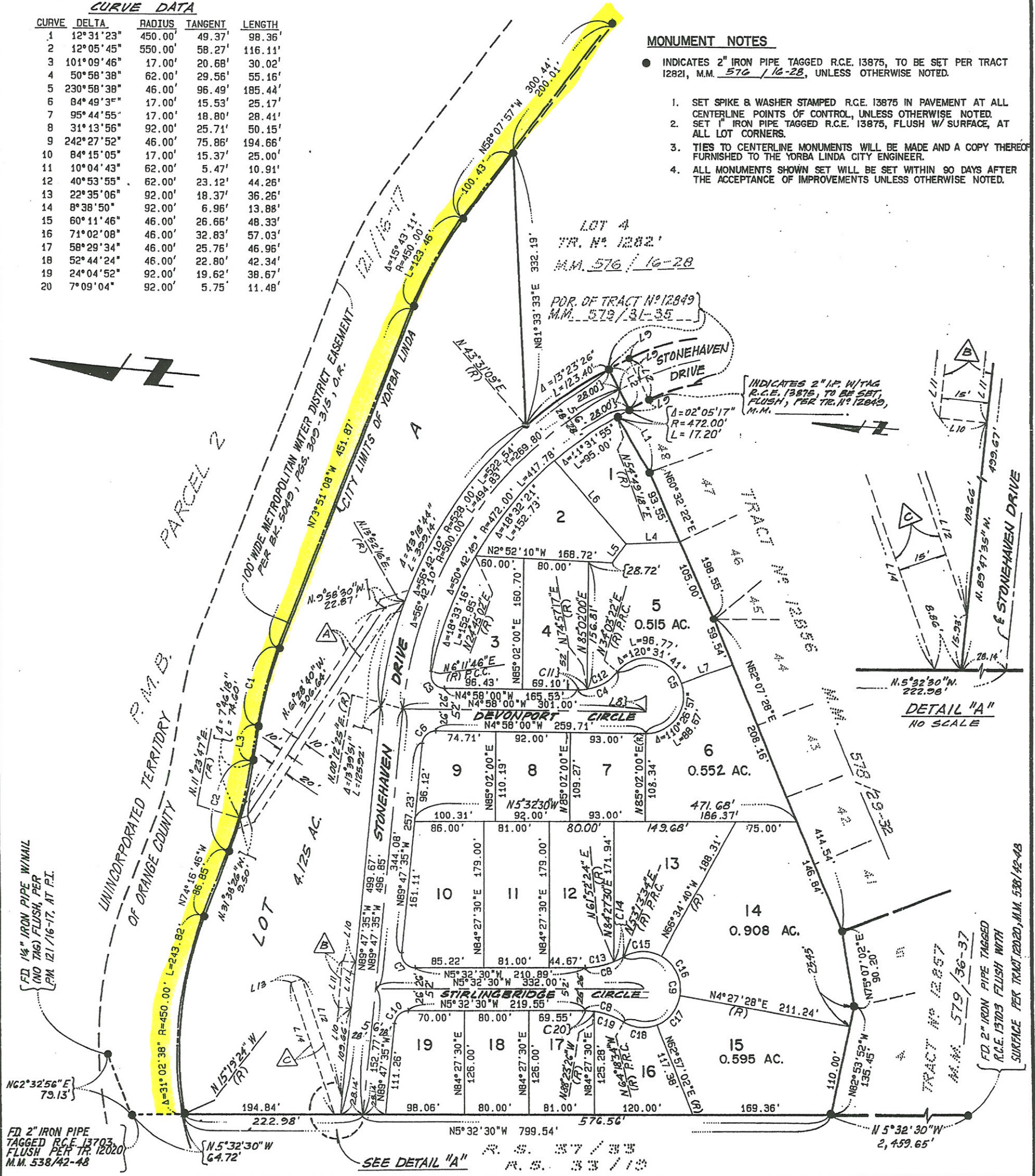
CURVE	DELTA	RADIUS	TANGENT	LENGTH
1	12°31'23"	450.00	49.37	98.36
2	12°05'45"	550.00	58.27	116.11
3	101°09'46"	17.00	20.68	30.02
4	50°58'38"	62.00	29.56	55.16
5	230°58'38"	46.00	96.49	185.44
6	84°49'35"	17.00	15.53	25.17
7	95°44'55"	17.00	18.80	28.41
8	31°13'56"	92.00	25.71	50.15
9	242°27'52"	46.00	75.86	194.66
10	84°15'05"	17.00	15.37	25.00
11	10°04'43"	62.00	5.47	10.91
12	40°53'55"	62.00	23.12	44.26
13	22°35'06"	92.00	18.37	36.26
14	8°38'50"	92.00	6.96	13.88
15	60°11'46"	46.00	26.66	48.33
16	71°02'08"	46.00	32.83	57.03
17	58°29'34"	46.00	25.76	46.96
18	52°44'24"	46.00	22.80	42.34
19	24°04'52"	92.00	19.62	38.67
20	7°09'04"	92.00	5.75	11.48

## EASEMENT NOTES

- A 20 FT. WIDE NON-EXCLUSIVE EASEMENT DEDICATED HEREON TO THE YORBA LINDA WATER DISTRICT FOR INGRESS & EGRESS, WATERLINE, PUBLIC UTILITIES AND INCIDENTAL PURPOSES.
- B 15 FT. WIDE EASEMENT DEDICATED HEREON TO THE CITY OF YORBA LINDA FOR SANITARY SEWER PURPOSES.
- C 15 FT. WIDE EASEMENT DEDICATED HEREON TO THE CITY OF YORBA LINDA FOR STORM DRAIN PURPOSES.

## MONUMENT NOTES

- INDICATES 2" IRON PIPE TAGGED R.C.E. 13875, TO BE SET PER TRACT 12821, M.M. 576 / 16-28, UNLESS OTHERWISE NOTED.
- SET SPIKE & WASHER STAMPED R.C.E. 13875 IN PAVEMENT AT ALL CENTERLINE POINTS OF CONTROL, UNLESS OTHERWISE NOTED.
- SET 1" IRON PIPE TAGGED R.C.E. 13875, FLUSH W/ SURFACE, AT ALL LOT CORNERS.
- TIES TO CENTERLINE MONUMENTS WILL BE MADE AND A COPY THEREOF FURNISHED TO THE YORBA LINDA CITY ENGINEER.
- ALL MONUMENTS SHOWN SET WILL BE SET WITHIN 90 DAYS AFTER THE ACCEPTANCE OF IMPROVEMENTS UNLESS OTHERWISE NOTED.



579 47



✓ Webb & Lee  
407 California Bank Bldg.  
Anaheim, California  
PRospect 4-2817

62719

FILED

MAY 20 1955

L. B. WALLACE, County Clerk

ATTORNEYS FOR **Plaintiffs**

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ORANGE

ESPERANZA CARRILLO, ELLEN  
KEEVES and NORMAN KEEVES,

Plaintiffs,

vs.

EUTIMIO CARRILLO,

Defendant.

NO. 65076

JUDGMENT IN PARTITION, CONFIRMING  
REPORT OF REFEREES IN PARTITION AND  
REPORT OF REFEREE TAKING AN ACCOUNT-  
ING OF THE PARTNERSHIP AFFAIRS, AND  
FOR ALLOWANCE OF REFEREES' FEES AND  
EXPENSES AND ALLOWANCE OF ATTORNEYS'  
FEES FOR PLAINTIFFS AND DEFENDANT

This cause, having been brought on to be heard upon the report of John G. Wallace, Stanley Goode, Sr., and George H. Jones, referees in partition, appointed under and by virtue of the Interlocutory Judgment made and rendered herein on September 21, 1955, upon the report of Robert D. Schafer, referee appointed under and by virtue of said Interlocutory Judgment to take an accounting of the partnership affairs of the parties herein, and upon due proof of the service of notice of application for judgment on said reports on the attorney for defendant; and it appearing that said referees in partition have filed in this Court their written report of their proceedings, and said referee appointed to take an accounting of the partnership affairs has filed in this Court his account thereof; and evidence, both oral and documentary, having been introduced and the cause submitted for decision, written findings of fact and conclusions of law having been expressly waived in writing by counsel for the respective parties hereto and on file herein, said plaintiffs Esperanza Carrillo and



Ellen Reeves, and defendant Rutimic Carrillo, and their respective counsel having fixed, by written stipulation on file herein, the attorneys fees for the respective parties and the payment thereof, including a division of those parcels delineated on the Surveyor's Map of the Carrillo Ranch Property, a copy being attached to Referees' Report of Partition and a copy being on file herein as an exhibit in this action, and delineated thereon as Parcels "X", "Y" and "Z", and providing that the oil, gas and mineral rights in said parcels shall be owned in common by said parties, and the Court having examined said report, and being fully advised,

IN 'IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. That said report of said Referees in Partition be, and the same is, in all things, approved and confirmed, except as noted herein, and that the property involved in these partition proceedings, described in the Interlocutory Decree rendered herein on September 21, 1955, and herein described, be partitioned and allotted to the parties hereto as follows:

(a) TO ESPERANZA CARRILLO the following described property:

PARCEL 1.

All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Beginning at the intersection of the Southerly line of the land conveyed to the Atchison, Topeka and Santa Fe Railway Company by deed recorded in Book 173, page 296 of Deeds, records of said County, with the Easterly boundary of the Carrillo Ranch property as said intersection is shown on the map filed in Book 37, page 33 of Record of Surveys, Records of said County; thence South 71° 04' 33" West, along said Southerly line 1245.37 feet to the Westerly line of said Carrillo Ranch property as shown on said map; thence South 2° 02' 20" East along said Westerly line 1541.25 feet to the Southwest corner thereof; thence North 62° 23' 49" East along the Southerly line of said property 1439.50 feet to a line bearing South 6° 40' 31.3" East from the point of beginning; thence North 6° 40' 31.3" West 1256.89 feet to the point of beginning.

EXCEPTING THEREFROM a two-thirds interest in the following described portion thereof:

Webb & Lee  
407 California Street  
Building  
Anaheim, Calif.  
92801-6311

Beginning at the point distant South 71°04'33" West 848.10 feet and South 4°47'57" East 54.04 feet from the Northeast corner of the above described Parcel 1; thence South 4°47'57" East 50.00 feet; thence South 85°12'03" West 30.00 feet; thence North 4°47'57" West 50.00 feet; thence North 85°12'03" East 30.00 feet to the point of beginning.

EXCEPTING THEREFROM a one-fourth interest in and to all oil and oil rights in, on and appurtenant to said lands.

SUBJECT TO an easement for road and public utility purposes over, under, along, across and through that portion thereof described as follows:

Beginning at the point on the Northerly line of the above described Parcel 1, distant South 71°04'33" West, 848.10 feet from the Northeast corner thereof; thence South 4°47'57" East 54.04 feet; thence South 85°12'03" West 15.00 feet; thence North 4°47'57" West 50.27 feet to said Northerly line; thence North 71°04'33" East, along said Northerly line to the point of beginning.

ALSO SUBJECT TO a 6.00 foot easement for pipeline purposes over, under, along, across and through that portion thereof lying 3.00 feet on each side of the following described centerline:

Commencing at the Northeast corner of the above described Parcel 1; thence South 71°04'33" West along the Northerly line thereof 848.10 feet; thence South 4°47'57" East 54.04 feet; thence South 85°12'03" West 30.00 feet; thence South 4°47'57" East 2.83 feet to the true point of beginning of the centerline herein described; thence North 9°16'39" West 48.51 feet to the point on said Northerly line distant South 71°04'33" West 882.94 feet from said Northeast corner. The sidelines of this easement are prolonged or shortened to terminate on the lines above described as having bearings of South 85°12'03" West and South 4°47'57" East from the true point of beginning, and on said Northerly line.

#### PARCEL 2:

All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Commencing at the intersection of the centerline of the Cajon Canal of the Anaheim Union Water Company with the Easterly line of the Carrillo Ranch property shown on a map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence Westerly along said centerline South 85°44'23" West 8.19 feet; South 88°54'08" West 36.94 feet; North 88°23'08" West 18.90 feet; North 80°35'23" West 39.69 feet; North 70°07'03" West 15.23 feet; North 65°58'15" West 168.10 feet; North 68°53'00" West 35.93 feet; North 71°41'39" West 483.38 feet to the true point of beginning of the boundary of the land herein described; thence continuing along said centerline North 71°41'39" West 87.78 feet; North 80°05'22" West 8.76 feet; thence leaving said centerline North 9°34'36" East 82.11 feet; thence South 72°05'17" East 108.03 feet; thence South 17°40'43" West 80.63 feet to the true point of beginning.

Webb & Lee  
477 California East  
Building  
Anaheim, Calif.  
Prospect 4-2817

EXCEPTING THEREFROM a one-fourth (1/4th) interest in and to all oil and oil rights in, on and appurtenant to said lands.

PARCEL 3:

All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, being that portion of the Carrillo Ranch property as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County, lying Northerly of the following described line: beginning at the point on the Easterly line of said Carrillo Ranch property distant North 6°40'31.3" West 6644.94 feet from the intersection of said Easterly line with the centerline of the Cajon Canal of the Anaheim Union Water Company, as shown on said map; thence North 87°54'37" West 619.76 feet to the point on the Westerly line of said Carrillo Ranch property distant North 2°02'20" West 7410.13 feet from the Northerly line of the Atchison, Topeka and Santa Fe Railway Company's 100.00 foot strip of land as shown on said map.

EXCEPTING THEREFROM a three-fourths (3/4ths) interest in and to all oil and oil rights in, on and appurtenant to said lands.

SUBJECT TO an easement for road and public utility purposes over, under, along, across and through the Westerly 50.00 feet thereof.

PARCEL 4:

A one-fourth (1/4th) interest in and to all oil and oil rights in, on, and appurtenant to the following described land:

All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Beginning at the point on the Westerly line of the Carrillo Ranch property distant North 2°02'20" West 3950.98 feet from the Northerly line of the Atchison, Topeka and Santa Fe Railway Company's 100.00 foot strip of land, as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 41°19'19" East 157.87 feet; thence South 42°07'13" East 59.48 feet; thence South 44°07'50" East 99.54 feet; thence South 49°59'14" East 104.47 feet; thence South 56°35'03" East 108.11 feet; thence South 74°14'36" East 45.59 feet; thence North 88°51'06" East 56.38 feet; thence North 87°25'58" East 43.52 feet; thence North 76°34'53" East 59.86 feet; thence North 75°39'36" East 128.13 feet; thence North 76°13'48" East 137.57 feet; thence South 34°06'59" East 42.04 feet; thence South 31°21'37" East 123.92 feet; thence South 73°27'51" East 13.33 feet to the point on the Easterly line of said Carrillo Ranch property distant North 6°40'31.3" West 2750.10 feet from the intersection of said Easterly line with the centerline of the Cajon Canal of the Anaheim Union Water Company, as shown on said map; thence North 6°40'31.3" West, along said Easterly line, 1828.91 feet; thence North 57°54'37" West 787.19 feet to the point on said Westerly line distant North 2°02'20" West 1412.03 feet from the point of beginning; thence South 2°02'20" East 1412.03 feet to the point of beginning.

SUBJECT TO an easement for road and public utility purposes over, under, along, across and through the westerly 50.00 feet thereof.

PARCEL 5:

A one-fourth (1/4th) interest in and to all oil and oil rights in, on, and appurtenant to the following described land:

All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Beginning at the point on the Westerly line of the Carrillo Ranch property distant North 2°02'20" West 5363.01 feet from the Northerly line of the Atchison, Topeka and Santa Fe Railway Company's 100.00 foot strip of land as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 87°54'37" East 787.19 feet to the point on the Easterly line of said Carrillo Ranch property distant North 6°40'31.3" West 4579.01 feet from the intersection of said Easterly line with the centerline of the Cajon Canal of the Anaheim Union Water Company, as shown on said map; thence North 6°40'31.3" West, along said Easterly line, 2065.93 feet; thence North 87°54'37" West 619.76 feet to the point on said Westerly line distant North 2°02'20" West 2047.12 feet from the point of beginning; thence South 2°02'20" East, along said Westerly line, 2047.12 feet to the point of beginning.

SUBJECT TO an easement for road and public utility purposes over, under, along, across and through the westerly 50.00 feet thereof.

PARCEL 6:

An easement, for road and public utility purposes over, under, along, across and through that portion of the Rancho de Santa Ana, County of Orange, State of California, being partly 50.00 feet in width and partly 30.00 feet in width; the 30.00 foot wide portion lying 15.00 feet on each said of the following described centerline:

Beginning at the intersection of the Northerly line of Esperanza Road with a line parallel with the Westerly boundary of the Carrillo Ranch property, and distant Easterly 15.00 feet therefrom, measured at right angles, as said Westerly boundary and said Northerly line are shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence North 2°02'20" West, along said parallel line to the point distant 430.19 feet North 2°02'20" West from the intersection of said parallel line with the centerline of the Cajon Canal of the Anaheim Union Water Co. as shown on said map; thence North 85°31'04" East 256.99 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 85.00 feet; thence Northwesterly along said curve, through a central angle of 98°49'59", a distance of 146.62 feet; thence, tangent to said curve, North 13°18'55" West 274.22 feet; thence North 30°27'12" West 79.88 feet; thence North 20°09'12" West 137.44 feet; thence North 36°15'10" West 136.83 feet; thence North

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20°25'27" West 23.76 feet; thence North 3°09'35" West 31.90 feet; thence North 20°01'15" East 75.43 feet; thence North 9°47'57" East 80.78 feet; thence North 0°20'07" West 70.91 feet; thence North 11°09'03" West 36.82 feet; thence North 29°21'09" West 305.95 feet; thence North 26°02'47" West 43.90 feet to said parallel line; thence North 2°02'20" West, along said parallel line, 744.00 feet to the Northerly terminus of said 30.00 foot wide portion; said Northerly terminus being distant North 87°57'40" East 15.00 feet from the point on said Westerly line distant North 2°02'20" West 2489.05 feet from the intersection of said Westerly line with the centerline of said Cajon Canal.

The 50.00 foot wide portion being the Westerly 50.00 foot of that portion of said Carrillo Ranch property lying Northerly of the line bearing North 87°57'40" East from the point on said Westerly line distant North 2°02'20" West 2489.05 feet from the intersection of said Westerly line with the centerline of said Cajon Canal.

EXCEPTING THEREFROM that portion included within Parcel 3 above described.

#### PARCEL 7:

An easement for road and public utility purposes, over, under, along, across and through the Southerly 30.00 feet of that portion of the Carrillo Ranch property in the Rancho Canon de Santa Ana, County of Orange, State of California, lying Northerly of the centerline of the Cajon Canal of the Anaheim Union Water Co. as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County, lying Westerly of Parcel 2, above described and Easterly of the Westerly line of said Carrillo Ranch.

#### PARCEL 3:

A 6.00 foot wide easement for water pipeline purposes over, under, along, across and through that portion of the Rancho Canon de Santa Ana, County of Orange, State of California, lying 3.00 feet on each side of the following described centerline:

Beginning at the point on the Northerly line of the Atchison, Topeka and Santa Fe Railway Company property distant North 74°04'33" East 353.00 feet from the Westerly line of the Carrillo Ranch property, as said Northerly and Westerly lines are shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence North 3°59'16" East 904.22 feet to the centerline of the Cajon Canal of the Anaheim Union Water Company, as said centerline is shown on said map.

Together with an easement for the use of existing pipelines joining an existing eight inch steel pipeline in the above described 6.00 foot wide easement with that property described in Parcel 2, above.

Subject to covenants, conditions, reservations, restrictions, rights, rights of way and easements, if any, of record.

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(b) TO ELLEN REEVES the following described property:

PARCEL 1:

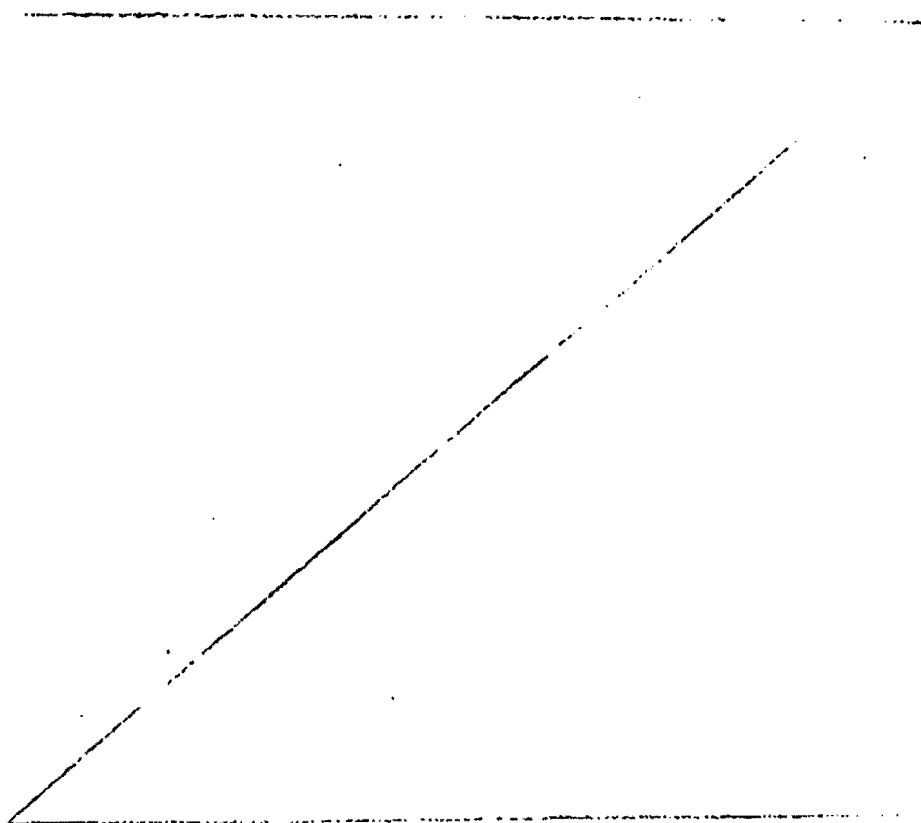
All that certain real property in the Rancho Canon d' Santa Ana, County of Orange, State of California, described as follows:

Beginning at the intersection of the centerline of the Cajon Canal of the Anaheim Union Water Company with the Easterly line of the Carrillo Ranch property as shown on the map filed in Book 37, Page 33 of Surveys, records of said County; thence Westerly, along said centerline, South 85°44'23" West 8.19 feet; South 88°54'05" West 36.94 feet; North 88°23'08" West 18.90 feet; North 80°35'23" West 39.69 feet; North 70°07'03" West 13.23 feet; North 65°58'15" West 168.10 feet; North 63°53'00" West 35.93 feet; North 71°41'39" West 571.16 feet; North 80°05'22" West 292.26 feet to a line parallel with the Westerly line of said Carrillo Ranch property and distant Easterly 30.00 feet therefrom, measured at right angles; thence North 2°02'20" West, along said parallel line, 418.99 feet; thence North 85°31'04" East 242.62 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 100.00 feet; thence Northeasterly, along said curve, through a central angle of 98°49'59" a distance of 172.50 feet; thence, tangent to said curve, North 13°18'55" West 233.41 feet; thence North 40°20'57" East 115.95 feet; thence North 34°40'00" West 78.46 feet; thence North 3°20'43" West 47.25 feet; thence North 4°23'04" East 100.60 feet; thence North 16°22'24" East 100.50 feet; thence North 4°08'39" East 52.69 feet; thence North 57°38'13" East 30.62 feet; thence North 44°14'43" East 53.41 feet; thence North 16°23'17" West 62.45 feet; thence North 43°49'45" West 51.35 feet; thence North 8°34'50" West 62.96 feet; thence North 21°44'22" West 36.37 feet; thence North 38°53'45" West 75.95 feet; thence North 15°33'08" East 96.96 feet; thence North 52°10'47" West 86.52 feet; thence North 11°16'27" West 46.62 feet; thence North 46°47'38" East 90.01 feet; thence North 13°51'10" East 713.11 feet; thence South 76°34'53" West 59.86 feet; thence South 87°25'58" West 48.52 feet; thence South 88°51'06" West 56.38 feet; thence North 74°14'36" West 45.59 feet; thence North 56°35'03" West 102.11 feet; thence North 40°59'14" West 104.47 feet; thence North 44°07'50" West 99.54 feet; thence North 42°07'13" West 59.48 feet; thence North 41°19'19" West 157.87 feet to the point on the Westerly line of said Carrillo Ranch property distant North 2°02'20" West 3950.98 feet from the Northerly line of the Atchison, Topeka and Santa Fe Railway Company's 100.00 foot strip of land, as shown on said map; thence South 2°02'20" East 3950.98 feet to said Northerly line; thence North 71°04'33" East, along said Northerly line, 1239.73 feet to said Easterly line; thence North 6°40'31.3" West, along said Easterly line, 383.48 feet to the point of beginning. ~~EXCEPTING THEREFROM a 1/4th~~  
~~acreage in and to all oil and oil rights in, on and~~  
~~appurtenant to said lands.~~  
 SUBJECT TO an easement for road and public utility purposes over, under, along, across and through the Westerly 30.00 feet of the Easterly 40.00 feet of that portion thereof lying Southerly of the centerline of said Cajon Canal.

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In the event subdivision development (more than 4 dwellings) is effected in the property lying Northerly of the centerline of said centerline of the Cajon Canal, and served by this easement, this easement shall be widened to include the Easterly 60.00 feet of that portion of said Carrillo Ranch property lying Southerly of said centerline of the Cajon Canal, and Northerly of said Northerly line of the Atchison, Topeka and Santa Fe Railway Company land. If and when this widening is accomplished, the existing wind break of eucalyptus trees along the Easterly side of said easement shall not be removed so long as that portion of Parcel 1, above described, adjoining said easement Westerly is devoted to the raising of citrus crops in commercial amounts.

ALSO SUBJECT to the right of Eutimio Carrillo to use the existing driveway running from Esperanza Road over Parcel 1, above described, to Parcel 2 of the property partitioned to said Eutimio Carrillo, until September 30, 1958, on which date this right shall cease.



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1 ALSO SUBJECT TO a 6.00 foot wide easement for water  
2 pipeline purposes over, under, along, across and through  
3 that portion thereof lying 3.00 feet on each side of the  
4 following described centerline.

5 Beginning at the point on the Northerly line of the  
6 Atchison, Topeka and Santa Fe Railway Company property  
7 as shown on said map distant North 71°04'33" East 353.00  
8 feet from the Westerly line of said Carrillo Ranch  
9 property; thence North 3°59'16" East 904.22 feet to the  
10 centerline of said Cajon Canal. Together with an  
11 easement for the use of existing pipelines joining an  
12 eight inch steel pipe line in the above described 6.00  
13 foot wide easement with that real property described as  
14 follows:

15 Commencing at the intersection of the centerline of the  
16 Cajon Canal of the Anaheim Union Water Company with the  
17 Easterly line of the Carrillo Ranch property shown on a  
18 map filed in Book 37, Page 33 of Record of Surveys,  
19 records of said County; thence Westerly along said center-  
20 line South 85°44'23" West 8.19 feet; South 88°54'08" West  
21 36.94 feet; North 88°23'08" West 18.90 feet; North  
22 80°35'23" West 39.69 feet; North 70°07'03" West 13.23  
23 feet; North 65°58'15" West 168.10 feet; North 69°53'00"  
24 West 35.93 feet; North 71°41'39" West 483.38 feet to the  
25 true point of beginning of the boundary of the land herein  
26 described; thence continuing along said centerline North  
27 71°41'39" West 87.78 feet; North 80°05'22" West 5.76 feet;  
28 thence, leaving said centerline North 9°34'36" East 42.11  
29 feet; thence South 72°05'17" East 108.03 feet; thence  
30 South 17°40'43" West 80.63 feet to the true point of  
31 beginning.

32 ALSO SUBJECT TO an easement for road and public utility  
purposes, over, under, along, across and through that  
portion thereof, being partly 50.00 feet in width, and  
partly 30.00 feet in width; the 30.00 foot wide portion  
lying 15.00 feet on each side of the following described  
centerline:

Beginning at the intersection of the Northerly line of  
Esperanza Road with a line parallel with the Westerly  
boundary of the Carrillo Ranch property and distant  
Easterly 15.00 feet therefrom, measured at right angles,  
as said Westerly boundary and said Northerly line are  
shown on the map filed in Book 37, Page 33 of Record of  
Surveys, records of said County; thence North 2°02'20"  
West along said parallel line to the point distant 430.19  
feet North 2°02'20" West, from the intersection of said  
parallel line with the centerline of the Cajon Canal of  
the Anaheim Union Water Co., as shown on said map; thence  
North 85°31'04" East 256.99 feet to the beginning of a  
tangent curve concave Northwesterly and having a radius  
of 85.00 feet; thence Northeasterly, along said curve  
through a central angle of 98°49'59", a distance of 146.62  
feet; thence, tangent to said curve, North 13°18'55" West  
274.22 feet; thence North 30°27'12" West, 79.84 feet;  
thence North 20°09'12" West 137.44 feet; thence North  
36°15'10" West 136.83 feet; thence North 20°25'27" West  
23.76 feet; thence North 3°03'35" West 31.90 feet;  
thence North 20°01'15" East 75.43 feet; thence North  
9°47'57" East 80.78 feet; thence North 0°20'07" West 70.91  
feet; thence North 11°09'03" West 36.82 feet; thence

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North 29°21'09" West 305.95 feet; thence North 26°02'47" West, 43.90 feet to said parallel line; thence North 2°02'20" West, along said parallel line, 744.00 feet to the Northerly terminus of said 30.00 foot wide portion, said Northerly terminus being distant North 87°57'40" East, 15.00 feet from the point on said Westerly line, distant North 2°02'20" West 2489.05 feet from the intersection of said Westerly line with the centerline of said Cajon Canal.

The 50.00 foot wide portion being the Westerly 50.00 feet of that portion of Parcel 1 lying Northerly of the line bearing North 87°57'40" East from the point on said Westerly line distant North 2°02'20" West 2489.05 feet from the intersection of said Westerly line with the centerline of said Cajon Canal.

ALSO SUBJECT TO an easement for road and public utility purposes over, under, along, across and through that portion thereof included within a strip of land 30.00 feet in width lying 15.00 feet on each side of the following described centerline:

Beginning at the point on the Westerly line of the Carrillo Ranch property distant North 2°02'20" West 2606.08 feet from the intersection of said Westerly line with the centerline of the Cajon Canal of the Anaheim Union Water Company as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 43°32'54" East 182.30 feet; thence South 23°25'29" East 195.53 feet; thence South 10°07'54" East 184.93 feet; thence South 20°46'04" East 262.31 feet; thence South 46°13'33" East 108.75 feet to the Easterly line of the above described Parcel 1. The sidelines of this easement are extended or shortened to terminate on said Easterly line.

SUBJECT TO the right of Eutimio Carrillo to use the existing electrical and telephone poles, lines and facilities for telephone and electric line service running over and across said Parcel 1 to Parcel 2 and the property partitioned herein to Eutimio Carrillo, until other similar facilities are made available for such services.

#### PARCEL 2.

All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Beginning at the point on the Westerly line of the Carrillo Ranch property distant North 2°02'20" West 5363.01 feet from the Northerly line of the Atchison, Topeka and Santa Fe Railway Company's 100.00 foot strip of land as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 87°54'37" East 787.19 feet to the point on the Easterly line of said Carrillo Ranch property distant North 6°40'31.3" West 4579.01 feet from the intersection of said Easterly line with the centerline of the Cajon Canal of the Anaheim Union Water Company, as shown on said map; thence North 6°40'31.3" West, along said Easterly line, 2065.93 feet; thence North 87°54'37" West 619.76 feet to the point on said Westerly line distant North 2°02'20" West 2047.12 feet from the point of beginning; thence South 2°02'20" East, along said Westerly line, 2047.12 feet to the point of beginning.

EXCEPTING THEREFROM a three-fourths (3/4ths) interest in and to all oil and oil rights in, on, and appurtenant to said lands.

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East

SUBJECT TO an easement for road and public utility purposes over, under, along, across and through the Westerly 50.00 feet thereof.

PARCEL 3:

A one-fourth (1/4th) interest in and to all oil and oil rights in, on, and appurtenant to the following described land:

All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Beginning at the point on the Westerly line of the Carrillo Ranch property distant North 2°02'20" West 3950.93 feet from the Northerly line of the Atchison, Topeka and Santa Fe Railway Company's 100.00 foot strip of land, as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 41°19'19" East 157.87 feet; thence South 42°07'13" East 59.48 feet; thence South 44°07'50" East 99.54 feet; thence South 49°59'14" East 104.47 feet; thence South 56°35'03" East 102.11 feet; thence South 74°14'36" East 45.59 feet; thence North 83°51'06" East 56.35 feet; thence North 87°25'51" East 48.52 feet; thence North 76°34'53" East 59.86 feet; thence North 75°39'36" East 128.13 feet; thence North 76°13'44" East 137.57 feet; thence South 34°06'59" East 42.04 feet; thence South 31°21'37" East 123.92 feet; thence South 73°27'51" East 13.33 feet to the point on the Easterly line of said Carrillo Ranch property distant North 6°40'31.3" West 2750.10 feet from the intersection of said Easterly line with the centerline of the Cajon Canal of the Anaheim Union Water Company, as shown on said map; thence North 6°40'31.3" West, along said Easterly line, 1328.91 feet; thence North 87°54'37" West 787.19 feet to the point on said Westerly line distant North 2°02'20" West 1412.03 feet from the point of beginning; thence South 2°02'20" East 1412.03 feet to the point of beginning.

SUBJECT TO an easement for road and public utility purposes over, under, along, across and through the Westerly 50.00 feet thereof.

PARCEL 4:

A one-fourth (1/4th) interest in and to all oil and oil rights in, on, and appurtenant to the following described land:

All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, being that portion of the Carrillo Ranch property as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County, lying Northerly of the following described line: beginning at the point on the Easterly line of said Carrillo Ranch property distant North 6°40'31.3" West 6644.94 feet from the intersection of said Easterly line with the centerline of the Cajon Canal of the Anaheim Union Water Company, as shown on said map; thence North 87°54'37" West 619.76 feet to the point on the Westerly line of said Carrillo Ranch property distant North 2°02'20" West 7410.13 feet from the Northerly line of the Atchison, Topeka and Santa Fe Railway Company's 100.00 foot strip of land as shown on said map.

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SUBJECT TO an easement for road and public utility purposes over, under, along, across and through the Westerly 50.00 feet thereof.

PARCEL 5:

A one-third (1/3rd) interest in and to that real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Commencing at the point on the Southerly line of the Atchison, Topeka and Santa Fe Railway property distant South 71°04'33" West, 848.10 feet from the intersection of said Southerly line, with the Easterly line of the Carrillo Ranch property as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 4°47'57" East 54.04 feet to the true point of beginning of the boundary of the land herein described; thence South 4°47'57" East 50.00 feet; thence South 85°12'03" West 30.00 feet; thence North 4°47'57" West 50.00 feet; thence North 85°12'03" East 30.00 feet to the true point of beginning. ~~EXCEPTING THEREFROM a 1/4th interest in and to all oil and gas rights in, on and appurtenant to said lands.~~

PARCEL 6:

An easement for road and public utility purposes over, under, along, across and through that portion of the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Beginning at the point on the Southerly line of the land conveyed to the Atchison, Topeka and Santa Fe Railway Company by deed recorded in Book 173, Page 296 of Deeds, records of said County, distant South 71°04'33" West 848.10 feet from the Easterly line of the Carrillo Ranch property, as said Southerly and Easterly lines are shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 4°47'57" East 54.04 feet; thence South 85°12'03" West 15.00 feet; thence North 4°47'57" West 50.27 feet to said Southerly line; thence North 71°04'33" East, along said Southerly line to the point of beginning.

PARCEL 7:

An easement for water pipeline purposes over, under, along, across and through that portion of the Rancho Canon de Santa Ana, County of Orange, State of California, lying 3.00 feet on each side of the following described centerline:

Commencing at the intersection of the Southerly line of the land conveyed to the Atchison, Topeka and Santa Fe Railway Company by deed recorded in Book 173, Page 296 of Deeds, records of said County, with the Easterly line of the Carrillo Ranch property as said Southerly and Easterly lines are shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 71°04'33" West along said Southerly line 848.10 feet; thence South 4°47'57" East 54.04 feet; thence South 85°12'03" West 30.00 feet; thence South 4°47'57" East 2.83 feet to the true point of beginning of the centerline herein described; thence North 9°16'39" West 43.51 feet to the point on said Southerly line distant

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SUBJECT TO an easement for road and public utility purposes over, under, along, across and through the Westerly 50.00 feet thereof.

PARCEL 5:

A one-third (1/3rd) interest in and to that real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Commencing at the point on the Southerly line of the Atchison, Topeka and Santa Fe Railway property distant South 71°04'33" West, 848.10 feet from the intersection of said Southerly line, with the Easterly line of the Carrillo Ranch property as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 4°47'57" East 54.04 feet to the true point of beginning of the boundary of the land herein described; thence South 4°47'57" East 50.00 feet; thence South 85°12'03" West 30.00 feet; thence North 4°47'57" West 50.00 feet; thence North 85°12'03" East 30.00 feet to the true point of beginning. EXCEPTING THEREFROM a 1/4th interest in and to all oil and oil rights in, on and appurtenant to said lands.

PARCEL 6:

An easement for road and public utility purposes over, under, along, across and through that portion of the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Beginning at the point on the Southerly line of the land conveyed to the Atchison, Topeka and Santa Fe Railway Company by deed recorded in Book 173, Page 296 of Deeds, records of said County, distant South 71°04'33" West 848.10 feet from the Easterly line of the Carrillo Ranch property, as said Southerly and Easterly lines are shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 4°47'57" East 54.04 feet; thence South 85°12'03" West 15.00 feet; thence North 4°47'57" West 50.27 feet to said Southerly line; thence North 71°04'33" East, along said Southerly line to the point of beginning.

PARCEL 7:

An easement for water pipeline purposes over, under, along, across and through that portion of the Rancho Canon de Santa Ana, County of Orange, State of California, lying 3.00 feet on each side of the following described centerline:

Commencing at the intersection of the Southerly line of the land conveyed to the Atchison, Topeka and Santa Fe Railway Company by deed recorded in Book 173, Page 296 of Deeds, records of said County, with the Easterly line of the Carrillo Ranch property as said Southerly and Easterly lines are shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 71°04'33" West along said Southerly line 848.10 feet; thence South 4°47'57" East 54.04 feet; thence South 85°12'03" West 30.00 feet; thence South 4°47'57" East 2.83 feet to the true point of beginning of the centerline herein described; thence North 9°16'39" West 48.51 feet to the point on said Southerly line distant

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South 71°04'33" West 882.94 feet from said intersection. The side lines of this easement are prolonged or shortened to terminate on the lines above described as having bearings of South 85°12'03" West, and South 4°47'57" East from the true point of beginning, and on said Southerly line.

PARCEL 8.

An easement for road and public utility purposes over, under, along, across and through that portion of the westerly 50.00 feet of the Carrillo Ranch property in the Rancho Canon de Santa Ana, County of Orange, State of California, shown on map filed in Book 37, Page 23, Record of Surveys, records of said County lying Northerly of the Northerly boundary of Parcel 1, above described.

EXCEPTING THEREFROM that portion included in Parcel 2, above described.

PARCEL 9.

A 6.00 foot wide easement for water pipeline purposes over, under, along, across and through that portion of the Rancho Canon de Santa Ana, County of Orange, State of California, lying 3.00 feet on each side of the following described centerline:

Beginning at the point on the Northerly line of the Atchafalaya, Topeka and Santa Fe Railway Company property distant North 71°04'33" West 253.00 feet from the Westerly line of the Carrillo Ranch property, as said lines are shown on the map filed in Book 37, Page 23 of Record of Surveys, records of said County; thence North 3°59'16" East 936.76 feet; thence North 14°03'22" East 955.00 feet; thence South 14°03'22" West 6.52 feet; thence North 59°54'37" West 122.99 feet; thence North 54°51'52" West 226.56 feet to the point on the Easterly boundary of the above described Parcel 1, distant North 4°23'04" East, 96.40 feet from the Southerly terminus of that certain course described as having a bearing of North 4°23'04" East and a length of 100.20 feet. The side lines of this easement are prolonged or shortened to terminate on said Easterly boundary.

EXCEPTING THEREFROM that portion included within Parcel 1, above described.

Subject to covenants, conditions, reservations, restrictions, rights, rights of way and easements, if any, of record.

ITEM 1: Domestic water system situate on Parcel 1.

(c) TO EUTIMIO CARRILLO, <sup>as his separate property,</sup> the following described property:

PARCEL 1.

All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Beginning at the intersection of the centerline of the Cajon Canal of the Anaheim Union Water Company with the Easterly line of the Carrillo Ranch property as shown

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on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence Westerly, along said centerline South 85°44'23" West 8.19 feet; South 88°54'08" West 36.94 feet; North 88°23'08" West 18.90 feet; North 80°35'23" West 39.69 feet; North 70°07'03" West 18.23 feet; North 65°58'15" West 168.10 feet; North 68°53'00" West 35.93 feet; North 71°41'39" West 571.16 feet; North 80°05'22" West 292.26 feet to a line parallel with the Westerly line of said Carrillo Ranch property and distant Easterly 30.00 feet therefrom, measured at right angles; thence North 2°02'20" West, along said parallel line, 418.99 feet; thence North 85°31'04" East 242.62 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 100.00 feet; thence Northeasterly along said curve, through a central angle of 98°49'59" a distance of 172.50 feet; thence, tangent to said curve, North 13°18'55" West 233.41 feet; thence North 40°20'57" East 115.95 feet; thence North 34°40'00" East 78.46 feet; thence North 3°20'43" West 47.26 feet; thence North 4°23'04" East 100.60 feet; thence North 16°22'24" East 100.50 feet; thence North 4°08'39" East 52.69 feet; thence North 57°28'13" East 30.62 feet; thence North 44°14'43" East 53.41 feet; thence North 16°28'17" West 62.45 feet; thence North 43°49'45" West 51.35 feet; thence North 3°34'50" West 62.96 feet; thence North 21°44'22" West 36.37 feet; thence North 38°53'45" West 75.95 feet; thence North 15°33'08" East 96.96 feet; thence North 52°10'47" West 36.52 feet; thence North 11°16'27" West 46.62 feet; thence North 46°47'38" East 90.01 feet; thence North 13°51'10" East 713.11 feet; thence North 75°39'36" East 123.13 feet; thence North 76°13'48" East 137.57 feet; thence South 34°06'59" East 42.04 feet; thence South 31°21'37" East 123.92 feet; thence South 73°27'51" East 13.33 feet to the point on said Easterly line distant North 6°40'31.3" West 2750.10 feet from the point of beginning; thence South 6°40'31.3" East 2750.10 feet to the point of beginning.

EXCEPTING THEREFROM that portion described as follows:

Commencing at the intersection of the centerline of the Cajon Canal of the Anaheim Union Water Company with the Easterly line of the Carrillo Ranch property as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence Westerly along said centerline, South 85°44'23" West 8.19 feet; South 88°54'08" West 36.94 feet; North 88°23'08" West 18.90 feet; North 80°35'23" West 39.69 feet; North 70°07'03" West 18.23 feet; North 65°58'15" West 168.10 feet; North 68°53'00" West 35.93 feet; North 71°41'39" West 483.38 feet to the true point of beginning of the boundary of the land herein described; thence continuing along said centerline, North 71°41'39" West 87.75 feet; North 80°05'22" West 8.76 feet; thence, leaving said centerline, North 9°34'36" East 52.11 feet; thence South 72°05'17" East 108.03 feet; thence South 17°40'43" West 30.63 feet to the true point of beginning.

EXCEPTING THEREFROM a one-fourth (1/4th) interest in and to all oil and oil rights in, on, and appurtenant to said lands.

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SUBJECT TO an easement for water pipeline purposes over, under, along, across and through that portion thereof included within a strip of land 6.00 feet in width, lying 3.00 feet on each side of the following described centerline:

Beginning at the point on the centerline of the Cajon Canal of the Anaheim Union Water Company distant South 80°05'22" East 322.92 feet and South 71°41'39" East 124.56 feet from the intersection of said centerline with the Westerly line of the Carrillo Ranch property, as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence North 3°59'16" East 32.54 feet; thence North 14°03'23" East 948.48 feet; thence North 59°54'37" West 179.97 feet; thence North 54°51'52" West, 226.56 feet to the point on the Westerly boundary of the above described Parcel 1, distant North 4°23'04" East 96.40 feet from the Southerly terminus of that certain course described as having a bearing of North 4°23'04" East, and a length of 100.60 feet. The side lines of this easement are prolonged or shortened to terminate on said Westerly boundary.

ALSO SUBJECT TO an easement for road and public utility purposes over, under, along, across and through that portion thereof included within a strip of land 30.00 feet in width, described as follows:

Commencing at the intersection of the centerline of the Cajon Canal of the Anaheim Union Water Company with the Easterly line of the Carrillo Ranch property as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence Westerly along said centerline South 85°44'23" West 3.19 feet; South 88°54'08" West 36.94 feet; North 88°23'08" West 11.00 feet; North 80°35'23" West 39.69 feet; North 70°07'03" West 18.23 feet; North 65°58'15" West 168.10 feet; North 68°53'00" West 35.93 feet; North 71°41'39" West 571.16 feet; North 80°05'22" West 8.76 feet to the true point of beginning of the strip of land herein described; thence North 9°34'36" East 30.00 feet to a line parallel with said centerline and distant 30.00 feet Northerly therefrom, measured at right angles; thence North 60°05'23" West, along said parallel line, 289.67 feet to a line parallel with the Westerly line of said Carrillo property, and distant Easterly 30.00 feet therefrom, measured at right angles; thence South 2°02'20" East, along said parallel line, 30.66 feet to said centerline; thence South 80°05'22" East 283.50 feet to the true point of beginning.

#### PARCEL 2.

All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Beginning at the point on the Westerly line of the Carrillo Ranch property distant North 2°02'10" West 3950.98 feet from the Northerly line of the Atkinson, Topeka and Santa Fe Railway Company's 100.00 foot strip of land, as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 41°19'19" East 157.87 feet; thence South 42°07'13" East 59.48 feet; thence South 44°07'50" East 99.54 feet;

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thence South 49°59'14" East 104.47 feet; thence South 56°35'03" East 102.11 feet; thence South 74°14'36" East 45.59 feet; thence North 88°51'06" East 56.38 feet; thence North 87°25'58" East 48.52 feet; thence North 76°34'53" East 59.86 feet; thence North 75°39'36" East 128.13 feet; thence North 76°13'45" East 137.57 feet; thence South 34°06'59" East 42.04 feet; thence South 31°21'37" East 123.98 feet; thence South 73°27'51" East 18.33 feet to the point on the Easterly line of said Carrillo Ranch property distant North 6°40'31.3" West 2750.10 feet from the intersection of said Easterly line with the centerline of the Cajon Canal of the Anaheim Union Water Company, as shown on said map; thence North 6°40'31.3" West, along said Easterly line, 1326.91 feet; thence North 87°54'37" West 787.19 feet to the point on said Westerly line distant North 2°02'20" West 1412.03 feet from the point of beginning; thence South 2°02'20" East 1412.03 feet to the point of beginning.

EXCEPTING THEREFROM a three-fourths (3/4ths) interest in and to all oil and oil rights in, on, and appurtenant to said lands.

SUBJECT TO an easement for road and public utility purposes over, under, along, across and through Westerly 50.00 feet thereof.

PARCEL 3:

A one-fourth (1/4th) interest in and to all oil and oil rights in, on, and appurtenant to the following described land:

All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Beginning at the point on the Westerly line of the Carrillo Ranch property distant North 2°02'20" West 5363.01 feet from the Northerly line of the Atchison, Topeka and Santa Fe Railway Company's 100.00 foot strip of land as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 87°54'37" East 2047.12 feet to the point on the Easterly line of said Carrillo Ranch property distant North 6°40'31.3" West 4579.01 feet from the intersection of said Easterly line with the centerline of the Cajon Canal of the Anaheim Union Water Company, as shown on said map; thence North 6°40'31.3" West, along said Easterly line, 2065.93 feet; thence North 87°54'37" West 619.76 feet to the point on said Westerly line distant North 2°02'20" West 2047.12 feet from the point of beginning; thence South 2°02'20" East, along said Westerly line, 2047.12 feet to the point of beginning.

SUBJECT TO an easement for road and public utility purposes over, under, along, across and through the Westerly 50.00 feet thereof.

PARCEL 4:

A one-fourth (1/4th) interest in and to all oil and oil rights in, on, and appurtenant to the following described land:

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All that certain real property in the Rancho Canon de Santa Ana, County of Orange, State of California, being that portion of the Carrillo Ranch property as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County, lying Northerly of the following described line: beginning at the point on the Easterly line of said Carrillo Ranch property distant North 6°40'31.3" West 6644.94 feet from the intersection of said Easterly line with the centerline of the Cajon Canal of the Anaheim Union Water Company, as shown on said map; thence North 87°54'37" West 619.76 feet to the point on the Westerly line of said Carrillo Ranch property distant North 2°02'20" West 1410.13 feet from the Northerly line of the Atchison, Topeka and Santa Fe Railway Company's 100.00 foot strip of land as shown on said map.

SUBJECT TO an easement for road and public utility purposes over, under, along, across and through the westerly 50.00 feet thereof.

PARCEL 5:

A one-third (1/3rd) interest in and to that real property in the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Commencing at the point on the Southerly line of the Atchison, Topeka and Santa Fe Railway property distant South 71°04'33" West 845.10 feet from the intersection of said Southerly line, with the Easterly line of the Carrillo Ranch property as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 4°47'57" East 54.04 feet to the true point of beginning of the boundary of the land herein described; thence South 4°47'57" East 50.00 feet; thence South 85°12'03" West 30.00 feet; thence North 4°47'57" West 50.00 feet; thence North 85°12'03" East 30.00 feet to the true point of beginning.

EXCEPTING THEREFROM a one-fourth (1/4th) interest in and to all oil and oil rights in, on and appurtenant to said lands.

PARCEL 6:

An easement for water pipeline purposes over, under, along, across and through that portion of the Rancho de Canon de Santa Ana, County of Orange, State of California, lying 3.00 feet on each side of the following described centerline:

Commencing at the intersection of the Southerly line of the land conveyed to the Atchison, Topeka and Santa Fe Railway Company by deed recorded in Book 173, Page 291 of Deeds, records of said County, with the Easterly line of the Carrillo Ranch property as said Southerly and Easterly lines are shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 71°04'33" West along said Southerly line 845.10 feet; thence South 4°47'57" East 54.04 feet; thence South 85°12'03" West 30.00 feet; thence South 4°47'57" East 2.33 feet to the true point of beginning of the centerline herein described; thence North 8°16'29" West 45.51 feet to the point on said Southerly

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line distant South 71°04'33" West 882.94 feet from said intersection. The side lines of this easement are prolonged or shortened to terminate on the lines above described as having bearings of South 85°12'03" West, and South 4°47'57" East from the true point of beginning and on said Southerly line.

PARCEL 7.

An easement for road and public utility purposes over, under, along, across and through that portion of the Rancho Canon de Santa Ana, County of Orange, State of California, described as follows:

Beginning at the point on the Southerly line of the land conveyed to the Atchison, Topeka and Santa Fe Railway Company by deed recorded in Book 173, page 296 of Deeds, records of said County, distant South 71°04'33" West 848.10 feet from the Easterly line of the Carrillo Ranch property, as said Southerly and Easterly lines are shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence South 4°47'57" East 54.04 feet; thence South 85°12'03" West 15.00 feet; thence North 4°47'57" West 50.27 feet to said Southerly line; thence North 71°04'33" East, along said Southerly line to the point of beginning.

PARCEL 8.

An easement for road and public utility purposes over, under, along, across and through the Westerly 30.00 feet of the Easterly 40.00 feet of that portion of the Carrillo Ranch property in the Rancho Canon de Santa Ana, County of Orange, State of California, lying Southerly of the centerline of the Cajon Canal of the Anaheim Union Water Company and Northerly of the Northerly line of the land of the Atchison, Topeka and Santa Fe Railway Company, as said Carrillo Ranch property is shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County. In the event subdivision development (more than 4 dwellings) is effected in Parcel 1, above described, this easement shall be widened to include the Easterly 60.00 feet of that portion of said Carrillo Ranch property lying Southerly of said centerline of the Cajon Canal, and Northerly of said Northerly line of the Atchison, Topeka and Santa Fe Railway Company land. If and when this widening is accomplished, the existing wind break of eucalyptus trees along the Easterly line of said easement shall not be removed, so long as said Carrillo Ranch property adjoining Westerly is devoted to the raising of citrus crops in commercial amounts.

PARCEL 9.

A 6.00 foot wide easement for water pipeline purposes over, under, along, across and through that portion of the Rancho Canon de Santa Ana, County of Orange, State of California, lying 3.00 feet on each side of the following described centerline:

Beginning at the point on the Northerly line of the Atchison, Topeka and Santa Fe Railway Company property distant North 71°04'33" East 353.00 feet from the Westerly line of the Carrillo Ranch property as shown on the map filed in Book 37, Page 33 of Record of Surveys, records of said County; thence North 3°59'16" East 904.22 feet to the point on the centerline of the Cajon Canal of the Anaheim Union Water Company as shown on said map; distant South 80°05'22" East 322.92 feet and South 71°41'39" East 124.56 feet from the intersection of said centerline with said Westerly line.

PARCEL 10.

An easement for road and public utility purposes over, under, along, across and through that portion of the

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1 Rancho Canon de Santa Ana, County of Orange, State of  
 2 California, being partly 30.00 feet in width and partly  
 3 30.00 feet in width; the 30.00 foot wide portion lying  
 15.00 feet on each side of the following described  
 centerline:

4 Beginning at the intersection of the Northerly line of  
 5 Esperanza Road with a line parallel with the Westerly  
 6 boundary of the Carrillo Ranch property, and distant  
 7 Easterly 15.00 feet therefrom, measured at right angles,  
 8 as said Westerly boundary and said Northerly line are  
 9 shown on the map filed in Book 37, Page 33 of Record of  
 10 Surveys, records of said County; thence North 2°02'20"  
 11 West, along said parallel line to the point distant  
 12 430.19 feet North 2°02'20" West from the intersection of  
 13 said parallel line with the centerline of Cajon Canal of  
 14 the Anaheim Union Water Company, as shown on said map;  
 15 thence North 85°31'04" East, 256.99 feet to the  
 16 beginning of a tangent curve concave Northwesterly and  
 17 having a radius of 85.00 feet; thence Northwesterly,  
 18 along said curve, through a central angle of 98°49'59",  
 19 a distance of 146.62 feet; thence, tangent to said curve,  
 20 North 13°18'55" West 274.22 feet; thence North 30°27'12"  
 21 West, 79.88 feet; thence North 20°09'12" West 137.44 feet;  
 22 thence North 36°15'10" West 136.83 feet; thence North  
 23 20°25'27" West 23.76 feet; thence North 3°09'35" West  
 24 31.90 feet; thence North 20°01'15" East 75.43 feet;  
 25 thence North 8°47'57" East 30.78 feet; thence North  
 26 0°20'07" West 70.91 feet; thence North 11°09'03" West  
 27 36.62 feet; thence North 29°21'09" West 305.95 feet;  
 28 thence North 26°02'47" West 43.90 feet to said parallel  
 29 line; thence North 2°02'20" West, along said parallel  
 30 line, 744.00 feet to the Northerly terminus of said 30.00  
 31 foot wide portion; said Northerly terminus being distant  
 32 North 87°57'40" East 15.00 feet from the point on said  
 Westerly line distant North 2°02'20" West 2489.05 feet  
 from the intersection of said Westerly line with the  
 centerline of said Cajon Canal.

The 30.00 foot wide portion being the Westerly 30.00  
 feet of that portion of said Carrillo Ranch property  
 lying Northerly of the line bearing North 37°57'40"  
 East from the point on said Westerly line distant North  
 2°02'20" West 2489.05 feet from the intersection of said  
 westerly line with the centerline of said Cajon Canal.

EXCEPTING THEREFROM that portion included within Parcel  
 1 above described.

#### PARCEL 11.

An easement for road and public utility purposes over,  
 under, along, across and through that portion of the  
 Rancho Canon de Santa Ana, County of Orange, State of  
 California, included within a strip of land 30.00 feet  
 in width, lying 15.00 feet on each side of the following  
 described centerline:

Beginning at the point on the Westerly line of the  
 Carrillo Ranch property distant North 2°02'20" West  
 2606.08 feet from the intersection of said Westerly line  
 with the centerline of the Cajon Canal of the Anaheim  
 Union Water Company as shown on the map filed in Book 37,  
 Page 33 of Record of Surveys, records of said County;

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thence South 43°32'54" East 182.30 feet; thence South 23°25'29" East 193.53 feet; thence South 10°07'54" East 184.93 feet; thence South 20°46'04" East 262.31 feet; thence South 46°13'33" East 108.75 feet to the Westerly line of the above described Parcel 1.

EXCEPTING THEREFROM that portion lying within the Westerly 50.00 feet of said Carrillo Ranch property. The side lines of this easement are extended or shortened to terminate on said Westerly line.

PARCEL 12.

The right to farm that portion of Parcel 10, above described, lying Westerly of that certain course in the boundary of Parcel 1 described as having a bearing of North 2°02'20" West, and a length of 418.99 feet, until such time as said portion of Parcel 10 is used for road and/or public utility purposes.

PARCEL 13.

The right to use the existing electrical and telephone poles, lines and facilities for telephone and electric line service running over and across Parcel 1 of the property partitioned herein to Ellen Reeves from Esperanza Road to Parcel 1 hereinbefore described, until other similar facilities are made available for such services.

PARCEL 14.

The right to use the existing driveway running from Esperanza Road over Parcel 1 of the property partitioned to Ellen Reeves herein, to Parcel 1, above described, until September 30, 1958, on which date this right shall cease.

2. That each of the parties be forthwith let into possession of the distinct parcel herein allocated to her or him.

3. That plaintiffs, Esperanza Carrillo and Ellen Reeves, and defendant, Eutimio Carrillo, shall have the right to water for domestic purposes produced from the well site, owned in common by the owner-parties hereto of the land involved in these proceedings continuously, and to all of the irrigation water produced by said well site during the following periods, and at no other time, to wit: Esperanza Carrillo, the first ten (10) days of each calendar month; Ellen Reeves, the second ten (10) days of each calendar month; and Eutimio Carrillo for the remaining days of each calendar month.

4. That the Court costs, Referees' fees and expenses, and attorneys' fees incurred herein for the common benefit of the plaintiffs and defendant, be, and the same is hereby, fixed as follows:

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COURT COSTS:

4/6/55	- County Clerk, Filing Petition	\$	9.00
12/12/55	- Orange County Title - Reports		25.00
1/20/56	- Orange County Title - Deeds, etc.		285.90
11/23/56	- County Clerk, San Bernardino, certified copy decree re minerals rights		2.50
Total		\$	322.40

The above court costs have been prepaid by the parties  
equally.

REFEREES' FEES:

John C. Wallace	\$ 1,862.50	
Aerial Map	17.51	\$ 1,880.01
Stanley Goode, Sr.		1,912.50
George H. Jones		1,912.50
Robert D. Schafer		1,520.00
Stephen W. Bradford, Surveyor's charges and disbursements	\$ 13,067.18	
Paid on account by parties equally	5,520.72	7,556.46

ATTORNEYS' FEES:

Webb & Lee, Plaintiffs' attorneys	10,000.00
Stephen P. Gallagher, Defendant's attorney	7,500.00
	\$ 22,261.17

5. That the above costs, fees and expenses be paid by  
the parties hereto within thirty (30) days as follows:

ESPERANZA CARRILLO, one of the plaintiffs, the following  
sums to the following persons:

John C. Wallace, Referee	\$ 626.67
Stanley Goode, Sr., Referee	637.50
George H. Jones, Referee	637.50
Robert D. Schafer, Referee	506.67
Stephen W. Bradford, Surveyor	2,513.95
Webb & Lee, Plaintiffs' Attorneys	5,000.00
Stephen P. Gallagher, Defendant's Attorney	833.33
Total	\$ 10,769.62

ELLEN REEVES, one of the plaintiffs, the following  
sums to the following persons:

John C. Wallace, Referee	\$ 626.67
Stanley Goode, Sr., Referee	637.50
George H. Jones, Referee	637.50

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Robert D. Schafer, Referee	\$	506.67
Stephen W. Bradford, Surveyor		2,518.95
Webb & Lee, Plaintiffs' Attorneys		5,000.00
Stephen P. Gallagher, Defendant's Attorney		<u>822.22</u>
Total	\$	10,760.62

EUTIMIO CARRILLO, defendant, the following sums to the following persons:

John C. Wallace, Referee	\$	626.67
Stanley Goode, Sr., Referee		637.50
George H. Jones, Referee		637.50
Robert D. Schafer, Referee		506.67
Stephen W. Bradford, Surveyor		2,518.95
Stephen P. Gallagher, Defendant's Attorney		<u>5,822.24</u>
Total	\$	10,760.63

6. That the report of the referee to take an accounting of the affairs of the partnership filed herein on December 3, 1957, be, and the same is, hereby approved as rendered.

7. That the assets of said co-partnership, (excepting land and the improvements thereon herein partitioned, and excepting miscellaneous equipment and tools), with the values hereby fixed and set opposite each item, are described as follows:

Corporation Cash in Bank	\$	264.11
Partnership Cash in Bank		3,877.41
Revolving Funds withheld by Yorba Orange Growers Association		12,060.21
Equipment owned by partnership		<u>840.00</u>
Total	\$	17,041.73

that the interest of plaintiff Esperanza Carrillo is a one-third (1/3rd) part thereof, the interest of plaintiffs Ellen Reeves and Norman Reeves is a one-third (1/3rd) part thereof, and the interest of defendant Eutimio Carrillo is a one-third (1/3rd) part thereof, except to equalize capital accounts of each, there shall be paid to plaintiffs Norman and Ellen Reeves \$352.35, and to Esperanza Carrillo \$1,392.13 out of partnership funds.

8. That the equipment hereinafter described, belonging to said co-partnership, be, and the same is hereby, set over to

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defendant, Eutimio Carrillo, upon said defendant paying to plaintiff, Esperanza Carrillo \$250.00 and to plaintiffs, Norman Reeves and Ellen Reeves, \$250.00, within ten (10) days after date this judgment becomes final. In the event defendant, Eutimio Carrillo fails to exercise his right to acquire said co-partnership equipment, as hereinbefore provided, then plaintiff, Esperanza Carrillo, shall be entitled to said equipment belonging to said co-partnership by paying to defendant, Eutimio Carrillo the sum of \$250.00, and to plaintiffs Norman and Ellen Reeves, the sum of \$250.00, on or before ten (10) days after defendant Eutimio Carrillo's right to buy or acquire the same has expired. In the event that neither defendant Eutimio Carrillo, nor plaintiff Esperanza Carrillo, exercises his or her right to acquire said co-partnership equipment, as hereinbefore provided, then plaintiffs Norman and Ellen Reeves shall be entitled to said equipment belonging to said co-partnership by paying to defendant, Eutimio Carrillo, the sum of \$250.00, and to plaintiff, Esperanza Carrillo, the sum of \$250.00, on or before ten (10) days after plaintiff Esperanza Carrillo's right to buy or acquire the same has expired.

9. That in the event neither plaintiffs nor defendant acquire the equipment of said co-partnership as herein provided, then, upon motion of any party, an order will be made appointing a receiver to sell said equipment of said co-partnership, and to equally divide the proceeds between plaintiffs and defendant.

10. That the equipment of said co-partnership herein referred to is described as follows:

1 - Cat Tractor	400.00
1 - 1948 Pickup Truck	150.00
1 - Disc	25.00
1 - Furrower	15.00
1 - Diesel Fuel Tank, 550 gallons	50.00
1 - Pump - Diesel Fuel Tank	5.00
1 - Gasoline Fuel Tank Pump	5.00
2 - 50 gallon drums - empty	10.00
1 - Galvanized tank - haul water to small trees	5.00
1 - Gasoline Fuel tank - buried	5.00
1 - Orchard Trailer	50.00
1 - Ferruder with Blade	100.00
Junked Farming Implements	25.00

Total 7 240.00

Webb & Lee  
607 California Bank  
Building  
Anaheim, Calif.  
Respect 4-1817

BOOK 4297 PAGE 116

1 That the small lot of miscellaneous hand tools and small equipment  
2 owned by said co-partnership be, and the same is hereby, divided  
3 between the parties hereto as follows:

4 ESPERANZA CARRILLO, a one-third (1/3rd) part thereof;

5 ELLEN and NORMAN REEVES, a one-third (1/3rd) part thereof;

6 EUTIMIO CARRILLO, a one-third (1/3rd) part thereof,

7 the physical division to be made by mutual agreement of said parties.

8 In the event they are unable to agree as to such division, then on  
9 motion of any of said parties an order will be made appointing a  
10 receiver to sell said small lot of miscellaneous hand tools and  
11 small equipment of said co-partnership, and to equally divide the  
12 proceeds thereof between the parties in accordance with their  
13 interest as set out above.

14 Done in Open Court this 26 day of May, 1958.

15  
16  
17 John P. Lee  
18 Judge of said Superior Court.

19  
20 APPROVED AS TO FORM;

21  
22 Stephen J. Gallagher  
23 Stephen J. Gallagher, Attorney  
24 for defendant, Eutimio Carrillo

25 THE FOREGOING INSTRUMENT IS CORRECT COPY  
26 OF THE ORIGINAL ON FILE IN THIS OFFICE

27 ATTEST May 26 1958  
28 L. B. WALLACE

29 County Clerk and ex-officio Clerk of the  
30 Superior Court of the County of California in and for  
31 the County of Orange.

32 BY John C. Davis DEPUTY

RECORDED AT REQUEST OF  
Webb & Leo  
BOOK 4297 PAGE 93  
MAY 26 1958  
AT 14 MIN. PAST 9 A.  
OFFICIAL RECORDS OF  
ORANGE COUNTY CALIFORNIA  
Ruby McFarland  
COUNTY RECORDER  
\$19.60

Webb & Leo  
407 California Street  
Folsom, Calif.  
Phone 4-2817

-23-



SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE  
CIVIL COMPLEX CENTER

MINUTE ORDER

DATE: 10/06/2014

TIME: 01:25:00 PM

DEPT: CX102

JUDICIAL OFFICER PRESIDING: Robert J. Moss

CLERK: Betsy Zuanich

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: None

CASE NO: 30-2013-00650665-CU-OR-CJC CASE INIT.DATE: 05/21/2013

CASE TITLE: **Yorba Linda Estates, LLC vs. Virginia Richards as Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other Real Property

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EVENT ID/DOCUMENT ID: 72037714

EVENT TYPE: Chambers Work

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**APPEARANCES**

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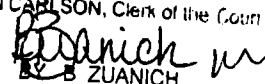
There are no appearances by any party.

Conformed copy of Statement of Decision and Judgment is attached hereto and incorporated herein by reference as though set forth at length in full.

Court orders Clerk to give notice.

**FILED**  
 SUPERIOR COURT OF CALIFORNIA  
 COUNTY OF ORANGE  
 CIVIL COMPLEX LITIGATION CENTER

**OCT - 6 2014**

ALAN CARLSON, Clerk of the Court  
  
 ALAN CARLSON

WILLIAM D. COFFEE, ESQ. (Bar No. 143653)  
 bcoffee@sr-firm.com  
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Attorneys for Plaintiffs/Cross-Defendants  
 Yorba Linda Estates, LLC, OC 33, LLC; and  
 Cross-Defendants Janis Long Nicholas, John Jay Nicholas,  
 Johanna Rae Long, Mary Margaret Long, Yorba Linda Estates North, LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

YORBA LINDA ESTATES, LLC, an Arizona  
 limited liability company,

Plaintiff,

v.

VIRGINIA RICHARDS AS TRUSTEE OF THE  
 VIRGINIA RICHARDS REVOCABLE  
 INTERVIVOS TRUST DATED MAY 1, 1986;  
 NORTH COUNTY BRS PROJECT, LLC, a  
 Delaware limited liability company; All Other  
 Persons Or Entities Unknown, Claiming Any Legal  
 Or Equitable Right, Title, Estate Lien, Or Interest In  
 The Real Property Described In The Complaint  
 Adverse To Plaintiff's Interest Or Any Cloud On  
 Plaintiff's Title Thereto; and DOES 1 through 50,

Defendants.

AND RELATED CROSS-ACTION.

**Case No. 30-2013-00650665-CU-OR-CJC**

Original Complaint Filed May 21, 2013

Assigned for all Purposes To:  
 Honorable Frederick P. Aguirre, Judge  
 Department C-23

Trial Judge: Honorable Robert J. Moss  
 Department CX 102

~~Proposed~~ **STATEMENT OF DECISION**

**WHEREAS**, this action came on regularly for a court trial on August 26, 27, 28, 2014, in  
 Department CX 102 of the above-entitled court, the Honorable Robert J. Moss, Judge presiding.  
 Appearing on behalf of plaintiffs/cross-defendants YORBA LINDA ESTATES, LLC ("YLE") and  
 OC 33, LLC ("OC 33") (collectively "Plaintiffs"), and cross-defendants JANIS LONG NICHOLAS  
 and JOHN JAY NICHOLAS, TRUSTEES OF THE NICHOLAS FAMILY TRUST DATED APRIL  
 13, 1999; JOHANNA RAE LONG; MARY MARGARET LONG; and YORBA LINDA ESTATES

NORTH, LLC (collectively "Cross-Defendants") was William D. Coffee, Esq. of Songstad Randall Coffee & Humphrey LLP. Appearing on behalf of defendants/cross-complainants LINDA M. RODGER and NANCY ANN MAGGIO (erroneously sued herein as Virginia Richards) AS CO-TRUSTEES OF THE VIRGINIA RICHARDS REVOCABLE INTERVIVOS TRUST DATED MAY 1, 1986 ("Richards Trust") and NORTH COUNTY BRS PROJECT, LLC ("BRS") (collectively "Defendants") were Robert Garrett, Esq. and Edward W. Racek, Esq. of Garrett & Tully, P.C.;

**WHEREAS**, on August 28, 2014, at the conclusion of the trial, the court took the matter under submission;

**WHEREAS**, on September 2, 2014, the court issued its Tentative Decision in this matter and directed that if either side requested a Statement of Decision, Plaintiffs were to prepare the Statement of Decision;

**WHEREAS**, on September 17, 2014, Defendants filed a Request for Statement of Decision and on September 26, 2014, Plaintiffs and Cross-Defendants filed their Proposals for the Content of the Statement of Decision;

**WHEREAS**, having fully considered the arguments of all parties, both written and oral, as well as the evidence presented,

**THE COURT HEREBY ISSUES** the following Statement of Decision:

**1. SUMMARY OF EVIDENCE AND FACTUAL FINDINGS**

The Carrillo Ranch was a single parcel of land in the shape of an irregular rectangle approximately 223.14 acres, exclusive of Esperanza Road, situated on the northerly bank of the Santa Ana River approximately two (2) miles east and north of the Yorba Bridge, which was cut by the Esperanza Road and the Atchison and Topeka and Santa Fe Railroad (the "Carrillo Ranch Property"). (Stipulated Fact ("SF") No. 1) On April 4, 1955, Carrillo Ranch, Inc. conveyed the Carrillo Ranch Property to Esperanza Carrillo ("Esperanza"), Ellen Reeves ("Reeves") and Eutimio Carrillo ("Eutimio") as joint tenants. (Trial Exhibit ("TE") No. 1 - Deed)

On or about April 7, 1955, Esperanza and Reeves filed an action for partition of the Carrillo Ranch Property against Eutimio in Orange County Superior Court, Case No. 65076 (the "Partition

Action"). (TE No. 2 - Partition Complaint) In the Partition Action, the court appointed three (3) referees to make an equitable partition of the Carrillo Ranch Property. The report prepared by the referees was filed in the Partition Action on or about October 30, 1957 (hereinafter "Referees' Report"). (TE No. 3 - Referees' Report) The Referees' Report recommended that the southerly portion of the Carrillo Ranch Property be divided into three (3) separate allotments. The Referees' Report designated the remaining unimproved northerly portion of the Carrillo Ranch Property, described as the "back hill" land, as Parcels "X", "Y" and "Z". (TE No. 3 - Referees' Report at pp. 001-002) The Referees' Report also proposed three (3) road and public utility easements which were to be fifty (50) feet wide running in a north south direction along the western border of Parcels "X" "Y" and "Z". (TE No. 3 - Referees' Report at p. 0027)

On or about May 26, 1958, the court entered a final judgment in the Partition Action (the "Partition Judgment"). (TE No. 5 - Partition Judgment) A certified copy of the Partition Judgment was recorded in the Official Records of Orange County, California at Book 4297, Pages 93-116 on May 26, 1958. (TE No. 6 - Recorded Partition Judgment) The Partition Judgment approved and confirmed the Referees' Report and partitioned and allotted the Carrillo Ranch Property to Esperanza, Reeves and Eutimio. Pursuant to the Partition Judgment, Esperanza was allotted property identified as Parcels 1 through 8 (hereinafter the "Esperanza Allotment"). The property identified in the Referees' Report as Parcel "Z" was identified as Parcel 3 of the Esperanza Allotment (hereinafter the "Esperanza Allotment Parcel 3"). (TE No. 5 - Partition Judgment at p. 4) Pursuant to the Partition Judgment, Reeves was allotted property identified as Parcels 1 through 9 (hereinafter the "Reeves Allotment"). The property previously identified in the Referees' Report as Parcel "Y" was identified as Parcel 2 of the Reeves Allotment (hereinafter the "Reeves Allotment Parcel 2). (TE No. 5 - Partition Judgment at pp. 9-10)

The Partition Judgment described a fifty (50) foot wide easement for road and public utility purposes over Reeves Allotment Parcel 2 that was conveyed to Esperanza. This easement was identified and described as part of Parcel 6 of the Esperanza Allotment. (TE No. 5 - Partition Judgment at pp. 5-6) In the Partition Judgment, the description of Reeves Allotment Parcel 2 also referred to this easement, stating that Reeves Allotment Parcel 2 was "subject to an easement for

road and public utility purposes over, under, along, across, and through the westerly fifty (50) feet thereof.” (TE No. 5 - Partition Judgment at p. 10 )

Reeves conveyed Reeves Allotment Parcel 2 to Virginia Richards on September 28, 1960. Virginia Richards then conveyed a portion of Reeves Allotment Parcel 2 to herself as trustee of the Richards Trust on March 6, 1987. (TE Nos. 9, 10 - Deeds) This property is referred to as the “Richards Trust Property”. The Richards Trust is the current owner of the Richards Trust Property. BRS has entered into a contract with the Richards Trust to purchase the Richards Trust Property.

Esperanza conveyed Esperanza Allotment Parcel 3 to Ellen Simmons on September 28, 1960. (TE No. 11 - Deed) This property was subsequently conveyed to Yorba Trail, LLC, a California limited liability company (“Yorba Trail”). (TE Nos. 12 - 18 - Deeds) This property is referred to as the “Yorba Trail Property”. In April 2012, YLE entered into an option agreement with Yorba Trail to purchase the Yorba Trail Property (“YLE Purchase Agreement”). (TE No. 29 - Option Agreement) In November 2013, YLE exercised its option to purchase the Yorba Trail Property. (TE No. 30 - November 27, 2013 email) On February 19, 2014, Yorba Trail conveyed the Yorba Trail Property to OC 33 and assigned the YLE Purchase Agreement to OC 33. (TE No. 19 - Deed; TE No. 34 - Assignment) OC 33 is the current owner of the Yorba Trail Property and YLE is under contract to purchase the Yorba Trail Property from OC 33.

## **2. DETERMINATION OF PRINCIPAL CONTROVERTED ISSUES AT TRIAL**

1. Did the Partition Judgment create an appurtenant easement over the Richards Trust Property for the benefit of the Yorba Trail Property?

Yes. The Partition Judgment created a fifty (50) foot wide easement for roadway and public utilities along the western border of the Richards Trust Property for the benefit of the Yorba Trail Property as more fully described in the Partition Judgment. It is elementary that an easement can be created by a decree in a partition action. Mesmer v. Uharriet, 174 Cal. 110 (1916); Miller & Starr, California Real Estate, 3rd Ed., §15:47. An easement created by express or implied grant is a vested interest in real property and cannot be lost or terminated by mere non-use, however long it may continue. Faus v. City of Los Angeles, 67 Cal.2d 358 (1967); Miller & Starr, *supra*, §15:78. It stands to reason that an easement created by court decree is entitled to equal, if not greater, dignity to

1 that created by grant.

2 2. Has the easement over the Richards Trust Property been abandoned?

3 No. While it is true that any easement can be abandoned regardless how it is created,  
4 the party asserting abandonment must establish: (a) the owner of the easement stopped using it and,  
5 (b) did so with the intention of abandoning the right to use it in the future. Here, Defendants failed to  
6 meet their burden.

7 First, they did not establish that the owner of the easement *stopped* using it. The  
8 owner of the easement did not *stop* using it because it never *started* using it in the first place. The  
9 land owned by both Plaintiffs and Defendants sat undeveloped for over fifty (50) years until  
10 investigation of the feasibility of the Esperanza Hills and Cielo Vista projects began just recently. It  
11 took this long for the inexorable tide of development to reach this hitherto "back-hill" land.

12 Secondly, the Defendants failed to establish the Plaintiffs *intended* to give up the right  
13 to use the easement in the future. There was no evidence of anything said or any act by any owner of  
14 the easement which would lead a reasonable person to believe that they were giving up the right to  
15 use the easement in the future. All they did was not use their property. There was no reason to take  
16 any measures to re-affirm their ownership of the easement because the Defendants' land upon which  
17 the easement exists remained undeveloped as well. When Defendants began taking the initial steps  
18 to develop their property, the Plaintiffs filed this action clearly in an effort to assert rather than  
19 abandon the easement.

20 3. Has the easement over the Richards Trust Property been terminated by overburdening  
21 or for any other reason including adverse possession/prescription or destruction of stated purpose?

22 No. There was no evidence of use of the easement by any owner of the easement that  
23 has overburdened the Richards Trust Property. There was no evidence of any act by any owner of  
24 the easement, or any other circumstance or event, that would have caused the easement to terminate  
25 for any reason.

26 4. Are the Plaintiffs entitled to quiet title to the easement over the Richards Trust  
27 Property?

28 Yes. The Partition Judgment created a fifty (50) foot wide easement for roadway and

public utilities along the western border of the Richards Trust Property for the benefit of the Yorba Trail Property as more fully described in the Partition Judgment. Plaintiff OC 33, as the current owner of the Yorba Trail Property, and Plaintiff YLE, as the party under contract with OC 33 to purchase the Yorba Trail Property, are entitled to quiet title to the easement over the Richards Trust Property.

5. Are Plaintiffs entitled to a declaration that the Richards Trust Property is subject to an easement for the benefit of the Yorba Trail Property?

Because the court has determined that Plaintiffs are entitled to quiet title to the easement over the Richards Trust Property, it is not necessary for the court to issue a declaration to the same effect.

6. Are Plaintiffs entitled to injunctive relief?

Because the Defendants are presently not using the Richards Trust Property and are not presently engaged in any conduct that would interfere with Plaintiffs' use of the easement, there is no basis for injunctive relief at this time.

7. Are Defendants entitled to quiet title to the easement over the Richards Trust Property?

No. The court has determined that the Partition Judgment did create an appurtenant easement over the Richards Trust Property for the benefit of the Yorba Trail Property and that this easement has not been abandoned or terminated. Therefore, there is no basis to quiet title in favor of the Defendants as to the easement over the Richards Trust Property.

8. Are Defendants entitled to injunctive relief?

No. The Cross-Complaint filed by the Defendants did not include a cause of action seeking injunctive relief, nor did Defendants request any injunctive relief in their Cross-Complaint. The Defendants did not ask for any injunctive relief at trial, nor did the Defendants present any evidence that would have entitled the Defendants to injunctive relief.

9. Are Defendants entitled to a declaration that use of the easement over the Richards Trust Property is limited to historical use?

No. The owner of the easement never used the easement because the land owned by

both Plaintiffs and Defendants sat undeveloped for over fifty (50) years until investigation of the feasibility of the Esperanza Hills and the Cielo Vista projects began just recently. The Partition Judgment did not contain any limitation on historical use or future use other than roadway and public utility purposes. There also was no evidence that the easement was intended to be limited to historical use.

10. Are Defendants entitled to a declaration that the easement over the Richards Trust Property cannot be used to benefit properties other than the Yorba Trail Property?

No. Defendants urge the court to circumscribe the uses to which the easement can be put if the court finds there is an easement. For example, the Defendants ask this court to declare that one pending proposal involving a thirty-five (35) foot high retaining wall would be a misuse of the easement or that its use as a fire authority access road be declared overly burdensome as the roadway would serve more than the land originally enhanced by the easement rights.

The problem with these and all of the restrictions Defendants would have the court impose is that these proposals are just that - proposals. The interested governmental agencies have not approved any plans for the improvement of the easement. Indeed there are four (4) proposals that have been submitted, three (3) of which do not involve the use of the easement as a fire access road at all. The Defendants would have this court provide an advisory opinion based on hypothetical facts. Until it is clear that the Plaintiffs intend to go forward with a specific development plan, there is no "actual controversy" as that phrase is used in Code of Civil Procedure section 1060. While Defendants' proposed constraints on the use of the easement may become ripe for decision further along in the entitlement process, the facts are not sufficiently congealed at this point for the court to enter a declaratory judgment.

11. Does YLE have standing to quiet title or seek a declaration against Defendants?

Yes. Both Plaintiffs have standing in this action. Plaintiff OC 33 is the owner of the Yorba Trail Property. Plaintiff YLE has an interest in the Yorba Trail Property as the purchaser of the Yorba Trail Property from OC 33 under the YLE Purchase Agreement.

12. Does the easement provide access to Stonehaven Drive for Plaintiffs' property?

Yes. The easement extends south through the Richards Trust Property across a



remainder parcel owned by the Richards Trust and across another lot to Stonehaven as shown on Trial Exhibits 117 and 119 which were uncontroverted.

13. Are Defendants entitled to a determination that Plaintiffs' proposed use of the easement overburdens it?

No. Defendants urge the court to circumscribe the uses to which the easement can be put if the court finds there is an easement. For example, the Defendants ask this court to declare that one pending proposal involving a thirty-five (35) foot high retaining wall would be a misuse of the easement or that its use as a fire authority access road be declared overly burdensome as the roadway would serve more than the land originally enhanced by the easement rights.

The problem with these and all of the restrictions Defendants would have the court impose is that these proposals are just that - proposals. The interested governmental agencies have not approved any plans for the improvement of the easement. Indeed there are four (4) proposals that have been submitted, three (3) of which do not involve the use of the easement as a fire access road at all. The Defendants would have this court provide an advisory opinion based on hypothetical facts. Until it is clear that the Plaintiffs intend to go forward with a specific development plan, there is no "actual controversy" as that phrase is used in Code of Civil Procedure section 1060. While Defendants' proposed constraints on the use of the easement may become ripe for decision further along in the entitlement process, the facts are not sufficiently congealed at this point for the court to enter a declaratory judgment.

14. Are Defendants entitled to a declaration that it is impossible to use the purported easement to build the emergency access road proposed by Plaintiffs?

No. Defendants urge the court to circumscribe the uses to which the easement can be put if the court finds there is an easement. For example, the Defendants ask this court to declare that one pending proposal involving a thirty-five (35) foot high retaining wall would be a misuse of the easement or that its use as a fire authority access road be declared overly burdensome as the roadway would serve more than the land originally enhanced by the easement rights.

The problem with these and all of the restrictions Defendants would have the court impose is that these proposals are just that - proposals. The interested governmental agencies have

not approved any plans for the improvement of the easement. Indeed there are four (4) proposals that have been submitted, three (3) of which do not involve the use of the easement as a fire access road at all. The Defendants would have this court provide an advisory opinion based on hypothetical facts. Until it is clear that the Plaintiffs intend to go forward with a specific development plan, there is no "actual controversy" as that phrase is used in Code of Civil Procedure section 1060. While Defendants' proposed constraints on the use of the easement may become ripe for decision further along in the entitlement process, the facts are not sufficiently congealed at this point for the court to enter a declaratory judgment.

15 Are Defendants entitled to a declaration that it is impossible to use the purported easement for its stated purpose?

No. Defendants urge the court to circumscribe the uses to which the easement can be put if the court finds there is an easement. For example, the Defendants ask this court to declare that one pending proposal involving a thirty-five (35) foot high retaining wall would be a misuse of the easement or that its use as a fire authority access road be declared overly burdensome as the roadway would serve more than the land originally enhanced by the easement rights.

The problem with these and all of the restrictions Defendants would have the court impose is that these proposals are just that - proposals. The interested governmental agencies have not approved any plans for the improvement of the easement. Indeed there are four (4) proposals that have been submitted, three (3) of which do not involve the use of the easement as a fire access road at all. The Defendants would have this court provide an advisory opinion based on hypothetical facts. Until it is clear that the Plaintiffs intend to go forward with a specific development plan, there is no "actual controversy" as that phrase is used in Code of Civil Procedure section 1060. While Defendants' proposed constraints on the use of the easement may become ripe for decision further along in the entitlement process, the facts are not sufficiently congealed at this point for the court to enter a declaratory judgment.

16. Are Defendants entitled to a declaration that Plaintiffs' proposed use of the easement constitutes an exclusive use of the easement area?

No. Defendants urge the court to circumscribe the uses to which the easement can be

1 put if the court finds there is an easement. For example, the Defendants ask this court to declare that  
 2 one pending proposal involving a thirty-five (35) foot high retaining wall would be a misuse of the  
 3 easement or that its use as a fire authority access road be declared overly burdensome as the roadway  
 4 would serve more than the land originally enhanced by the easement rights.

5 The problem with these and all of the restrictions Defendants would have the court  
 6 impose is that these proposals are just that - proposals. The interested governmental agencies have  
 7 not approved any plans for the improvement of the easement. Indeed there are four (4) proposals  
 8 that have been submitted, three (3) of which do not involve the use of the easement as a fire access  
 9 road at all. The Defendants would have this court provide an advisory opinion based on hypothetical  
 10 facts. Until it is clear that the Plaintiffs intend to go forward with a specific development plan, there  
 11 is no "actual controversy" as that phrase is used in Code of Civil Procedure section 1060. While  
 12 Defendants' proposed constraints on the use of the easement may become ripe for decision further  
 13 along in the entitlement process, the facts are not sufficiently congealed at this point for the court to  
 14 enter a declaratory judgment.

15 **THEREFORE, BASED ON THE FOREGOING, THE COURT ORDERS** as follows:

16 1. That judgment be entered quieting title in favor of Plaintiff OC 33, the owner  
 17 of the Yorba Trail Property, which is Orange County Tax Assessor Parcel Number 351-031-04 and  
 18 legally described in **Exhibit "A"** attached hereto and incorporated herein by reference, and Plaintiff  
 19 YLE, OC 33's optionee, and against Defendants, and each of them, as to a fifty (50) foot wide  
 20 easement for roadway and public utilities on the Defendants' adjacent property, which easement  
 21 courses along the western border of Defendants' adjacent property, as described in the Partition  
 22 Judgment in the matter of Carillo, et al. v. Carillo, Orange County Superior Court Case No. 65076,  
 23 entered in 1958. The legal description of this adjacent property contained in the Partition Judgment  
 24 is set forth in **Exhibit "B"** attached hereto and incorporated herein by reference;

25 2. That judgment be entered in favor of Cross-Defendants and against Cross-  
 26 Complainants, and each of them, on the Cross-Complaint; and,


27 ///

28 ///

1                   3.       That Plaintiffs and Cross-Defendants, as prevailing parties, shall be entitled to  
2 recover their costs of suit against Defendants/Cross-Complainants, and each of them, pursuant to a  
3 Memorandum of Costs.

4                                   **IT IS SO ORDERED**

5  
6 Dated: 10/6/14

  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT  
ROBERT J. MOSS

LAW OFFICES OF  
SONGSTAD RANDALL COFFEY & HUMPHREY LLP  
2201 DUPONT DRIVE, SUITE 100  
IRVINE, CALIFORNIA 92612  
TELEPHONE (949) 757-1600  
FACSIMILE (949) 757-1613

**EXHIBIT “A”**

ALL OF THAT CERTAIN REAL PROPERTY IN THE RANCHO CANON DE SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING THAT PORTION OF THE CARRILLO RANCH PROPERTY, AS SHOWN ON THE MAP FILED IN BOOK 37, PAGE 33 OF RECORD OF SURVEYS, RECORDS OF SAID COUNTY, LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE POINT ON THE EASTERLY LINE OF SAID CARRILLO RANCHO PROPERTY DISTANT NORTH 6° 40' 31.3" WEST 6644.94 FEET FROM THE INTERSECTION OF SAID EASTERLY LINE WITH THE CENTERLINE OF THE CAJON CANAL OF THE ANAHEIM UNION WATER COMPANY, AS SHOWN ON SAID MAP; THENCE NORTH 87° 54' 37" WEST 619.76 FEET TO THE POINT ON THE WESTERLY LINE OF SAID CARRILLO RANCH PROPERTY DISTANT NORTH 2° 02' 20" WEST 7410.13 FEET FROM THE NORTHERLY LINE OF THE ATCHISON TOPEKA AND SANTA FE RAILWAY COMPANY'S 100.00 FOOT STRIP OF LAND AS SHOWN ON SAID MAP.

SUBJECT TO AN EASEMENT FOR ROAD AND PUBLIC UTILITIES PURPOSES OVER, UNDER, ALONG, ACROSS AND THROUGH THE WESTERLY 50.00 FEET THEREOF AND COVENANTS, CONDITIONS, RESERVATIONS, RESTRICTIONS, RIGHTS, RIGHTS OF WAY AND EASEMENTS, IF ANY OF RECORD.

## **EXHIBIT “B”**

ALL THAT CERTAIN REAL PROPERTY IN THE RANCHO CANON DE SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WESTERLY LINE OF THE CARRILLO RANCH PROPERTY DISTANT NORTH 2° 02' 20" WEST 5363.01 FEET FROM THE NORTHERLY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY'S 100.00 FOOT STRIP OF LAND AS SHOWN ON THE MAP FILED IN BOOK 37, PAGE 33 OF RECORD OF SURVEYS, RECORDS OF SAID COUNTY; THENCE SOUTH 87° 54' 37" EAST 787.19 FEET TO THE POINT ON THE EASTERLY LINE OF SAID CARRILLO RANCH PROPERTY DISTANT NORTH 6° 40' 31.3" WEST 4579.01 FEET FROM THE INTERSECTION OF SAID EASTERLY LINE WITH THE CENTERLINE OF THE CAJON CANAL OF THE ANAHEIM UNION WATER COMPANY, AS SHOWN ON SAID MAP; THENCE NORTH 6° 40' 31.3" WEST, ALONG SAID EASTERLY LINE, 2065.93 FEET; THENCE NORTH 87° 54' 37" WEST 619.76 FEET TO THE POINT ON SAID WESTERLY LINE DISTANT NORTH 2° 02' 20" WEST 2047.12 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 2° 02' 20" EAST, ALONG SAID WESTERLY LINE, 2047.12 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM A THREE-FOURTHS (3/4THS) INTEREST IN AND TO ALL OIL AND OIL RIGHTS IN, ON, AND APPURTENANT TO SAID LANDS.

SUBJECT TO AN EASEMENT FOR ROAD AND PUBLIC UTILITY PURPOSES OVER, UNDER, ALONG, ACROSS AND THROUGH THE WESTERLY 50.00 FEET THEREOF.



**PROOF OF SERVICE**

I am employed in the County of Orange, State of California, over the age of eighteen years, and not a party to the within action. My business address is SONGSTAD RANDALL COFFEE & HUMPHREY LLP, 2201 Dupont Drive, Suite 100 Irvine, California 92612. On the date set forth below, I served the foregoing copy of the document(s) described as **[Proposed] STATEMENT OF DECISION (Yorba Linda Estates v. Virginia Richards, et al., et al., Orange County Superior Court, Central Justice Center Case No. 30-2013-00650665)** as follows:

**Fax Transmission:** By transmitting the documents listed above via facsimile to the person(s) at the fax number(s) listed below. No error was reported by the fax machine that I used.

**United States Mail:** By placing the document(s) listed above in sealed envelope(s) with postage thereon fully prepaid for collection and mailing in Irvine, California, addressed as set forth below, or as stated on the attached service list.

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**XX By Electronic Service – One Legal:** By causing the document(s) listed above to be served by electronic service by One Legal based on a court order and agreement of the parties to accept service by electronic transmission to the person(s) at the address(es) set forth below, or on the attached service list.

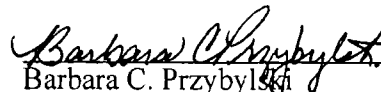
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**SEE ATTACHED SERVICE LIST**

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

**X** (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 26, 2014 at Irvine, California.

  
Barbara C. Przybylski

## SERVICE LIST

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[rsquire@garrett-tully.com](mailto:rsquire@garrett-tully.com)  
[Eracek@garrett-tully.com](mailto:Eracek@garrett-tully.com)  
(Attorneys for Defendants)

09/26/2014 at 04:40:18 PM

Clerk of the Superior Court  
By Giovanni Galon, Deputy Clerk

ATTACHMENT 5b

**FILED**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CIVIL COMPLEX LITIGATION CENTER

OCT - 6 2014

ALAN CARLSON, Clerk of the Court

*Alan Carlson*  
ALAN CARLSON

1 WILLIAM D. COFFEE, ESQ. (Bar No. 143653)

2 [bcoffee@sr-firm.com](mailto:bcoffee@sr-firm.com)

3 SONGSTAD RANDALL COFFEE &amp; HUMPHREY LLP

2201 Dupont Drive, Suite 100

4 Irvine, California 92612

Telephone: (949) 757-1600

Facsimile: (949) 757-1613

5 Attorneys for Plaintiffs/Cross-Defendants

6 Yorba Linda Estates, LLC, OC 33, LLC; and

Cross-Defendants Janis Long Nicholas, John Jay Nicholas,

7 Johanna Rae Long, Mary Margaret Long, Yorba Linda Estates North, LLC

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**9 **COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**10  
11 YORBA LINDA ESTATES, LLC, an Arizona  
12 limited liability company,

13 Plaintiff,

14 v.

15 VIRGINIA RICHARDS AS TRUSTEE OF THE  
16 VIRGINIA RICHARDS REVOCABLE  
INTERVIVOS TRUST DATED MAY 1, 1986;  
17 NORTH COUNTY BRS PROJECT, LLC, a  
Delaware limited liability company; All Other  
18 Persons Or Entities Unknown, Claiming Any Legal  
Or Equitable Right, Title, Estate Lien, Or Interest In  
19 The Real Property Described In The Complaint  
Adverse To Plaintiff's Interest Or Any Cloud On  
Plaintiff's Title Thereto; and DOES 1 through 50,

20 Defendants.

21 AND RELATED CROSS-ACTION.

Case No. 30-2013-00650665-CU-OR-CJC

Original Complaint Filed May 21, 2013

Assigned for all Purposes To:  
Honorable Frederick P. Aguirre, Judge  
Department C-23Trial Judge: Honorable Robert J. Moss  
Department CX 102

[Proposed] JUDGMENT

22 **WHEREAS**, this action was tried before the court without a jury on August 26, 27, and 28,  
23 2014;24 **WHEREAS**, William D. Coffee, Esq. appeared on behalf of plaintiffs/cross-defendants  
25 YORBA LINDA ESTATES, LLC ("YLE") and OC 33, LLC ("OC 33") (collectively "Plaintiffs"),  
26 and cross-defendants JANIS LONG NICHOLAS and JOHN JAY NICHOLAS (collectively  
27 "Nicholas"), JOHANNA RAE LONG and MARY MARGARET LONG (collectively "Long"), and  
28 YORBA LINDA ESTATES NORTH, LLC ("YLEN") (YLE, OC 33, Nicholas, Long and YLEN are

collectively referred to herein as "Cross-Defendants");

**WHEREAS**, Robert Garrett, Esq. and Edward Racek, Esq. appeared on behalf of defendants/cross-complainants LINDA M. RODGER and NANCY ANN MAGGIO (erroneously sued herein as Virginia Richards) AS CO-TRUSTEES OF THE VIRGINIA RICHARDS REVOCABLE INTERVIVOS TRUST DATED MAY 1, 1986 ("Richards Trust") and NORTH COUNTY BRS PROJECT, LLC ("BRS") (collectively "Defendants" or "Cross-Complainants"); and,

**WHEREAS**, pursuant to the court's Statement of Decision, the court hereby enters Judgment as follows:

**THEREFORE, IT IS HEREBY ADJUDGED AND DECREED** as follows:


1. Judgment is entered quieting title in favor of Plaintiff OC 33, the owner of that real property in the County of Orange, California, which is Orange County Tax Assessor Parcel Number 351-031-04 and legally described in **Exhibit "A"** attached hereto and incorporated herein by reference, and Plaintiff YLE, OC 33's optionee, and against Defendants, and each of them, as to a fifty (50) foot wide easement for roadway and public utilities on the Defendants' adjacent property, which easement courses along the western border of Defendants' adjacent property, as described in the Partition Judgment in the matter of Carillo, et al. v. Carillo, Orange County Superior Court Case No. 65076, entered in 1958. The legal description of this adjacent property contained in the Partition Judgment is set forth in **Exhibit "B"** attached hereto and incorporated herein by reference;

2. Judgment is entered in favor of Cross-Defendants and against Cross-Complainants, and each of them, on the Cross-Complaint; and,

3. Plaintiffs and Cross-Defendants are prevailing parties and shall recover their costs of suit against Defendants/Cross-Complainants, and each of them, pursuant to a Memorandum of Costs.

**IT IS SO ORDERED**

Dated: 10/6/14

  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT  
**ROBERT J. MOSS**

## **EXHIBIT “A”**

ALL OF THAT CERTAIN REAL PROPERTY IN THE RANCHO CANON DE SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING THAT PORTION OF THE CARRILLO RANCH PROPERTY, AS SHOWN ON THE MAP FILED IN BOOK 37, PAGE 33 OF RECORD OF SURVEYS, RECORDS OF SAID COUNTY, LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE POINT ON THE EASTERLY LINE OF SAID CARRILLO RANCHO PROPERTY DISTANT NORTH 6° 40' 31.3" WEST 6644.94 FEET FROM THE INTERSECTION OF SAID EASTERLY LINE WITH THE CENTERLINE OF THE CAJON CANAL OF THE ANAHEIM UNION WATER COMPANY, AS SHOWN ON SAID MAP; THENCE NORTH 87° 54' 37" WEST 619.76 FEET TO THE POINT ON THE WESTERLY LINE OF SAID CARRILLO RANCH PROPERTY DISTANT NORTH 2° 02' 20" WEST 7410.13 FEET FROM THE NORTHERLY LINE OF THE ATCHISON TOPEKA AND SANTA FE RAILWAY COMPANY'S 100.00 FOOT STRIP OF LAND AS SHOWN ON SAID MAP.

SUBJECT TO AN EASEMENT FOR ROAD AND PUBLIC UTILITIES PURPOSES OVER, UNDER, ALONG, ACROSS AND THROUGH THE WESTERLY 50.00 FEET THEREOF AND COVENANTS, CONDITIONS, RESERVATIONS, RESTRICTIONS, RIGHTS, RIGHTS OF WAY AND EASEMENTS, IF ANY OF RECORD.

## **EXHIBIT “B”**

ALL THAT CERTAIN REAL PROPERTY IN THE RANCHO CANON DE SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WESTERLY LINE OF THE CARRILLO RANCH PROPERTY DISTANT NORTH 2° 02' 20" WEST 5363.01 FEET FROM THE NORTHERLY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY'S 100.00 FOOT STRIP OF LAND AS SHOWN ON THE MAP FILED IN BOOK 37, PAGE 33 OF RECORD OF SURVEYS, RECORDS OF SAID COUNTY; THENCE SOUTH 87° 54' 37" EAST 787.19 FEET TO THE POINT ON THE EASTERLY LINE OF SAID CARRILLO RANCH PROPERTY DISTANT NORTH 6° 40' 31.3" WEST 4579.01 FEET FROM THE INTERSECTION OF SAID EASTERLY LINE WITH THE CENTERLINE OF THE CAJON CANAL OF THE ANAHEIM UNION WATER COMPANY, AS SHOWN ON SAID MAP; THENCE NORTH 6° 40' 31.3" WEST, ALONG SAID EASTERLY LINE, 2065.93 FEET; THENCE NORTH 87° 54' 37" WEST 619.76 FEET TO THE POINT ON SAID WESTERLY LINE DISTANT NORTH 2° 02' 20" WEST 2047.12 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 2° 02' 20" EAST, ALONG SAID WESTERLY LINE, 2047.12 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM A THREE-FOURTHS (3/4THS) INTEREST IN AND TO ALL OIL AND OIL RIGHTS IN, ON, AND APPURTENANT TO SAID LANDS.

SUBJECT TO AN EASEMENT FOR ROAD AND PUBLIC UTILITY PURPOSES OVER, UNDER, ALONG, ACROSS AND THROUGH THE WESTERLY 50.00 FEET THEREOF.



**PROOF OF SERVICE**

I am employed in the County of Orange, State of California, over the age of eighteen years, and not a party to the within action. My business address is SONGSTAD RANDALL COFFEE & HUMPHREY LLP, 2201 Dupont Drive, Suite 100 Irvine, California 92612. On the date set forth below, I served the foregoing copy of the document(s) described as **[Proposed] JUDGMENT (Yorba Linda Estates v. Virginia Richards, et al., et al., Orange County Superior Court, Central Justice Center Case No. 30-2013-00650665)** as follows:

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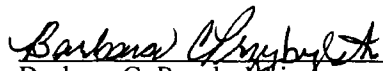
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**X** (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **September 16**, 2014 at Irvine, California.

  
Barbara C. Przybylski

## SERVICE LIST

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[rsquire@garrett-tully.com](mailto:rsquire@garrett-tully.com)  
[Eracek@garrett-tully.com](mailto:Eracek@garrett-tully.com)  
**(Attorneys for Defendants)**

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE**

Central Justice Center  
 700 W. Civic Center Drive  
 Santa Ana, CA 92702

**SHORT TITLE:** Yorba Linda Estates, LLC vs. Virginia Richards as Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

**CLERK'S CERTIFICATE OF SERVICE BY MAIL**

CASE NUMBER:  
**30-2013-00650665-CU-OR-CJC**

I certify that I am not a party to this cause. I certify that a true copy of the Minute Order was mailed following standard court practices in a sealed envelope with postage fully prepaid as indicated below.  
 The mailing and this certification occurred at Santa Ana, California on 10/07/2014

Clerk of the Court, by: *Stuarich*, Deputy

GARRETT & TULLY  
 225 SOUTH LAKE AVENUE SUITE 1400  
 PASADENA, CA 91101-4869

SONSTAD RANDALL COFFEE & HUMPHREY LLP  
 2201 DUPONT DRIVE # 100  
 IRVINE, CA 92612

ROBERTSON & OLSEN LLP  
 2 PARK PLAZA # 730  
 IRVINE, CA 92614

---

**CLERK'S CERTIFICATE OF SERVICE BY MAIL**

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

## IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

## FOURTH APPELLATE DISTRICT

COURT OF APPEAL - 4TH DIST DIV 3

## DIVISION THREE

**FILED**

Dec 10, 2015

Deputy Clerk: D. Saporito

YORBA LINDA ESTATES, LLC et al.,

Plaintiffs, Cross-defendants and  
Respondents,

v.

LINDA M. RODGER, as Trustee, etc., et  
al.,Defendants, Cross-complainants and  
Appellants;YORBA LINDA ESTATES NORTH,  
LLC, et al.,

Cross-defendants and Respondents.

G051110

(Super. Ct. No. 30-2013-00650665)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Robert J. Moss, Judge. Request for Judicial Notice. Judgment affirmed. Request for Judicial Notice denied.

Garrett & Tully, Ryan C. Squire and Edward W. Racek for Defendants,  
Cross-complainants and Appellants.

Songstad & Randall and William D. Coffee for Plaintiffs, Cross-defendants  
and Respondents.

\* \* \*

The dispute in this action arises out of two proposed neighboring housing developments in the County of Orange (County) in the area of the city of Yorba Linda: Cielo Vista, to be built by defendant, cross-complainant, and appellant North County BRS Project, LLC (BRS), and Esperanza Hills, to be built by plaintiff, cross-defendant and respondent Yorba Linda Estates, LLC (YLE).

The trial court found one of the parcels in Cielo Vista is the servient tenement of an easement for public utilities and road purposes (Easement) for the benefit of one of the parcels in Esperanza Hills. The court quieted title to the Easement in favor of YLE and plaintiff OC 33, LLC (OC 33; collectively plaintiffs).

BRS and defendants, cross-complainants, and appellants Linda M. Rodger and Nancy Ann Maggio, cotrustees of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986 (Richards Trust; with BRS, collectively defendants), filed a cross-complaint against plaintiffs, and cross-defendants Yorba Linda Estates North, LLC, Janis Long Nicholas and John Jay Nicholas, trustees of the Nicholas Trust (collectively Nicholas), and Johanna Rae Long and Mary Margaret Long (collectively Long; all collectively cross-defendants) seeking a declaratory judgment that the Easement could be used only by the dominant tenement and none of the other parcels in Esperanza Hills, and that the Easement could not be overburdened.

The court ruled defendants were not entitled to declaratory relief because no plans had been approved for the development of Esperanza Hills about which defendants were complaining. Thus there was no actual controversy and the issues were not ripe.

On appeal, defendants contend there is an existing controversy because one of the several plans plaintiffs have submitted to the County shows the Easement being used for an emergency access road for all parcels within the Esperanza Hills project. In addition, because this issue has not been resolved, BRS has been delayed in developing Cielo Vista. Defendants argue plaintiffs' claims to the Easement are currently harming them, regardless of future development plans for Esperanza Hills.

Defendants filed a request for judicial notice of, among other things, a resolution (Resolution) adopted by the County's planning commission recommending the board of supervisors certify plaintiffs' final environmental impact report (EIR) for Esperanza Hills. We deny the request. The trial exhibits are already part of the record. The Resolution evidences action taken after trial of case and was not before the trial court.

The court did not abuse its discretion in denying declaratory relief and we affirm the judgment.

### **FACTS AND PROCEDURAL HISTORY**

Esperanza Hills is composed of three properties owned by YLE or over which it has control: the Yorba Trail Property, the YLE Property, and a parcel owned by Nicholas and Long (Nicholas/Long Property). Cielo Vista is composed of two properties over which BRS has control: the Richards Property and a parcel owned by Amos Travis (Travis Property).<sup>1</sup>

The Richards Property and the Yorba Trail Property were originally part of a larger parcel that was partitioned pursuant to a judgment in 1958. The partition judgment also granted a 50-foot wide easement appurtenant over the Richards Property for the benefit of the Yorba Trail Property for purposes of road and public utilities. The

---

<sup>1</sup> A copy of one of the trial exhibits, a map showing the location of the various parcels, is appended to this opinion. The shorthand names of the properties have been added to the exhibit.

Easement runs north to south along the western boundary of the Richards Property, continuing south from the western boundary of the Yorba Trail Property.

Both plaintiffs and defendants are in the process of obtaining entitlements to build their projects. In developing Cielo Vista, defendants anticipate building a total of 112 homes. Plaintiffs plan to build approximately 340 homes in Esperanza Hills, 12 on the Yorba Trail Property, and more than 320 on the YLE Property and the Nicholas/Long Property combined. For developments in excess of 150 homes, County requires two access roads, one for primary access and a second for emergency access.

Plaintiffs have submitted to the County various plans for development of Esperanza Hills, one of which, referred to as Option 1, shows use of the Easement for all the parcels making up Esperanza Hills for an emergency access road and for utilities. The road would connect to Stonehaven Drive, which runs east to west, south of the two developments.

Plaintiffs have also submitted three alternate plans (Options 2, 2A, & 2B), none of which show an access road connecting to Stonehaven Drive. However, they do show grading and a road over a portion of the Easement. These plans are all premised on building roads over other parts of the Cielo Vista development, over which plaintiffs admit they have no right of access.

To build the emergency access road over the Easement, plaintiffs will be required to cut a channel on the Richards Property to connect it to Stonehaven Drive. The channel would be approximately 40 feet wide and feature retaining walls up to 35 feet high. The channel would divide the two parcels making up the Cielo Vista development.

Plaintiffs filed a complaint seeking a judgment quieting title to the Easement and enjoining defendants from interfering with plaintiffs' use of the Easement, and a declaration the Richards Property was subject to the Easement.

Defendants filed a cross-complaint for declaratory relief and quiet title. Defendants alleged plaintiffs and cross-defendants had no easement over the Richards Property, or, alternatively, any easement had been terminated. Defendants sought a declaration to that effect and to quiet title to the Richards Property. In the alternative defendants sought a declaration that, if the court found there was an easement, it should be limited to its historic use and that it was nonexclusive.

After a bench trial the court entered judgment in favor of plaintiffs, quieting title to the Easement. The court further ruled in favor of cross-defendants on the cross-complaint, rejecting their quiet title claim on the merits and finding their declaratory relief claim was not ripe.

In the statement of decision the court found the Richards Property was ““subject to an easement for road and public utility purposes over, under, along, across, and through the westerly fifty (50) feet thereof.”” The Easement was for the benefit of the Yorba Trail Property. The Easement extended south through the Richards Property until it reached Stonehaven.

The court concluded the Easement has not been abandoned or terminated for any reason. Further, there was no evidence the Easement was to be restricted to its historical use.

As to the declaratory relief claim in the cross-complaint, the court determined there was no existing actual controversy because there was no approved plan for use of the Easement, and thus any judgment would be an advisory opinion, which it declined to render.

Additional facts are set out in the discussion.

## **DISCUSSION**

### *1. Request for Judicial Notice*

Defendants request we take judicial notice of the Resolution by the County planning commission that recommended certification of a final EIR for Esperanza Hills



and approved Options 1 and 2B. Defendants also seek judicial notice of five trial exhibits.

We deny the request. The exhibits are already part of the record on appeal and judicial notice is not necessary.

Nor do we take judicial notice of the Resolution. On appeal the record consists of documents considered by the trial court. Judicial notice generally is not proper to bring a new document before us. (*Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 444, fn. 3.) This is especially true when the document evidences events that occurred after the trial court proceedings.

Although we may take judicial notice of a document consisting of new evidence in exceptional circumstances (*City of Petaluma v. Cohen* (2015) 238 Cal.App.4th 1430, 1438, fn. 7), we do not consider this to be such a case (*DeYoung v. Del Mar Thoroughbred Club* (1984) 159 Cal.App.3d 858, 863, fn. 3 [reviewing court should not receive new evidence to support reversal]). The Resolution was merely a recommendation by the planning commission to the County board of supervisors to take certain action with reference to plaintiffs' development of Esperanza Hills. There is no evidence as to how the board will act on it. The Resolution does not serve to show there is an actual controversy.

## 2. General Principles of Declaratory Relief and Standard of Review

The court may grant declaratory relief "in cases of actual controversy relating to the legal rights and duties of the respective parties." (Code Civ. Proc., § 1060.)

"The purpose of declaratory relief is 'to set controversies at rest before they lead to repudiation of obligations, invasion of rights or commission of wrongs.' [Citation.] It 'is to be used in the interests of preventive justice, to declare rights rather than execute them.' [Citation.]" (*Environmental Defense Project of Sierra County v. County of Sierra* (2008) 158 Cal.App.4th 877, 884; *Environmental Defense Project.*)

One purpose ““is to liquidate doubts with respect to uncertainties or controversies which might otherwise result in subsequent litigation [citation].” [Citation.]” (*Meyer v. Sprint Spectrum L.P.* (2009) 45 Cal.4th 634, 647.) Another ““““test of the right to institute proceedings for declaratory judgment is the necessity of present adjudication as a guide for plaintiff’s future conduct . . . to preserve his legal rights.””” [Citation.]” (*Coronado Cays Homeowners Assn. v. City of Coronado* (2011) 193 Cal.App.4th 602, 608; *Coronado*.)

An ““actual controversy”” under Code of Civil Procedure section 1060 “encompasses a probable future controversy relating to the legal rights and duties of the parties. [Citation.]” (*Environmental Defense Project, supra*, 158 Cal.App.4th at p. 885.) “Whether a case is founded upon an ‘actual controversy’ centers on whether the controversy is justiciable. ‘The principle that courts will not entertain an action which is not founded on an actual controversy is a tenet of common law jurisprudence, the precise content of which is difficult to define and hard to apply. The concept of justiciability involves the intertwined criteria of ripeness and standing.’” (*Stonehouse Homes LLC v. City of Sierra Madre* (2008) 167 Cal.App.4th 531, 540; *Stonehouse*.) “[T]he ‘actual controversy’ referred to in the statute is one which ‘admits of definitive and conclusive relief by judgment within the field of judicial administration, as distinguished from an advisory opinion upon a particular or hypothetical state of facts.’” (*Green v. Travelers Indemnity Co.* (1986) 185 Cal.App.3d 544, 557.)

“A ‘controversy is “ripe” when it has reached, but has not passed, the point that the facts have sufficiently congealed to permit an intelligent and useful decision to be made.’ [Citation.]” (*Environmental Defense Project, supra*, 158 Cal.App.4th at p. 885.)

There is a two-pronged test to determine if a controversy is ripe: “whether the dispute is sufficiently concrete that declaratory relief is appropriate; and (2) whether withholding judicial consideration will result in the parties suffering hardship. [Citations.]” (*Stonehouse, supra*, 167 Cal.App.4th at p. 540.) ““Under the first prong, the

courts will decline to adjudicate a dispute if “the abstract posture of [the] proceeding makes it difficult to evaluate . . . the issues” [citation], if the court is asked to speculate on the resolution of hypothetical situations [citation], or if the case presents a “contrived inquiry” [citation]. Under the second prong, the courts will not intervene merely to settle a difference of opinion; there must be an imminent and significant hardship inherent in further delay. [Citation.]’ [Citations.]” (*Ibid.*)

Whether an actual controversy exists is a question of law, which we review de novo. (*Coronado, supra*, 193 Cal.App.4th at p. 607.) If there is an actual controversy, the trial court has discretion to decide whether it is “necessary or proper” to grant declaratory relief “under all the circumstances” “at the time.” (Code Civ. Proc., § 1061.) We review that decision for an abuse of discretion. (*Coronado*, at p. 607.)

### 3. *No Actual Controversy*

The trial court ruled there was no actual controversy as to the use of the Easement. It based its decision on the fact plaintiffs had submitted four different plans to develop Esperanza Hills, only one of which proposed to use the Easement for a fire access road, and none of which had been approved. It also found that once plaintiffs progressed further in the entitlement process, the controversy might become ripe, but at the time of the judgment “the facts [were] not sufficiently congealed” for the court to make a determination as to plaintiffs’ rights to the Easement. Our de novo review convinces us this decision was correct.

Defendants contend the fact plaintiffs are asserting the right to use the Easement to benefit the entire Esperanza Hills development now makes the controversy ripe. That this is only one of their four proposed plans makes no difference, they say, because the other three are not feasible and plaintiffs intend to proceed with Option 1. We are not persuaded.

This argument is based solely on defendants’ belief plaintiffs will proceed with Option 1. But the claim has several flaws. Even if Option 1 is the more likely of the

four plans, there is no evidence plaintiffs will push forward with that proposal or that it will ultimately be approved. Plaintiffs could withdraw or amend this plan, or revise the other options to make them viable. The plans are just too amorphous at this juncture.

Defendants' counter argument is that declaratory relief is meant to prevent a breach before it occurs. (*Babb v. Superior Court* (1971) 3 Cal.3d 841, 848.) We do not quarrel with the general principle but it does not apply to this case. The facts at issue are not sufficiently concrete to warrant a declaration of rights. Nothing is imminent.

We are not persuaded by the cases on which defendants rely, including, for example, *Coronado, supra*, 193 Cal.App.4th 602. In that case the issue concerned who was responsible for maintaining a berm that was on the plaintiff's property but was a waterway for the defendant city. The court found there was an actual controversy. Although the berm did not need maintaining at the time of the declaratory relief action, whoever was liable for maintenance had to "monitor the situation" until the time maintenance was required. (*Id.* at p. 608.)

Thus the *Coronado* facts were concrete and the parties' positions were defined. That is quite different from the state of the facts here.

Defendants argue we should not waste judicial resources with a new action once plaintiffs select their desired plan. But the opposite is true. Judicial resources should not be wasted unless and until "the facts have sufficiently congealed to permit an intelligent and useful decision to be made." [Citations.] (*Stonehouse, supra*, 167 Cal.App.4th at p. 540.)

For the same reasons, defendants' arguments about the channel do not warrant a declaration. Until there is a more definitive development plan the facts are hypothetical and not subject to declaratory relief.

When the facts have become more concrete, obviously defendants have the right to file another declaratory relief action.

#### 4. *Hardship*

To satisfy the second prong of the test, defendants assert they have been and will continue to be damaged by a delay in resolution of the alleged controversy. They list several examples of how they have been damaged by the uncertainty over the extent of plaintiffs' use of the Easement. But this argument is flawed.

Because we have not found a concrete controversy, we need not reach the question of hardship. (*Stonehouse, supra*, 167 Cal.App.4th at p. 540.) Even on the merits, however, evidence of hardship is thin. Defendants claim they have been “‘stymied’” due to uncertainty about the Easement and “‘hamstr[ung]’” for over 18 months. They also contend the delay and uncertainty “‘caused . . . ‘tremendous backlash in the community’” and cost them “‘a substantial amount of money.’”

But, even though there was some testimony at trial, it consisted of merely conclusory statements to this effect. It is reasonable to infer these conclusions did not persuade the trial court defendants would suffer “‘an imminent and significant hardship’” unless it issued a declaratory judgment. (*Stonehouse, supra*, 167 Cal.App.4th at p. 540.)

Defendants maintain the question of whether Esperanza Hills may use the Easements subjects them to “scrutiny” under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.; CEQA). But this is misleading because defendants are otherwise required to submit an EIR and in fact have filed a draft of that document. Resolution of the Easement issue would not take Cielo Vista out of the purview of CEQA.

The fact the water district, which has lines running in the area of the Easement, has concerns about having heavy equipment running over the Easement may be a hardship to the district but has nothing to do with defendants. Further, that the district is requiring plans for both developments to be designed together is not relevant. There is no evidence this condition would be any different even with a declaration.

Defendants argue the merits of their claim plaintiffs have no right to use the Easement for the benefit of the entire Esperanza Hills development. And further maintain it is a legal question we can decide, in their favor, without remanding the question to the trial court. But the only issue before us is whether defendants are entitled to a declaratory relief judgment. We are not deciding the merits.

**DISPOSITION**

The judgment is affirmed. The request for judicial notice is denied. Plaintiffs are entitled to costs on appeal.

THOMPSON, J.

WE CONCUR:

MOORE, ACTING P. J.

ARONSON, J.

## BORROW AND FILL AGREEMENT

THIS **BORROW AND FILL AGREEMENT** (this Agreement) is entered into as of this 23rd day of May, 2008 (the Effective Date) by **WILLIAM (BILL) AND JOANNE FRIEND, MARY V. KRUPKA, ROBERT (BOB) L. FRIEND, RICHARD L. (LARRY) FRIEND, PATRICA M. STACK, AND KATHLEEN A WHALEN**, and/or nominee **BRIDLE HILLS ESTATES, LLC**, a California Limited Liability Company, as tenants in common (collectively referred to herein as "Friend"), and **YORBA LINDA ESTATES, LLC**, a Arizona limited liability company, ("YL Estates"), and/or nominee with reference to the following recitals which are deemed to be a substantive part hereof:

### RECITALS

A. Friend is the owner of certain real property situated in the unincorporated area of the County of Orange, California (hereinafter referred to as the "Fill Property"), and more particularly described as follows:

Real property in the, County of Orange, State of California, described as follows:

LOT 8 IN SECTION 18, TOWNSHIP 3 SOUTH, RANGE 8 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, JULY 20, 1986.

EXCEPTING THEREFROM THAT PORTION LYING SOUTHERLY OF THE LINE DESCRIBED IN THAT CERTAIN BOUNDARY LINE AGREEMENT RECORDED NOVEMBER 16, 1973 IN BOOK 10993, PAGE 390 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

B. YL Estates is the Optionee of certain real property situated in the unincorporated area of the County of Orange, California (hereinafter referred to as the "Borrow Property"), and more particularly described as follows:

The North half of the Southwest quarter and Government Lots 3 and 4 of Fractional Section 17, Township 3 South, Range 8 West, San Bernardino Base and Meridian, in the County of Orange, State of California, according to the Official Plat filed in Friend Land Office, July 20, 1896. Said land is furthermore depicted on Record of Survey Map No. 90-1176, in the the County of Orange, State of California, as shown on a map recorded in Book 132, Page 7 of Record of Survey, in the office of the County Recorder of said County.

C. The Fill Property and adjacent Borrow Property are illustrated on Exhibit "A" attached hereto and incorporated herein by this reference.

D. YL Estates intends to provide Friend with fill dirt of grading material at no cost to Friend. All parties agree and acknowledge that the grading material to be supplied to the Fill Property from the Borrow Property has significant value to both parties.

**NOW, THEREFORE**, in consideration of the mutual benefits accruing to the parties hereto, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Friend, on behalf of itself, and its successors, assigns and each successor in interest to Friend, and YL Estates hereby covenant and agree as follows:

**1. RIGHTS AND OBLIGATIONS OF  
YL ESTATES AND THE BORROW PROPERTY**

**A. Right of Use.** Friend grants to YL Estates a right of use and Agreement to perform the following acts on the Fill Property on or after the Effective Date:

- (i) Ingress and egress, and right of way over the Fill Property subject to the Term of the Agreement (defined below)
- (ii) Design, Engineering and Environmental Testing & Processing
- (iii) Deposition of grading material from the Borrow Property.
- (iv) Rough grading, compaction of soil and the requisite Engineering, Environmental Testing and Processing, per Orange County Standards
- (v) Governmental approval processing through any and all valid governmental agencies having jurisdiction and requiring approval

**B. Term.** The Term of this Agreement shall continue until completion of mass grading, placement of fill material and completion of the improvement plans. The indemnification provision of Section 3 of this Agreement shall survive the Term and termination of this Agreement.

**C. Cooperation of the Parties.** The parties shall collectively pursue and support the implementation and completion of the YL Estates grading activities on the Borrow Property and Fill Property in accordance with the Improvement Plan associated with YL Estates use and development of the Borrow Property (the "Improvement Plan").

**D. Improvement Plan.** YL Estates shall submit to a governmental agency having valid jurisdiction and implement an Improvement Plan for the Borrow Property. The Improvement Plan will include grading activities to be performed by YL Estates. Friend hereby grants YL Estates irrevocable permission to enter the Fill Property on or before the Effective Date of this Agreement. Notwithstanding Friend's facilitation of the Improvement Plan, YL Estates



shall assume all costs, responsibilities, and obligations associated with the Improvement Plan and grading per Orange County Standards for the Borrow Property and Fill Property.

**E. Insurance.** YL Estates will cause Friend to be named an additional insured on all liability policies carried by YL Estates or its subcontractors to the extent that YL Estates or its subcontractors are performing activities on the Fill Property. All Friend insurance requirements shall be met for any Grading activities conducted on the Property by YL Estates at the request of Friend.

- (i) YL Estates is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for worker's compensation or undertake self-insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of any work on the Improvement Plan pursuant to this Agreement.
- (ii) YL Estates will carry workers compensation insurance for the protection of its employees during the progress of the work on the Borrow Property and Fill Property, including implementation and maintenance of the Improvement Plan. The insurer shall waive its rights of subrogation against Friend, its officers, agents and employees and shall issue an endorsement to the policy evidencing same.
- (iii) YL Estates, or its subcontractor implementing the Improvement Plan and undertaking the maintenance obligations for the Property, shall carry at all times, on all operations hereunder, commercial or comprehensive general liability insurance, and automotive liability insurance.

Worker's Compensation Liability	In accordance with the Worker's Compensation Act of the State of California - \$1,000,000 minimum limit.
Public Liability - either commercial general liability or comprehensive general liability	Combined single limit of \$1.0 million per occurrence with \$2.0 million policy aggregate limits

- 2. INDEMNIFICATION.** For purposes of this Agreement, "Claims" means any and all liabilities, actions, proceedings, losses, damages, costs, expenses (including, without limitation, all attorneys' fees and litigation expenses), causes of action, suits, claims, demands or judgments of any nature whatsoever, including, without limitation, death of or injury to any person or damage to the Fill Property.

YL Estates covenants and agrees to pay, defend (with counsel reasonably acceptable to Friend), indemnify and save harmless Friend, its officers, employees, agents, and

representatives, from and against any and all Claims based upon, arising from or connected in any manner with (a) YL Estates' use of the Fill Property arising after the Effective Date, (b) the use of the Fill Property by YL Estates or YL Estates' agents, employees, contractors, subtenants, Agreements, invitees, or customers prior to and/or after the Effective Date, (c) any negligence or reckless or intentional misconduct of YL Estates or its agents, contractors, or employees, or (d) the breach or default in performance by YL Estates of any obligation, covenant, representation or warranty contained in this Agreement.

Friend covenants and agrees to pay, defend (with counsel reasonably acceptable to YL Estates), indemnify and save harmless YL Estates, its officers, employees, agents, and representatives, from and against any and all Claims based upon, arising from or connected in any manner with (a) the ownership, design, construction, leasing or use of the Fill Property prior to the Effective Date, (b) the use, occupancy, or enjoyment of the Fill Property by Friend or Friend's agents, employees, contractors, subtenants, Agreements, invitees, or customers prior to and/or after the Effective Date, (c) the violation by Friend or its agents, contractors, or employees of any Governmental Regulations, (c) any negligence or reckless or intentional misconduct of Friend or its agents, contractors, or employees, or (d) the breach or default in performance by Friend of any obligation, covenant, representation or warranty contained in this Agreement.

If any action or proceeding should be brought against either Party based upon any such Claim and if the indemnified Party, upon notice from the indemnifying Party, shall cause such action or proceeding to be defended at the indemnifying Party's expense by counsel reasonably satisfactory to the indemnifying Party, without any disclaimer of liability by indemnified Party in connection with such Claim, the indemnified Party shall not be required to indemnify the indemnifying Party for reasonable attorney's fees and expenses in connection with such action or proceeding. The agreement of indemnification set forth in this Section 11 shall not extend to Claims arising prior to the Effective Date. The obligations of the Parties under this Section 3 shall commence to accrue on the Effective Date and shall survive any termination of this Agreement.

3. **DEFAULT; REMEDIES.** In the event of default by a party under this Agreement that is not cured within a commercially acceptable reasonable amount of time subject to Force Majeure Delay after receipt of written notice by either party, then the party claiming a default shall have all other rights and remedies provided by law or in equity, and collect all damages directly and indirectly caused by the default and the right to enforce specific performance of this Agreement.

**A. Force Majeure Delay.** The term "Force Majeure Delay" as used in this Agreement shall mean any delay in the completion of the grading improvements which is attributable to any:

- (i) actual delay or failure to perform attributable to any strike, lockout or

other labor or industrial disturbance (whether or not on the part of the employees of either party hereto), civil disturbance, future order claiming jurisdiction, act of a public enemy, war, riot, sabotage, blockade, embargo, inability to secure customary materials, supplies or labor through ordinary sources by reason of regulation or order of any government or regulatory body

- (ii) delay attributable to the failure of "Friend" and/or its assigns or nominee to cooperate securing permits or approvals or access to the Fill Property
- (iii) delay in completing the Final Plans and/or the completion of grading because of changes in any applicable laws or conditions imposed by a controlling government entity, or the interpretation thereof; or
- (iv) delay attributable to lightning, earthquake, fire, storm, hurricane, tornado, flood, washout, explosion, or any other similar industry-wide or cause beyond the reasonable control of the party from whom performance is required, or any of its contractors or other representatives;
- (v) delay caused by any government or quasi government agency to issue requisite permits or tentative tract map extensions beyond the normal and customary period of time. Any prevention, delay or stoppage due to any Force Majeure Delay shall excuse the performance of the party affected for a period of time equal to any such prevention, delay or stoppage.

4. **NOTICE.** Any notice, demand, request, consent, approval, or communication a party desires or is required to give to another party or any other person shall be in writing and sent postage paid by United States mail to the addresses set forth below. A party may change its address by notifying the other parties of the change of address in writing.

To Friend: Richard L. (Larry) Friend  
13301 Flint Drive  
Santa Ana, California 92705  
(714) 809-3873  
lfriendcpa@yahoo.com

To YL Estates: Lamb Architects  
7114 E. Stetson Drive  
Suite 350  
Scottsdale, AZ 85251  
Attention: Mr. Gary Lamb  
glamb2008@hotmail.com

5. **ATTORNEYS FEES.** Should any party hereto engage an attorney, whether or not the party proceeds to institute any action or proceeding at law or in equity, or in connection with an arbitration, to enforce any provision of this Agreement, including an action for declaratory or injunctive relief, or for damages by reason of an alleged breach of any provision of this Agreement, or otherwise in connection with this Agreement, or any provision thereof, the Prevailing Party shall be entitled to recover from the losing party reasonable attorneys' fees and costs (including fees for experts) for services rendered to the prevailing party in such action or proceeding.

- A. **Prevailing Party:** In the event of any controversy, claim or action between the parties, arising from or related to this agreement, the prevailing party will be entitled to receive from the other party its reasonable attorneys' fees and costs. If both parties receive judgment in any dollar amount, or if injunctive relief is granted by the court in a significant way to one party over another then the court will determine the prevailing party, taking into consideration the merits of the claims asserted by each party, the amount of the judgment received by each party and the relative equities between the parties.

6. **MISCELLANEOUS.**

- a. **Effective Date.** The Effective Date of this Agreement shall be the later of the date of the approval of this Agreement by Friend or YL Estates, and such date shall be inserted above.
- b. **Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of California.
- c. **Time of Essence.** Time is of the essence with respect to the performance of every provision of this Agreement in which time of performance is a factor.
- d. **Headings.** The captions of the various paragraphs of this Agreement are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content, or intent of this Agreement or of any part or parts of this Agreement.
- e. **Gender; Number.** The neutral gender includes the feminine and masculine, the masculine includes the feminine and neutral, and each includes corporation, partnership, or other legal entity whenever the context so requires. The singular number includes the plural whenever the context so requires.
- f. **Recitals; Entire Agreement; Modification.** The Recitals are hereby made a substantive part of this Agreement. This Agreement which consists of 8 pages contains the entire agreement between the parties regarding the subject matter hereof.

No verbal agreement or implied covenant shall be held to vary the provisions hereof, any statements, law or custom to the contrary notwithstanding. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied on by any party. Each party has relied on the counsel of its own advisors, and the warranties, representations, and covenants in this Agreement itself. The failure or refusal of any party to read this Agreement or other documents or to obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such reading or advice. No provision of this Agreement may be amended or varied except by an agreement in writing signed by the parties hereto or their respective successors.

- g. **Severability.** If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be effected thereby and shall be valid and enforceable to the fullest extent permitted by law.
- h. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute a single agreement.
- i. **Transfer.** It is the intention of "Friend" to deed their "Real Property" as described in Paragraph A, into a California Limited Liability Company, known as "Bridle Hills Estate, LLC". Upon the conveyance of "Real Property" into the LLC, this "Borrow and Fill Agreement" will transfer to "Bridle Hills Estate, LLC". "YL Estates" shall have the right to review and approve "Bridle Hills Estate, LLC" agreement and such approval shall not be unreasonably withheld.
- j. **Successors.** Subject to the provisions of this Agreement on assignment, each and all of the covenants and conditions of this Agreement shall be binding on and shall inure to the benefit of the parties and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereto duly authorized, all as of the day and of the year first above written.

**WILLIAM (BILL) AND JOANNE FRIEND,  
MARY V. KRUPKA, ROBERT (BOB) L. FRIEND,  
RICHARD L. (LARRY) FRIEND,  
PATRICA M. STACK, AND  
KATHLEEN A. WHALEN**

**"FRIEND"**

Date: May 30, 2008

By: William Friend  
William (Bill) Friend

Date: May 30, 2008

By: Joanne Friend  
Joanne Friend

Date: May 28, 2008

By: Mary V. Krupka  
Mary V. Krupka

Date: May 26, 2008

By: Robert L. Friend  
Robert (Bob) L. Friend

Date: May 28, 2008

By: Richard L. Friend  
Richard L. (Larry) Friend

Date: May 29, 2008

By: Patricia M. Stack  
Patricia M. Stack

Date: <sup>Jun</sup> May 4, 2008

By: Kathleen A. Whalen  
Kathleen A. Whalen

**YORBA LINDA ESTATES, LLC**

**"YL ESTATES"**

Date: May \_\_, 2008

By: Gary Lamb  
Gary Lamb  
Managing Member

## OC DEVELOPMENT SERVICES REPORT

**DATE:** October 26, 2016

**TO:** Orange County Planning Commission

**FROM:** OC Development Services/Planning Division

**SUBJECT:** Public Hearing on Planning Application PA160048 - Esperanza Hills General Plan Amendment, Zone Change, Revised Final EIR 616 and Specific Plan

**PROPOSAL:** As a result of a Writ of Mandate issued regarding the Project's EIR, the applicant requests the Planning Commission recommend that the Board of Supervisors take the following actions:

- Certify proposed Revised Final Environmental Impact Report No. 616;
- Adopt General Plan Amendment to change the Land Use designation from Open Space (5) to Suburban Residential (1B) to allow for residential development of a maximum of 340 homes;
- Adopt zone change to replace the existing General Agriculture (A1) and General Agriculture/Oil Production (A1(O)) zoning designations with the Specific Plan (S) zoning designation; and
- Adopt the Esperanza Hills Specific Plan to regulate and guide development of the property (collectively, the "Project").

**GENERAL PLAN DESIGNATION:** 1B "Suburban Residential"

**ZONING:** Esperanza Hills Specific Plan

**LOCATION:** The Project is located within the unincorporated area of Orange County north of the SR-91 freeway off Yorba Linda Boulevard, south and west of Chino Hills State Park, east and north of the Cielo Vista proposed project and adjacent to the existing residential development located in the City of Yorba Linda, within the Third (3rd) Supervisorial District.

**APPLICANT:** Yorba Linda Estates, LLC  
Douglas Wymore

**STAFF** Kevin Canning, Contract Planner

**CONTACT:** Phone: (714) 667-8847  
Email: [Kevin.Canning@ocpw.ocgov.com](mailto:Kevin.Canning@ocpw.ocgov.com)

### RECOMMENDED ACTIONS

OC Development Services/Planning recommends the Planning Commission:

1. Receive staff report and public testimony as appropriate; and,
2. Consider the adequacy of Revised Final EIR No. 616, prepared for the Esperanza Hills Project and revised pursuant to the writ of mandate issued August 24, 2016 in *Protect Our Homes and Hills, et al. v. County of Orange, et al.* Case No. 30-2015-00797300, and determine that the Revised Final EIR is adequate, complete and appropriate environmental documentation for the Project consistent with CEQA, the State CEQA Guidelines, and the County's Local CEQA Procedures Manual,
3. Consider General Plan Amendment LUE 16-01 (Land Use Element), which changes the property from 5 Open Space to 1B Suburban Residential; Zone Change 16-05 which changes the property from A1 Agricultural and A1-(O) Agricultural with an Oil Production Overlay to S Specific Plan for the property in question; and the Esperanza Hills Specific Plan; and
4. Adopt Planning Commission Resolution No. 16-08 recommending that the Board of Supervisors certify Revised Final EIR No. 616 and adopt the findings, facts in support of findings, statement of overriding considerations and mitigation monitoring and reporting plan for the Project; adopt General Plan Amendment LUE 16-01; adopt Zone Change 16-05; and, adopt the Esperanza Hills Specific Plan.

#### **BACKGROUND AND EXISTING CONDITIONS**

The Esperanza Hills Development Project (Esperanza Hills) was approved by the Board of Supervisors (Board) on June 2, 2015. The Planning Commission considered the project and EIR on January 14, 2015 (See Attachment 2). However, the project's EIR was subsequently challenged in the Orange County Superior Court in *Protect Our Homes and Hills, et al. v. County of Orange, et al.* Case No. 30-2015-00797300. As a result of the court's Writ of Mandate (Attachment 5), previous County approvals relating to Esperanza Hills must be vacated by the Board of Supervisors. In addition, the project's EIR certification must be vacated and the Board must reconsider the project in light of an EIR revised in accordance with the Writ of Mandate (Attachment 5) and Statement of Decision (Attachment 4). Prior to Board action to vacate and reconsider Esperanza Hills and Revised Final EIR No. 616, the applicant is seeking the Planning Commission's consideration of and recommendations regarding the General Plan Amendment LUE 16-01, Zone Change 16-05, the Esperanza Hills Specific Plan and Revised Final EIR No. 616. The Specific Plan and EIR have been revised since the Planning Commission's previous consideration of Esperanza Hills (see detailed discussion below). The Specific Plan has been revised to include a public access configuration that is a variation of Option 1 (discussed below), which was previously considered by the Planning Commission as part of the Esperanza Hills Specific Plan.

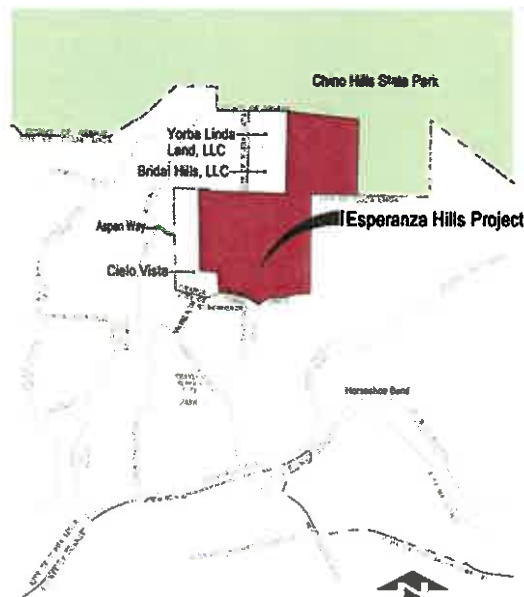
Esperanza Hills involves a General Plan Amendment (GPA), Zone Change (ZC), Specific Plan and Environmental Impact Report. The Esperanza Hills Specific Plan proposes a 340 unit residential gated community with large lot, low-density neighborhoods on approximately 469 acres, for an overall density of .73 dwelling units per acre. Once developed, approximately 62% of the project site will be open space, parks and landscape areas. The grading for each phase is balanced, so that there will be no import or export from the site during grading activities.



### Previous Processing History

At the time of the Planning Commission's previous consideration of the Esperanza Hills Specific Plan (Attachment 2 Planning Commission Staff Report for January 14, 2015), the Specific Plan included two different access options for public access configurations to the project site from the surrounding existing circulation system. Four options and alternatives were assessed within Final EIR No. 616. The options analyzed by Final EIR No. 616, included:

- Option 1 (Stonehaven Drive Access) – with a primary project public access roadway from Stonehaven Drive to the south and a secondary emergency access through the adjacent Cielo Vista property and connecting to Via del Agua. (Option 1 was included in the Specific Plan recommended for approval, but was later deleted from the Specific Plan approved by the Board. This is discussed in more detail below).
- Option 2 (Aspen Way) – with a primary project public access roadway from the extension of Aspen Way to the west across Cielo Vista property and the same secondary emergency access as Option 1, through the adjacent Cielo Vista property and connecting to Via del Agua.
- Option 2A (San Antonio Road) - with a primary project public access roadway from San Antonio Road crossing City of Yorba Linda-owned property and then crossing Cielo Vista to the project site; and a secondary emergency-only access utilizing the alignment of the Option 1 (Stonehaven Drive).
- Option 2B – would provide the same primary access as Option 2A (San Antonio Road) however it would also provide a full public access (not emergency-only access) to Stonehaven Drive as in Options 1 and 2A.



Location Map

The Orange County Planning Commission previously adopted three resolutions recommending Board approval of the project and its components. The Planning Commission recommended adoption of a Specific Plan that included access configurations Options 1 and 2A.

The Board certified Final EIR No. 616 on March 10, 2015 and continued consideration of the other land use approvals. At that meeting, the Board also directed the applicant to work with the City of Yorba Linda (City) regarding access and pre-annexation concerns. The City subsequently conveyed two letters to the Board in May 2016 stating that the City preferred access configuration Option 2B (full access to both San Antonio Road and Stonehaven Drive). However, the City further noted that should all access rights not be achievable across City-owned and Cielo Vista properties then they would prefer a 'back-up' configuration with full access to both Aspen Way and Stonehaven. They also clarified that they wished to see any access to Stonehaven Drive to be a full access and not an emergency only access.

Taking this information into account, on June 2, 2015, the Board approved a Specific Plan that included Option 2B (full public access from San Antonio and Stonehaven) and a modification of Option 2 to reflect full public access to Aspen Way and Stonehaven, per the City's comments. Further, the Board removed Option 1 (full Stonehaven access with the emergency only access to Stonehaven/Via del Agua) from the Specific Plan, though the Planning Commission had recommended a Specific Plan- for approval to the Board that contained Option 1.

To address the remaining pre-annexation concerns of the City, the Board added provisions into the Specific Plan that required Board approval of the initial tentative map that would establish the main public access roadway configuration from among the options (Option 2B and Option 2) discussed in the Specific Plan. The Board also added provisions to Section 13.3 of the Specific Plan that required the tentative map proposing the first public access to the development area was to be first reviewed by the Subdivision Committee and then forwarded to the Board with the Committee's recommendations. In considering the map for approval, in addition to the standard findings required for tentative map approval the Specific Plan required the Board to make six special findings:

1. That permission to gain access across land area not owned by the Project Applicant has been secured or it is reasonably assured that access rights will be secured.
2. That permission to allow for off-site grading has been secured or it is reasonably assured that permission will be secured.
3. That a Pre-annexation Agreement between the City of Yorba Linda and the developer has been completed.
4. Finding of consistency with Final Environmental Impact Report 616.
5. Finding of consistency with Final Environmental Impact Report 616 Mitigation Monitoring and Reporting Program.
6. Findings of consistency with this Specific Plan, the Orange County Zoning Code, the Orange County Subdivisions Code, and applicable laws and regulations.

#### CEQA Litigation

Following the County's certification of Final EIR No. 616 on March 10, 2015 and the approval of Esperanza Hills on June 2, 2015, a Petition for Writ of Mandate and Complaint for Injunction Relief ("Petition") was filed by Protect Our Homes and Hills, Hills for Everyone, Endangered Habitats League, California Native Plant Society and Friends of Harbors, Beaches and Parks, on July 7, 2015, challenging the adequacy of Final EIR No. 661 pursuant to the California Environmental Quality Act ("CEQA").

On July 22, 2016, after briefing and oral argument in the case, Judge William D. Claster, presiding, finalized a Statement of Decision, included herein as Attachment 4. The court concluded that “the EIR impermissibly defers mitigation of greenhouse gas (GHG) impacts and also arbitrarily limits the extent to which mitigation measures must be considered. . .” and that “the EIR is flawed insofar as it arbitrarily limits mitigation requirements to an additional 5% reduction in GHG emissions, fails to mandate analysis of all mitigation measures beyond the 5% level and does not require the adoption of all mitigation measures.” The Court further concluded that: “delaying mitigation until immediately prior to occupancy may have the effect of limiting available measures and cause the Planning Department to consider mitigation only in the context of a nearly-completed project.”

On August 24, 2016, the Judge issued a Writ of Mandate (“Writ”), included herein as Attachment 5, which was subsequently served on the County on and commanded that the County:

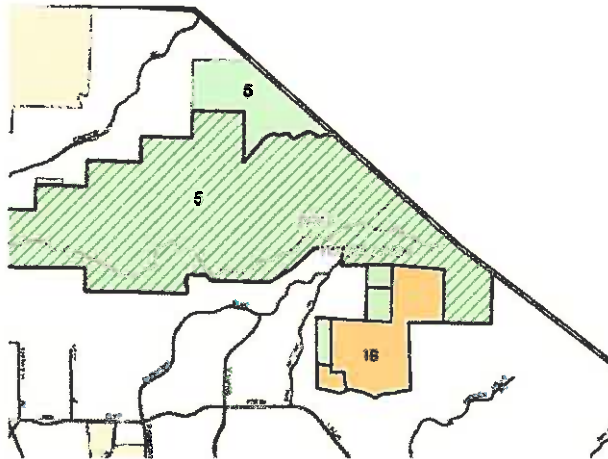
- a. Vacate certification of Final EIR No. 616, adoption of the Mitigation Monitoring and Reporting Program, and Findings of Fact/Statement of Overriding Considerations made in support of the Project.
- b. Vacate all approvals of the Project based upon Final EIR No. 661, including Board of Supervisors Resolution No. 15-018 certifying Final EIR No. 616, Board of Supervisors Resolution adopting General Plan Amendment LUE 14-02, and Ordinance No. 15-010 adopting the Esperanza Hills Specific Plan and rezoning certain land from the A-1 General Agricultural and A1(O) General Agricultural/Oil Production Districts to the S “Specific Plan” District.
- c. Revise the EIR in accordance with CEQA, the CEQA Guidelines, the Statement of Decision and the final Judgment to bring the EIR into compliance with CEQA by resolving the GHG mitigation deficiencies identified by the Court in its Statement of Decision.

The Applicant is requesting that the Board comply with the Writ by vacating the previous Project approvals and certification of the EIR, and reconsidering the project in light of a Revised Final EIR 616 and revised Specific Plan.

## **DISCUSSION AND ANALYSIS OF THE PROJECT**

### **General Plan Land Use Designation**

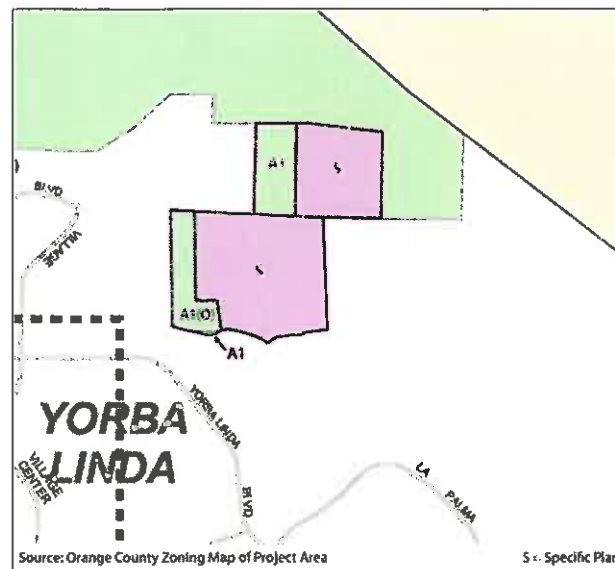
The Project is within the Open Space (5) land use designation of the County of Orange General Plan, which indicates the current and near-term use of the land but is not necessarily an indication of a long-term commitment to permanent open space uses. The General Plan considers that the Open Space designation may be developed in other ways due to market pressures to serve a growing County population. The proposed General Plan Amendment would change the land use designation from Open Space (5) to Suburban Residential (1B).



General Plan Amendment LUE 16-01 (Land Use Element)

Zoning Designation

The Project is zoned A1 General Agriculture and A1 (O) General Agriculture/Oil Production as depicted on the County of Orange Zoning Map. The A1 zone (Section 7-9-55, County of Orange Zoning Code) provides for agricultural uses but would allow residential development of one dwelling unit per four acre lot. The Oil Production zone (Section 7-9-117) provides for oil drilling and production of oil, gas and other hydrocarbon substances. This activity is subject to the regulation of the Orange County Oil Code (Sections 7-8-1 through 7-8-53). The Project includes a zone change from A1 and A1(O) to a Specific Plan (S) “Esperanza Hills.”



Proposed Zone Change 16-05

Revised Final EIR No. 616

In order to comply with the Writ and Statement of Decision, the greenhouse gas (“GHG”) section of the Final EIR No. 616 (Chapter 5.6) was revised (Attachments 6 and 7). Revised Final EIR No. 616 analyzes

the GHG emissions reductions that result from project design features that the County imposed on the project as part of the adopted Specific Plan, together with additional recommended mitigation measures. Together, the project design features and mitigation measures achieve a 7.93% reduction in GHG emissions for the Project. This reduction is in addition to the anticipated 23.9% reduction in GHG emissions resulting from state regulations adopted in compliance with AB 32, the California Global Warming Solutions Act of 2006.

The Final EIR previously certified by the Board provided a menu of reasonable control measures that could effectively reduce the project's GHG emissions by 5.0%, which exceeded the remaining reduction necessary to meet the goal of a 28.9% total reduction in GHG emissions set by AB 32. The reasonable control measures to achieve the reductions were described in tabular form on page 5-271 in the Final EIR previously certified, but these proposed reasonable control measures were not adopted as specific mitigation measures. Instead, the previously certified Final EIR required a two-step approach to GHG mitigation including preparation of a plan for the reasonable control measures outlined in the referenced table to achieve at least a 5.0% reduction in GHG emissions. The plan would be required prior to the construction of the project. The second step involved preparation of a memo detailing the selected measures and associated long-term maintenance for the County's review and approval prior to issuance of a certificate of occupancy. The plan was intended to include suggested mitigation measures contained in the California Air Pollution Control Officers Association (CAPCOA) "Quantifying Greenhouse Gas Mitigation Measures: A Resource for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures" ("CAPCOA Report") as well as alternative strategies not listed in CAPCOA if approved by the County.

In order to remedy the Court's holding that specific GHG mitigation measures were not adopted as part of the Final EIR and that the Final EIR did not analyze the potential to achieve reductions in GHG emissions greater than 5.0%, the EIR was revised to exhaustively review potentially applicable mitigation measures in the CAPCOA Report referenced above. After a complete review of the CAPCOA Report, 65 distinct mitigation measures potentially applicable to residential projects were selected and analyzed in the EIR. Of those 65 measures potentially applicable to residential development, 25 measures were deemed infeasible and 40 measures were deemed feasible. The 40 mitigation measures (GHG-1 thru GHG-40) are proposed for adoption in the Revised Final EIR No. 616 (Attachment 9 – redlined or 10 final). The mitigation measures identify specific performance criteria in order to achieve a 7.93 % reduction in GHG emissions for the Project.

The updated analysis in the EIR details the proposed mitigation and quantifies the reduction percentages achievable by the mitigation measures included therein. Revised Final EIR No. 616 notes that the size of the Project is such that indirect operational (long-term) GHG emissions will exceed the South Coast Air Quality Management District's ("SCAQMD") screening level GHG threshold (3,000 MT CO<sub>2</sub>e per year) by a large margin (by 2,279.7 MT CO<sub>2</sub>e per year for a total of 6,037.2 MT CO<sub>2</sub>e of emissions). With application of all feasible Project-specific mitigation measures identified in Revised Final EIR No. 616, the Project can achieve an estimated 7.93% reduction in GHG emissions, or approximately 487.8 MT CO<sub>2</sub>e.

However, even with implementation of the project mitigation measures, as well as reductions from state programs expected to be implemented directly by state and local agencies (an additional 23.9% or approximately 1,444.9 MT CO<sub>2</sub>e), annual emissions cannot be reduced below the GHG significance threshold of SCAQMD's screening level threshold of 3,000 MT CO<sub>2</sub>e. The total reduction in GHG



emissions that can be achieved by feasible project mitigation of approximately 487.8 MT CO<sub>2</sub>e (7.93%), and the expected reductions from mitigation from state and regional programs of 1,442.9 MT CO<sub>2</sub>e (23.9%), results in total Project GHG operational emissions, after mitigation, of approximately 4,106.5 MT CO<sub>2</sub>e. This exceeds the quantitative GHG significance threshold by approximately 1,106.5 MT CO<sub>2</sub>e. Therefore, the long-term operational impacts of the Project on GHG remain significant and unavoidable, consistent with the determination in Final EIR No. 616 as previously certified.

#### Esperanza Hills Specific Plan

The existing Esperanza Hills Specific Plan was reviewed by the Planning Commission on January 14, 2014. Attachment 2 is the staff report from that meeting and provides a full discussion and analysis of how the Specific Plan addressed development topics such as parks and open space, trails, infrastructure, public safety and evacuation as well as the proposed development standards.

The actions mandated by the court require that all previous approvals be vacated, including the Specific Plan. The Specific Plan now being proposed (Attachment 13 - redline and 14 – final draft) would only differ from the previously approved version in two ways. The currently proposed Specific Plan proposes:

1. A single project access configuration option (versus the previous Specific Plan considered by the Planning Commission which contained two of the Options), which is referred to as Option 1 Modified. Its design is similar to the previous Option 1 (a primary project public access roadway from Stonehaven Drive to the south and a secondary emergency-only access through the adjacent Cielo Vista property and connecting to Via del Agua). However, Option 1 Modified proposes a shorter, more direct route utilizing a newly proposed bridge.
2. In Section 13.3 “Implementation of Access Configuration”, the applicant proposes the removal of the requirement that a Pre-annexation Agreement between the City of Yorba Linda and the developer be completed before the approval of the initial tentative tract map by the Board.

#### Option 1 Modified

Option 1 was an access configuration included in the Specific Plan that the Planning Commission considered and recommended for approval, but removed from the version approved by the Board. Option 1 was fully assessed by Final EIR No. 616. Option 1 was removed from the Board-approved Specific Plan in part based upon letters from the City, who favored other alternatives.

The Option 1 Modified access configuration involves reconfiguring (as compared to previous Option 1) the main access street alignment and also the internal emergency access connection point. The entry street from Stonehaven Drive would be realigned from the Option 1 previously proposed to limit steep grades, turns and reduce biological impacts and grading quantities. The access would include a lengthened bridge with a more direct orientation into the gated project entry on a wider road (see Attachment 15).

In addition, the internal connection point of emergency access would be extended northeasterly in order to further separate the main project entry from the internal emergency access point. The emergency access would still utilize an access easement through the adjacent property owned by the Richards Trust (one of the owners within proposed Cielo Vista project) but would connect to Esperanza Hills Parkway closer to the Orange County Fire Authority (OCFA) Emergency Fire Staging Area located

centrally within the development area. The emergency access road would also provide a separate connection point to Esperanza Hills Parkway resulting in a secondary emergency connection for use at the discretion of OCFA. For example, the emergency access could be used to facilitate more rapid emergency vehicle access into the community, or it could be used as part of a community evacuation route, or for both during a single event depending upon the needs of the first responders.

#### OPTION 1



#### OPTION 1 MODIFIED



The Esperanza Hills area does not physically abut an existing public right-of-way. Any project access options would require crossing property not currently owned in fee by the applicant. Any access options from the west to the project site (Options 2, 2A and 2B) would require consent for grading and right-of-way from the adjoining Cielo Vista owners. Option 2B would also require grading and consent from the City of Yorba Linda. The City informed the County in a January 8, 2016 letter that they had decided not to grant such permissions for Option 2B. Additionally, the applicant has been unable to secure necessary agreements for Options 2 or 2A from the Cielo Vista representatives, and informs staff that those negotiations have terminated.

The Applicant has chosen to utilize the access alternatives from south of the site. Rights and permissions for these rights-of-way had previously been secured. The first, for the proposed main access road to Stonehaven Drive, was granted to David H Murdock, the predecessor in interest to the Esperanza Hills property, as a blanket easement for roads across the adjacent property (Tract 12850) by Ahmansen Development, Inc. The easement for the proposed emergency access-only road (and utility corridor), lies within a fifty foot wide easement for roadway and utility purposes granted by virtue of a partition action by the Orange County Superior Court in 1958. The existence of the easement was confirmed by an Orange County Superior Court judgement in October 2014, and again confirmed on appeal by the California Court of Appeals in December 2015.

The proposed modifications to the Option 1 alignment analyzed by Final EIR No. 616 do not require a subsequent or supplemental EIR. (See Attachment 12). Revised Final EIR No. 616 is adequate to satisfy the requirements of CEQA for the whole of the project, including the Modified Option 1 access configuration proposed in the Specific Plan.

#### Pre-annexation Agreement

Specific Plan Section 13.3 provides that the initial tentative tract map that establishes the public access roadway configuration shall require the approval of the Board and requires (as detailed above in Background and Existing Conditions) that the Board makes a finding that “a Pre-annexation Agreement between the City of Yorba Linda and the developer has been completed.”

The applicant requests the deletion of the finding requiring the pre-annexation agreement prior to initial tentative map approval by the Board. At this time, the applicant states that they are at an impasse with the City regarding the necessary components of a pre-annexation agreement, as the City is unwilling to continue discussions until such time as the applicant is able to secure rights-of-way across the Cielo Vista property (Options 2, 2A and 2B), which negotiations, as noted above, have terminated.

At the time of the Board’s approval of the Specific Plan, the applicant had already begun exploring the possibility of securing a Pre-annexation agreement, including filing a petition with Orange County Local Formation Commission (OC-LAFCO) and holding both formal and informal meetings with City of Yorba Linda officials. The OC-LAFCO efforts were tabled before substantive discussions of an agreement were completed, but the applicant’s individual efforts continued and expanded to include discussions regarding project access options. In January 2016, 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. Despite multiple mediation meetings, no agreement has been reached between the applicant and Cielo Vista owners and representatives and the 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.

Although the ultimate annexation of the project area into the City of Yorba Linda would be consistent with the County's goals and objectives for unincorporated islands, staff notes that the approval of an initial tentative map would not preclude the possibility of a pre-annexation agreement at some future date under the auspices of OC-LAFCO. Staff therefore supports the applicant's requested deletion of the Pre-annexation agreement requirement.

#### **REFERRAL FOR COMMENT, PUBLIC OUTREACH AND PUBLIC NOTICE**

A copy of the planning application and a copy of the proposed Specific Plan were distributed for review and comment to County Divisions; OC Development Services (Planning, Building/Grading Plan Check, Building Official), OC Infrastructure Programs (Traffic Engineering), Orange County Fire Authority and Orange County Sheriff's Department. Copies were also referred to the City of Yorba Linda, Yorba Linda Water District and Orange County Local Agency Formation Commission. Through focused meetings and collaborative effort with County staff, the applicant has adequately addressed all comments. All comments received from County Divisions have been addressed in the recommended Conditions of Approval. As with previous hearings for the project, a notice of hearing was mailed to all property owners of record within 2,000 feet of the subject site on October 14, 2016. The notice was also published in the Orange County Reporter and the Orange County Register. Additionally, a notice of the public hearing was emailed to approximately 90 individuals who had previously requested such notice. Multiple notices were posted at the site, as well as at the County Hall of Administration, and at 300 N. Flower (HGO Building), as required by County public hearing posting procedures.

#### **CEQA COMPLIANCE – Revised Final EIR No. 616**

The Planning Commission reviewed the DEIR for Esperanza Hills Project on January 14, 2014. Attachment 2 is the staff report from that meeting and provides a full discussion and analysis of the project's CEQA process, the topical issues addressed, the unavoidable adverse impacts, referral for comments, and public outreach. All topical issues, conclusions and mitigation measures would remain unaffected, except for those regarding greenhouse gas issues.

The actions mandated by the court required that the assessment of the project's potential of greenhouse gas impacts be revised. The applicant and County staff have completed this reassessment and as a result have added new Technical Appendix V – Greenhouse Gas Mitigation (Attachment 7) and proposes 40 new GHG mitigation measures within the Mitigation Monitoring and Reporting Plan (Attachment 9-redlined or 10). With the inclusion of the GHG revisions, staff recommends that the Commission recommend Board certification of Revised Final EIR 616.

The proposed Option 1 Modified access configuration, which will realign the bridge to reduce steep grades and turns, was not specifically assessed in Final EIR No. 616, but a substantially similar access configuration (Option 1) was analyzed. A consistency analysis based on Public Resources Code Section 21166 and CEQA Guidelines Section 15162, as required by the Orange County CEQA Manual, Section IX, was conducted for the new alignment. (Attachment 12) The Specific Plan's inclusion of Option 1 Modified does not:

1. Involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects which would require preparation of a subsequent or supplemental EIR;
2. Result in substantial changes which either have occurred or will occur with respect to the circumstances under which the project will be undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
3. Constitute new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the FEIR was certified as complete on March 10, 2015 that shows that: (i) the existing project or the requested Plan Amendment will have one or more significant effects not discussed in the FEIR, (ii) significant effects previously examined will be substantially more severe than shown in the FEIR with the existing project or the requested Plan Amendment; (iii) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project but the project proponents decline to adopt the mitigation measure or alternative; or (iv) mitigation measures or alternatives which are considerably different from those analyzed in the FEIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Therefore, staff finds that Revised Final EIR No. 616 satisfied the requirements of CEQA for the proposed Option 1 Modified access configuration is in substantial conformance with the previous environmental assessments.

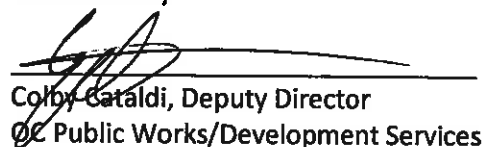
### CONCLUSION

Staff has reviewed the applicant's request for certification of Revised Final EIR 616, and approval of General Plan Amendment LUE 16-01, Zone Change 16-05 and a Specific Plan and recommends that the Planning Commission adopt Resolution PC 16-08 (Attachment 12) recommending Board of Supervisors approval of the requests.

Submitted by:

  
Laree Alonso, Planning Manager  
OC Development Services

Concurred by:

  
Colby Cataldi, Deputy Director  
OC Public Works/Development Services

### ATTACHMENTS:

All Attachments available at [http://ocplanning.net/planning/projects/esperanza\\_hills](http://ocplanning.net/planning/projects/esperanza_hills)

1. Applicant's Letter
2. Planning Commission Staff Report – January 14, 2015
3. Board of Supervisors Agenda Staff Reports – March 10, 2015 and June 2, 2015

4. Statement of Decision – July 22, 2016
5. Writ of Mandate – August 24, 2016
6. Revised Final EIR 616 Section 5-6 Greenhouse Gas Emissions (track changes redlined)
7. New Technical Appendix V Greenhouse Gas Mitigation to Revised Final EIR 616
8. Revised Final EIR 616\* entire document (\*includes all errata approved with FEIR 616)
9. Revised Final EIR 616 Mitigation Monitoring and Reporting Program (track changes redlined)
10. Revised Final EIR 616 Mitigation Monitoring and Reporting Program
11. Findings and Statement of Overriding Considerations
12. Substantial Conformance Memorandum dated September 28, 2016 from CAA Planning
13. Draft Esperanza Hills Specific Plan (track changes redlined)
14. Draft Esperanza Hills Specific Plan
15. Exhibits of Option 1 and Option 1 Modified
16. Proposed Resolution No. 16-08 Recommending Certification of Revised Environmental Impact Report #616 (PA120037), Adoption of General Plan Amendment LUE 16-01 and Adoption of an Ordinance Approving the Esperanza Hills Specific Plan and Zone Change 16-05 for the Esperanza Hills Project
17. Comment Letters

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Planning Commission on this permit to the Board of Supervisors within fifteen (15) calendar days of the decision upon submittal of the required documents and filing fee of \$500 filed at the Development Processing Center at 300 North Flower Street, Santa Ana, CA, 92703. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to OC Development Services.