

### CITY OF YORBA LINDA

P.O. BOX 87014

CALIFORNIA 92885-8714

January 5, 2017

Orange County Planning Commission 333 W. Santa Ana Blvd 10 Civic Center Plaza Santa Ana, CA 92701

Re: Proposed Esperanza Hills Project

Dear Orange County Planning Commissioners:

As the Planning Commission is aware, the City of Yorba Linda ("City") has previously provided input to the County concerning the Esperanza Hills project proposed for an unincorporated County area adjacent to the City. Shortly before the Yorba Linda City Council meeting held on January 3, 2017, the City learned that the Esperanza Hills project may be on the agenda for the Orange County Planning Commission meeting scheduled for January 11, 2017. The City Council, which includes two new Council members, would like to provide further input to the Planning Commission on the Esperanza Hills project. Therefore, the City Council directed that the Esperanza Hills project be put on the City Council's next available meeting agenda for January 17, 2017, for further discussion and direction.

Therefore, the City respectfully requests that the Orange County Planning Commission defer any action on the Esperanza Hills project until the City is able to provide the County with further input on the project after the City Council's January 17, 2017, meeting. As always, the City appreciates the County receiving and considering the City's input on the Esperanza Hills project.

Sincerely,

CITY OF YORBA LINDA

Mark Pulone

City Manager, City of Yorba Linda



Because life is good.

protecting and restoring natural ecosystems and imperiled species through science, education, policy, and environmental law

1/10/2017

Members of the Board of Supervisors County of Orange c/o Clerk of the Board of Supervisors 333 West Santa Ana Blvd. Santa Ana, California 92702-4048

Members of the Planning Commission County of Orange c/o Secretary of the Planning Commission 333 West Santa Ana Blvd. Santa Ana, California 92702-4048

RE: Federally Threatened California Gnatcatcher Status on Esperanza Hills Project Site

Dear Supervisors and Planning Commissioners,

This letter is written and submitted on behalf of the 1.1 million supporters of the Center for Biological Diversity, many of whom live in southern California and have great interest in the protection of our world class natural resources.

We recently became aware of a situation where federally threatened California gnatcatchers could be in harm's way on the Esperanza Hills project - Revised Final EIR 616. While the original gnatcatcher surveys performed did not document gnatcatcher on site, based on the December 13, 2016 letter from Mr. Robb Hamilton, California gnatcatchers have been documented adjacent and very close (within 1,300 feet) to the proposed "Option 1 Modified" bridge alignment in 2014 and 2016. Coupled with fact that the bridge is within federally designated critical habitat for the California gnatcatcher, we believe that further on-site surveys for gnatcatchers need to be implemented. Based on the results of those future surveys, the project may need to be further redesigned to avoid impacts to this highly imperiled native non-migratory bird.

We agree with Mr. Hamilton's assessment that the recovery of the coastal sage scrub habitat from the 2008 Freeway Complex Fire renders the existing conditions of the site very different than the conditions reported in the 2013 EIR. Because of the recovery of the coastal sage scrub habitat and documented occurrence of California gnatcatchers adjacent to the site, we

Arizona • California • Nevada • New Mexico • Alaska • Oregon • Washington • Illinois • Minnesota • Vermont • Washington, DC

request that additional USFWS protocol level surveys<sup>1</sup> be performed on the project site, in order to accurately evaluate the existing site resources. Absent contemporary surveys, the EIR would be a violation of CEQA, which requires full disclosure of existing on-site resources.

Please feel free to contact me with any questions about this matter at the contact information provided.

Sincerely,

Senior Scientist

Center for Biological Diversity

Sh 7 ancio

cc:

Stacey Love USFWS Stacey Love a fws.gov

Robb Hamilton, Hamilton Biological, Inc. robb@hamiltonbiological.com

<sup>1</sup> https://www.fws.gov/ventura/docs/species/protocols/cagn/coastal-gnatcatcher\_survey-guidelines.pdf



From: glamb@lambholdings.net

Sent: Tuesday, January 10, 2017 1:30 PM

To: Cataldi, Colby

Cc:Canning, Kevin; Doug WymoreSubject:[FWD: RE: Aspen] access offerAttachments:January 5 2016 letter re Aspen.PDF

Colby... I want to make sure everyone is informed as to the status of the proposed sale of the Cielo Vista land for option 2... Please give me a call if you have any questions... Thanks

----- Original Message ------

Subject: RE: Aspen

From: <glamb@lambholdings.net> Date: Mon, January 09, 2017 1:14 pm

To: "Matsler, Sean" <SMatsler@manatt.com>
Cc: "Doug Wymore" <dwymore@wymorelaw.com>

Sean;

Thank you for your proposed Sale Terms Letter... I would like to provide the following concerns and clarifications;

- 1. Final terms were not reached in the January 22, 2016 mediation. However discussions of price for the OPTION 2 access did take place and payment was to be made at grading permit for our project.
- 2. The Cielo Vista Tentative Parcel Map indicates that The Travis Ranch Trusts is the owner of the property that you are proposing to sell and not Cielo Vista is that still the case?
- 3. Is Travis willing to sell the property for the OPTION 2 roadway to Aspen Drive contrary to his letters on file with the County where he objects to the roadway across his land?
- 4. At our meeting on December 20, 2016, I reiterated that a closing on the OPTION 2 roadway access could not occur until receipt of all our entitlements, Agency permits and any litigation resolved due to the litigation threat by the Plaintiff in our CEQA litigation or any other environmental group due to the Endangered Species and Critical Habitat recently found on the Cielo Vista property... You agreed that this was a reasonable requirement, yet your proposed Sale Terms Letter does not reflect that.
- 5. The Neighbors have indicated that they will use this "New & Important Biological Information" on the Cielo Vista property affecting OPTION 2 roadway to re-open the CEQA litigation we and the County just prevailed on. This is very costly additional litigation for us plus we are required to pay most of the Plaintiff's legal expense whether we win or lose.
- 6. You indicate you would like our Emergency Access Road to connect to Cielo Vista's "C" street but there isn't any drawing or exhibit showing "C" street?... Any modification to our OCFA & OCSD approved Emergency Access Road would have to be reviewed and approved by them. In addition not knowing if and when Cielo Vista is going to be built precludes us from committing to this at this time.
- 7. The 50 ft Richard Easement provides water, sewer and utilities for both projects and at the location YLWD has requested. We have an agreement with YLWD and your proposal would breach that agreement.

Sean, with so many unknowns, uncertainties and time delays neither our investors or our bank would fund \$3,500,000 within 30 days of you recording your Parcel Map... I appreciate your effort but I do not think your offer is feasible.

----- Original Message -----

Subject: Aspen

From: "Matsler, Sean" <SMatsler@manatt.com>

Date: Thu, January 05, 2017 3:57 pm

To: "DWYMORE@Q.COM" < DWYMORE@Q.COM>, "GLAMB@LAMBHOLDINGS.NET"

<GLAMB@LAMBHOLDINGS.NET>

Doug and Gary,

Happy new year. The attached letter follows up on our meeting prior to the holidays. We look forward to your response.

### Sean

### Sean Matsler

Partner

Manatt, Phelps & Phillips, LLP 695 Town Center Drive, 14th Floor Costa Mesa, CA 92626 P: (714) 371-2534 smatsler@manatt.com manatt.com

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Sean Matsler Manatt, Phelps & Phillips, LLP Direct Dial: (714) 371-2534

E-mail: SMatsler@manatt.com

January 5, 2017

### BY E-MAIL [DWYMORE@Q.COM; GLAMB@LAMBHOLDINGS.NET]

Doug Wymore and Gary Lamb Yorba Linda Estates, LLC 7114 E. Stetson Dr., #350 Scottsdale, AZ 85251

Doug and Gary:

Following our initial discussions before the holidays, we remain committed to the terms that we reached in mediation on January 22, 2016 wherein Esperanza Hills acquires a new parcel that connects to Aspen Way. As discussed in my letters to the County prior to the December 13th Board of Supervisors hearing, those terms are very simple:

- 1. Property Interest and Purchase Price Cielo Vista will offer Esperanza Hills a fee interest in the approximately 10.1 acre Parcel 2, as shown on the attached Parcel Map, to enable Esperanza Hills to connect to Aspen Way. We already have filed for approval of that Parcel Map. The purchase price for Parcel 2 is \$3.5 million, which shall be paid to Cielo Vista as follows: (a) \$500,000 non-refundable but applicable earnest money to be paid upon mutual execution of a purchase agreement; and (b) the \$3,000,000 million balance due within 30 days of the recordation of the Parcel Map creating Parcel 2.
- 2. Esperanza Hills Emergency Access Esperanza Hills shall connect its emergency access roadway directly to Cielo Vista's "C" Street.
- 3. 50' Richards' Easement At the time the Cielo Vista Final Tract Map is recorded, any rights in the 50' Richards' easement will be transferred to the right-of-way in the Cielo Vista streets. Cielo Vista and Esperanza Hills will cooperate with respect to the construction of infrastructure (including upsizing of pipes and tanks) required by the Yorba Linda Water District.

Although this letter does not constitute a binding agreement, I will create such an agreement for your signature upon your concurrence with the provisions set forth above. The terms of this letter shall expire on February 4, 2017.

Sean Matsler

Regards

# Tentative Parcel Map No. 2016-156 COUNTY OF ORANGE

COUNTY OF CHANCE

## STATEMENT OF OWNERSHIP

NORTH COURTY BIS PROJECT, ILC DOES HEREBY STATE THAT HE PROPERTY CHARGES LISTED BILDW HAVE PROJECT, ILC. TO PREMIES AND SUBMET HIS MAP IS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

CASINO RIDGE ROAD

DATED THIS 15TH DAY OF JUNE 2016

ROBERT IN SMITH AUTHORIZED SIGNATORY

LAND USE

LEGAL DESCRIPTION

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## BASIS OF BEARINGS

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## ZONING / SITE INFORMATION

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2. REGORDE LAGO USE. SEGURAM SESSIONA.
3. AGACTAT LAGO USE. SEGURAM SESSIONA.
5. FESTING CHARLE AS LOS CONTROL CO

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## INCORPORATION BY REFERENCE

PREPARER

JUTTREY W. DAVS, RCC 0355451 (XPRES 12/31/16





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VIRGINIA RICHARDS REVOCABLE INTERVIVOS TRUST	LINDA M, RODGER AND NANCY ANN MAGGIO, CO-TRUSTEES 5046 TIERRA DEL ORO
OWNER OF APN 351-031-05	AND 351-852-05:

THE TRAVIS RANCH TRUSTS
AMOS A. TRAVIS, TRUSTEE
ZEGD WAIN STREET, SUITE 1300
IRVINE. CA SEGN 4 OWNER OF APN 351-031-17 AND 351-661-10:

NORTH COUNTY BRS PROJECT, LLC 3 CORPORATE PUZA, SUITE 102

NEWPORT BEACH, CA 92960
PHONE: (949) 844-3514 CONTACT PERSON: LARRY NETHERTON

FUSCOE ENGINEERING

CIVIL ENGINEER:

SUBDIVIDER:





TENTATIVE PARCEL MAP
NO. 2016-156
NINCORPORATE IN THE COLUMY OF ORANGE.
STATE OF CALIFORNIA

PARCEL SUMMARY TABLE

## **EXISTING EASEMENT NOTES**

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- AN EASEMENT FOR EMPELINES, IN FAVOR OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, RECORDED IN BOOK 5049, PACE 316, O.B. (TO REMAIN).
- AND REASONAIN AND THE OR LINES OF PRES PURPOSES, IN FAVOR OF THE METAPONISM WATER DISTRICT OF SQUIMERY CALIFORNIA, RECORDED IN BROOK 6482, PAGE 475, O.R. (10 REMAN).
  - AR EASUVILLE CONDED WAY 13, 1980 IN 800K 13666, PAGE 823, OR (TO REMAN). AN ESCURITO FOR ROAD AND PUREUE UTILITY AND INCIDENTAL FURPOSES, RECORDED MAY 26, 1958 IN BOOK 4201, PAGE 93, O.R. (TO REMAIN).
    - AN ENGINENT FOR GAS LIVES AND MODENTAL PURPOSES, AS CON-TO SOURCEM AND ENGINE ON SCHOOL IN THAT CERTAIN FAM, AUGUSTUTI IN COMPLIANTION RECORDED APPR, 15, 1960 IN BIGGE PAGE 147 0.9. (TO REMAN).

PARCEL 2

ARCEL 3