

OC DEVELOPMENT SERVICES REPORT

DATE: March 22, 2017

TO: Orange County Planning Commission

FROM: OC Development Services/Planning Division

SUBJECT: Public Hearing on Planning Application PA120037 - Esperanza Hills General Plan Amendment, Zone Change, Revised Final EIR 616 and Specific Plan

PROPOSAL: Development of 468.9 acre site permitted by the following discretionary actions:

- Certification of Revised Final Environmental Impact Report No. 616;
- Adoption of a General Plan Amendment (GPA LUE 16-01) 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;
- Adoption of a Zone Change (ZC 16-05) to replace the existing General Agriculture (A1) and General Agriculture/Oil Production (A1(O)) zoning designations with the Specific Plan (S) zoning designation; and
- Adoption of 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 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

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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 (RFEIR616), 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 as augmented by the Additional Environmental Analysis memorandum dated February 21, 2017, and determine that RFEIR 616 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. 17-01 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.

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 Esperanza Hills Project site is part of an area commonly referred to in the City of Yorba General Plan (1993) as the Murdock Property.

Rolling hills characterize the Project site, which range in elevation from approximately 600 feet above mean sea level (AMSL) at the southwest boundary to approximately 1,540 feet AMSL at the northern boundary of the property. The site has historically been utilized for utilities transmission, animal grazing and oil production starting in the mid-1950s. Currently, the site is generally undeveloped with the exception of the presence of three active oil wells and four inactive or previously abandoned wells, utility transmission facilities (water and electricity) and unpaved service roads. There is also a paved road extending from the Hidden Hills subdivision to the current entrance off Stonehaven that was constructed as an emergency access road after the 2008 Freeway Complex Fire for the Hidden Hills

subdivision. The property supports a mix of habitats, including non-native grasslands with locally dominant stands of coastal sage scrub, chaparral, and limited areas of riparian habitat and, historically, small stands of walnut and oak woodlands.

Four intermittent drainage areas are located in canyons on or near the site and are identified as Blue Mud Canyon, Canyon A, Canyon B and Canyon C. Blue Mud Canyon and Canyon A extend into Chino Hills State Part, or other drainage areas. Canyons B and C are box canyons that terminate on site, or slightly east of the project site. The Whittier Fault runs along the southern portion of the site which is in an Alquist Priolo Zone. The entire site was burned in the 2008 Freeway Complex Fire.

PROJECT DESCRIPTION AND COMPONENTS

Project Description

The applicant requests approvals to construct a 340 unit residential gated community with large lot, low-density neighborhoods on approximately 469 acres, for an overall density of 0.73 dwelling units per acre. Once developed, approximately 62% of the project site will be open space, parks and landscape areas. Development will occur in two phases with each phase being a distinct planning area. The grading for each phase is balanced, so that there will be no import or export from the site during grading activities.

Planning Area 1 provides up to 218 lots on 310 acres. Building pads are generally a minimum of 70 feet wide and 140 feet deep. Planning Area 1 contains five parks, an underground water reservoir, open space, existing natural open space, riparian areas and a trail corridor linking the Project to surrounding properties and the Old Edison Trail in Chino Hills State Park. Planning Area 1 is located on land owned by Yorba Linda Estates, LLC and OC 33, LLC.

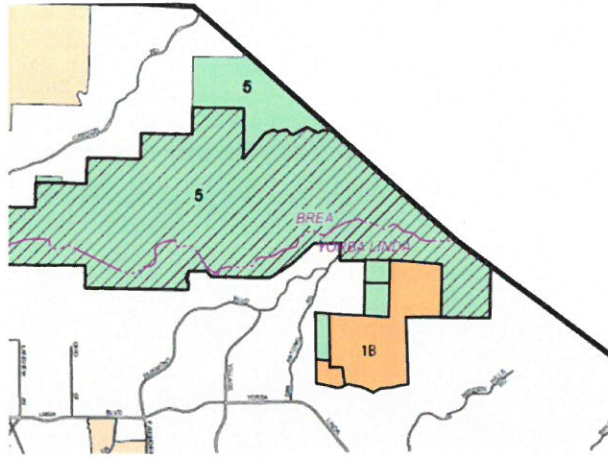
Planning Area 2 provides 122 units (including two estate lots) on 159 acres located at the higher elevation on the portion of the property owned by the Nicholas Long family. The minimum size of building pads is generally 90 feet wide and 110 feet deep. Planning Area 2 will contain six parks, an underground 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 21.89 acres (building pad limited to 2.65 acres) and 2.08 acres (building pad limited to 1.11 acres).

Access to the site is proposed in the Specific Plan with the primary connection going south to Stonehaven Drive generally following an existing dirt road (analyzed in the EIR as Option 1 and additionally assessed for the currently proposed design as Option 1A). A second road for fire apparatus and other public safety emergency vehicles would extend from Stonehaven/Via Del Agua along the western edge of the Project and provide emergency access into the central area of the development area and the several fire vehicle staging areas located throughout the development. This road would also be available for use in evacuations at the discretion and assessed need of fire and sheriff personnel.

General Plan Land Use Designation Change (LUE 16-01)

The Project is currently 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

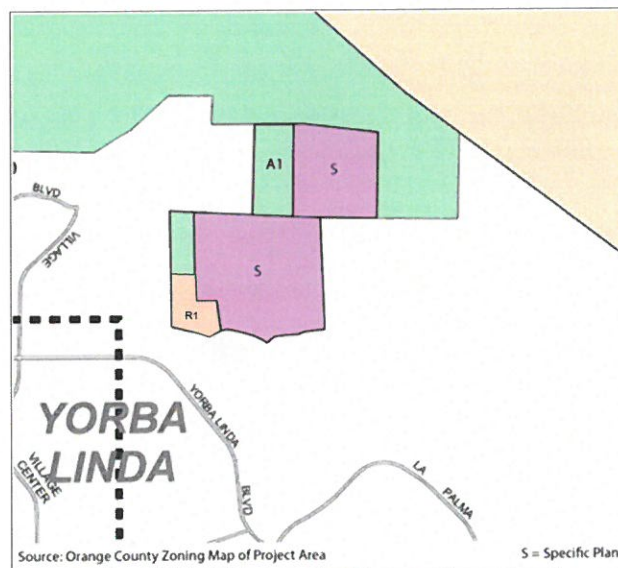
population (Land Use Element, Pages III-20 and 21). The proposed General Plan Amendment would change the land use designation from Open Space (5) to Suburban Residential (1B).



General Plan Amendment LUE 16-01 (Land Use Element)

Zoning Designation Change and Adoption of Specific Plan (Zone Change ZC 16-05)

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" and the adoption of the Esperanza Hills Specific Plan to guide development of the project.



Proposed Zone Change 16-05

Vesting Tentative Tract Map (VTTM) 17522

VTTM 17522, proposing the subdivision of the property into 340 residential lots, with private streets, park sites and common areas is being concurrently processed through the Subdivision Committee.

BACKGROUND AND PROCESSING HISTORY

The following is a brief overview of the Esperanza Hills project processing history. Specific citations and dates are provided elsewhere in this report.

The Esperanza Hills development project was filed in August 2012 seeking entitlement of the property including a General Plan Amendment (GPA), Zone Change (ZC), adoption of a Specific Plan and a Vesting Tentative Tract Map (VTTM) for 340 dwelling units in a gated community. A project Draft EIR was prepared and circulated for public review and comment in December 2013. Several public access configurations were analyzed, including, but not limited to:

- Option 1 - accessing Stonehaven/Via Del Agua to the south, with an emergency fire-apparatus access road to Stonehaven/Via Del Agua;
- Option 2A – public access roads to Aspen Way (crossing the adjacent Cielo Vista project site) and to Stonehaven Drive.
- Option 2B - public access roads to San Antonio Road (crossing the adjacent Cielo Vista project site and City-owned land) and to Stonehaven Drive.

In March 2015 the project EIR was certified. In June 2015, a General Plan Amendment (GPA), Zone Change (ZC) and Specific Plan were approved that included two of the public access alternatives, Option 2A and 2B. In July 2015, the certification of the EIR was legally challenged. In August 2016, the court issued its decision and a Writ of Mandate directing the actions that the County must take in response to the decision.

As a result of the legal challenge of the project's 2015-approved Final EIR, and in response to the court's Statement of Decision and Writ of Mandate on this case, the County and project proponents revised the greenhouse gas (GHG) mitigation measures within Final EIR and the Mitigation and Monitoring Program (MMRP). Additionally per the Court's direction, on December 13, 2016, the Board of Supervisors decertified the EIR and vacated the previous General Plan Amendment, Zone Change and Specific Plan approvals. On that date, the Board also considered the Revised Final EIR and a revised Specific Plan, with the associated GPA and ZC. The revised Specific Plan proposed one access configuration, identified as Option 1 Modified.

Following its public hearing and discussion the Board referred the project back to the Planning Commission to consider: 1) A secondary access via Aspen Way; 2) Further study the bridge option (of Option 1 Modified) versus Option 1; and, 3) consider a reduced unit project.

Board Referral of Project to Planning Commission

As noted above and as directed by the court, on December 13, 2016, the Board of Supervisors decertified the EIR and vacated the previous General Plan Amendment, Zone Change and Specific Plan approvals. The Board then conducted a hearing to consider new approvals per the Planning Commission's November 9, 2016 recommendations to approve the project and certify the RFEIR.

Following three hours of public testimony and Board discussion, the Board took no action on the requests and referred the project back to the Planning Commission, asking them to consider:

- A secondary access to Aspen Way;
- Further study of the Bridge Option vs Option 1, and;
- A reduced unit project

On January 11, 2017, the Commission received the Board's minute order, and a presentation from staff regarding the project's history and chronology. Staff also clarified the regulatory authorities regarding the OCFA requirement for a second fire/emergency apparatus access and a discussion of the project's conformity with the City's General Plan. The Commission then received public comments and discussed the aspects of the Board's directive with the applicant. The applicant's response is summarized below.

Commission discussion followed. In summary, the Planning Commission did not direct the applicant to adjust the proposed unit count, and it did appreciate the effort made with the newly proposed bridge concept, however, the Commission did generally agree that the project would be best designed with two full time access points, if a feasible agreement could be reached with all parties. Having receiving comments by staff, the applicant and the public, the Commission concluded by asking that staff continue to work with the applicant to complete a revised project submittal and return to the Commission for a full hearing on any project proposals and responses to the Board's directive (see Attachment 7).

Applicant's Response to Board's Referral

The applicant's currently proposed project does not directly propose two full-time access options, or a reduced unit project, but these recommendations were explored and the applicant concluded they were infeasible. The current proposed project does address the Board's concern regarding further study of the larger bridge proposed by Option 1 Modified, in that the applicant now proposes a smaller bridge with Option 1A.

During the applicant's January 11 comments to the Planning Commission, the recent biological assessment performed by a Cielo Vista consultant that identified multiple sitings of gnatcatchers and least bell's vireo within the potential Aspen Way connector corridor was discussed. The applicant explained that although the Board had asked for the consideration of alternatives to access Aspen Way, he had concluded that there was no feasible route alternative that would not significantly impact the newly identified gnatcatcher and least bell's vireo birds sited within this corridor. After consultation with technical experts and based upon his experience and familiarity with the regulatory process, the applicant has concluded that no connecting roadway could ever receive the necessary approvals from the resource agencies. The applicant does not believe that it is possible to get any roadway approved through this newly identified sensitive area. Thus, the applicant has abandoned all plans to attempt to cross this area, and instead, concluded that the only remaining viable project access alternative was to the south. The applicant also noted that has all necessary access and improvement rights within the south access area have already been secured. Moreover, that Option 1A meets all applicable and required standards.

Regarding a reduced density project, the applicant reduced the density at the outset of the project proposal. While the City's General Plan envisioned development at 1 unit per acre, at the suggestion of City of Yorba Linda staff, the applicant reduced the density to 0.75 units per acre or less. The current

proposal is at 0.73 du/acre. The adjacent Cielo Vista project was approved at 0.99 du/acre on December 13, 2016. From this perspective, the applicant considers the current proposal a reduced unit project. He concluded that that the project is well below the City of Yorba Linda's density requirements for the project area.

DISCUSSION AND ANALYSIS OF THE PROJECT

All previous staff report discussions and project documents remain available on the project's County website page located at http://www.ocplanning.net/planning/projects/esperanza_hills

General Plan Consistency

The proposed General Plan land use designation of Suburban Residential (1B) will allow a building intensity range of 0.5 to 18 dwelling units per acre for the site. The Suburban Residential land use designation allows a wide range of housing types, from estates on large lots to attached dwelling units (townhomes, condominiums and clustered arrangements). The land uses proposed by the project include low-density single-family residential lots and two residential estate lots, active and passive recreational parks, open space consisting of natural open space, landscaped areas, fire breaks and fuel modification zones and improved and unimproved walking, biking, hiking and equestrian use trails as well as infrastructure and other improvements. The land uses within the proposed Project are consistent with the General Plan land use designation of Suburban Residential.

Beyond the consistency with the General Plan's land use designations, the proposed Project is also compatible with numerous General Plan policies. The RFEIR provides further detail, including Tables 5-9-2 through 5-9-9.

In consideration of potential future annexation of the Project site to the City of Yorba Linda, the RFEIR also provides analysis of consistency with the Yorba Linda General Plan. The proposed Project is within the City's Sphere of Influence and has been designated within Area Plan C – Murdock Property on the Land Use Map Update dated March 18, 2010, and the Yorba Linda General Plan adopted in 1993 which designates the property as Opportunity Area 5 Murdock Property. The City's Draft 2016 General Plan Update identifies the Cielo Vista/Esperanza Hills sites as Focus Area F.

The City's vision for the Murdock Property area, as stated in its General Plan and the proposed General Plan Update, is for low density residential that averages one dwelling unit per acre over the entire area. The City's density allowance for the area is 536 dwelling units which is 129 residences more than the proposed Project plus the approved Cielo Vista project. The proposed Project is consistent with this vision in that overall building density averages 0.73 dwelling units per acre over the approximately 468.9-acre Project site, which is less than the General Plan goal of one dwelling unit per acre. Tables 5-9-11 through 5-9-17 in the RFEIR provide analysis of the consistency of the Yorba Linda General Plan Elements and the proposed Project.

Zoning Consistency

The Project is zoned "A1" (General Agriculture) with an "O" (Oil Production) overlay district in the County of Orange Zoning Code. The A1 zone allows for residential uses with a four-acre minimum site area and a maximum of 1 dwelling unit per site. In addition, Orange County Codified Ordinances Section 7-9-55 notes that the A1 district "may be used as an interim zone in those areas which the General Plan may designate for more intensive urban uses in the future." The Oil Production zone overlay designation

provides for oil drilling and production of oil, gas and other hydrocarbon substances. The Project includes a zone change from A1(O) to S “Specific Plan.”

The Applicant requested that initiation of a Specific Plan be authorized by the Planning Commission; the application was approved by the Planning Commission in August 2013, with the provision that the Applicants prepare the Specific Plan at their expense.

The Specific Plan establishes a link between implementing policies in the General Plan and the proposed development. The Specific Plan provides direction to all facets of development from the type, location and intensity of uses to the design and capacity of infrastructure. The Esperanza Hills Specific Plan has been prepared to provide for the development of a low-density master planned community and includes policies and regulations for the proposed development. The Specific Plan includes regulatory text and maps necessary to provide for the development, maintenance and use of the Project property in compliance with the policies and programs of the County of Orange General Plan. The Specific Plan also establishes community design criteria and upgrades fire resistive construction measures for all structures.

The City of Yorba Linda has not established pre-annexation zoning for the Project site. If the site is annexed to the City, the proposed Esperanza Hills Specific Plan could serve as the City's zoning, if the vesting tentative tract map were approved by the County prior to any such annexation. In their comment letter dated February 7, 2017, the City commented that the Esperanza Hills project be built compatible with neighboring communities. The proposed Esperanza Hills development will be compatible with surrounding development, existing and approved.

Compatibility with Surrounding Land Uses

Surrounding land uses are predominantly residential development and open space (see Figure 7). The Project is bordered by Chino Hills State Park to the north and east. To the south and northwest are existing single-family residential communities previously approved and developed in the City of Yorba Linda including Dominguez Ranch, Green Hills, Casino Ridge, Travis Ranch and Yorba Linda Hills. The recently approved Cielo Vista project lies to the west and southwest of the Project boundaries.

The Project is compatible with surrounding land uses and complementary to the character of the rolling hills and ravines that characterize the Project site. The Project is designed to cluster residential pads to maximize open space preservation and preserve the natural ridgelines and topography to the greatest degree possible, including all major ridgelines bordering Chino Hills State Park.

The residential lots are clustered so that there will be no lots adjacent to any existing homes. The Blue Mud Canyon habitat will be restored and will provide a buffer to Stonehaven to the south, and to the Cielo Vista subdivision to the southwest. At the request of both the County and the City of Yorba Linda, the Applicant re-designed the project to move the residential lots 150 feet to the east, away from the western border to significantly reduce or eliminate retaining walls on the project's western border. The Project has been designed so that most of the homes will not be visible to existing neighborhoods.

Local Park Code Consistency

The purpose of the Quimby Act (Government Code Section 66477, et seq.) and the County of Orange Local Park Code (Orange County Codified Ordinances Section 7-9-500, et seq.) is to ensure the provision of adequate park and recreational facilities to serve the population resulting from new residential

developments. Chapter 5.13 – Recreation – in the RFEIR provides analysis of the Project’s consistency with the parkland requirements for new development. The Project is anticipated to add approximately 1,088 persons to the County population. This population increase would result in a requirement of 3.3 acres of designated parkland in compliance with both the Quimby Act and the City of Yorba Linda standards and 2.7 acres of designated parkland in compliance with the Orange County Local Park Code.

The Project proposes a minimum of 12 acres of private park area, exceeding the requirements of both the County and the City. Although the proposed project would be a gated community, the parks may be accessed by the public during daytime hours by car (by a day pass issued at the entry gate) and some parks will have direct access through trails. The parks will be maintained by the Homeowners’ Association (HOA) and there will be no requirement of public funding for maintenance.

In addition to the neighborhood parks within the Project boundaries, the Project includes approximately seven miles of hiking, equestrian and biking trails for additional recreation opportunities. These trails will be accessible to the public and will be maintained by the HOA with no requirement for public funding for maintenance.

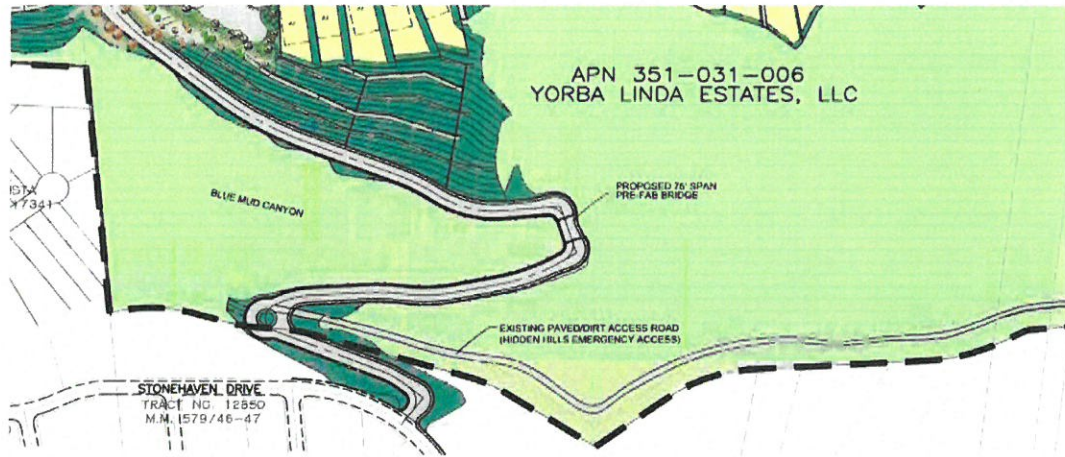
Project Changes since Planning Commission and Board Review in Late-2016

The discussion below focuses on the project changes from the Planning Commission’s last full review on October 26 and November 9, 2016, which includes the design modifications to the project entry road, now proposed as Option 1A, and also reviews the proposal to remove the requirement for a pre-annexation agreement prior to approval of the initial tentative map. The modifications to address the GHG mitigations is discussed within the Revised Final EIR 616 discussion the CEQA

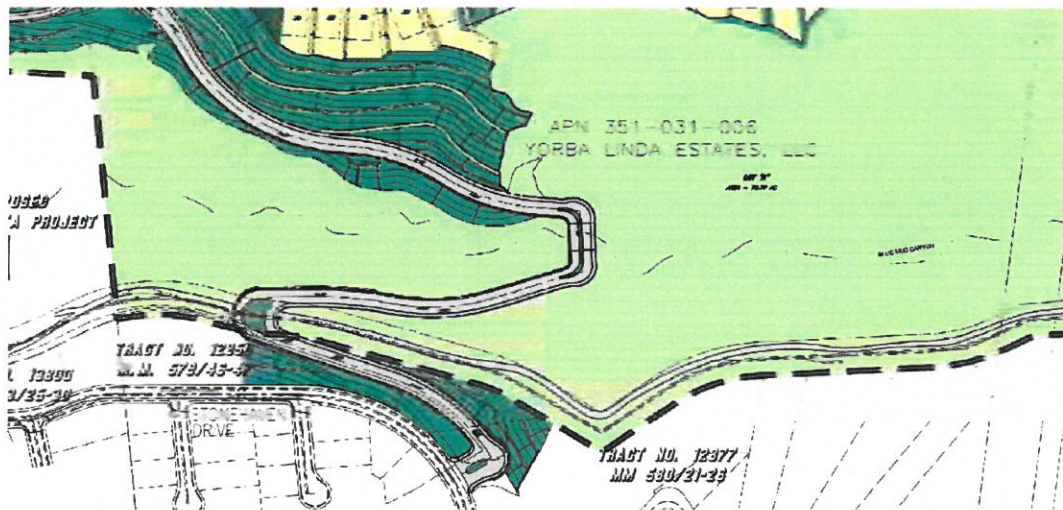
Option 1A

The applicant has removed the large bridge structure proposed as Option 1 Modified and now proposes a project with a single full time public access to Stonehaven Drive (proposed as Option 1 in 2015), but with a modification to adjust the crossing of Blue Mud Creek. Identified as Option 1A, the new design would slightly modify the alignment of previously analyzed Option 1 to result in a bridge of approximately 80 feet in length (75 feet in Option 1) and a height of 35 feet above the creek (10 feet higher than Option 1). Within the Blue Mud Canyon area, the footprint of Option 1A lies predominately within the same disturbed area as original Option 1. The areas of difference for the roadway width lie either within areas that had been identified for slope grading or within areas that had been identified for modification (selective plant thinning) under the previously approved conceptual fuel modification plan. The modification of this entire area is addressed in RFEIR 616 and no impact was found. Additionally, new Option 1A has extended the connection point to Stonehaven Drive by approximately 209 feet to connect at a point which would avoid having exiting vehicles’ headlights potentially shine into existing homes. The area of the extended alignment is currently landscaped with typical manufactured slope plant materials, and the project biologist has confirmed no special plant species are present.

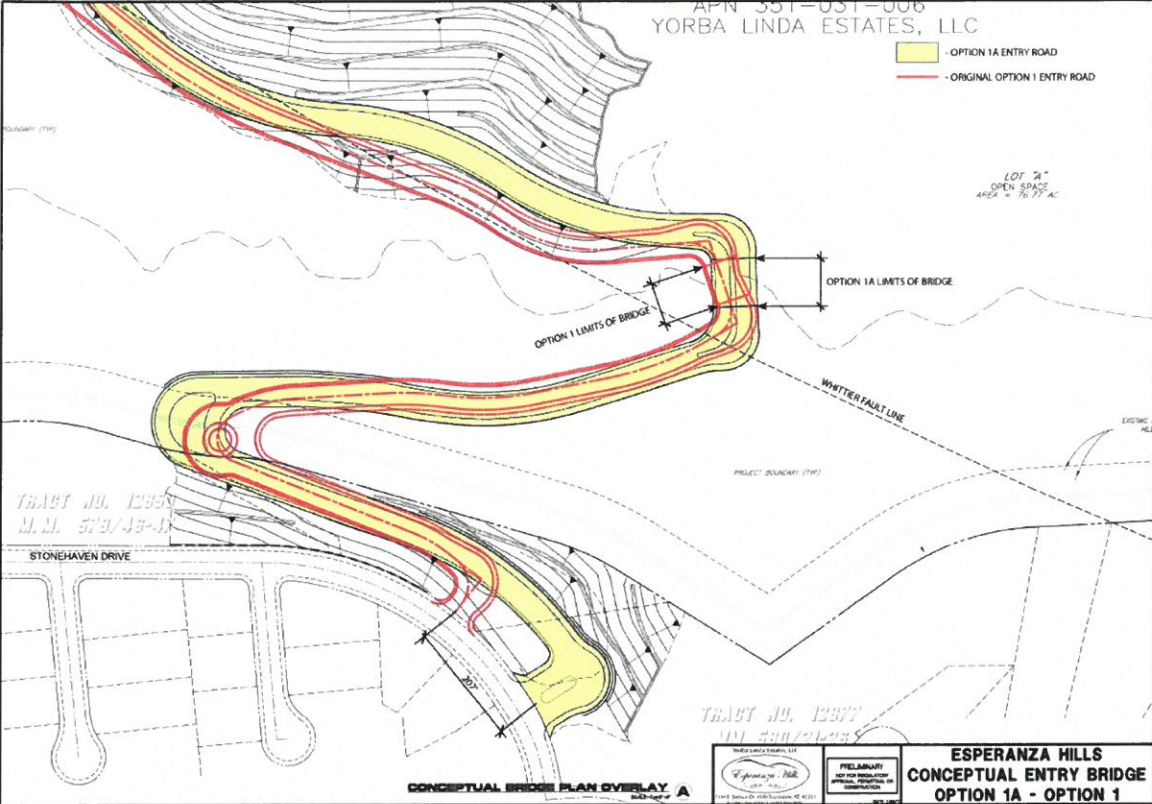
OPTION 1



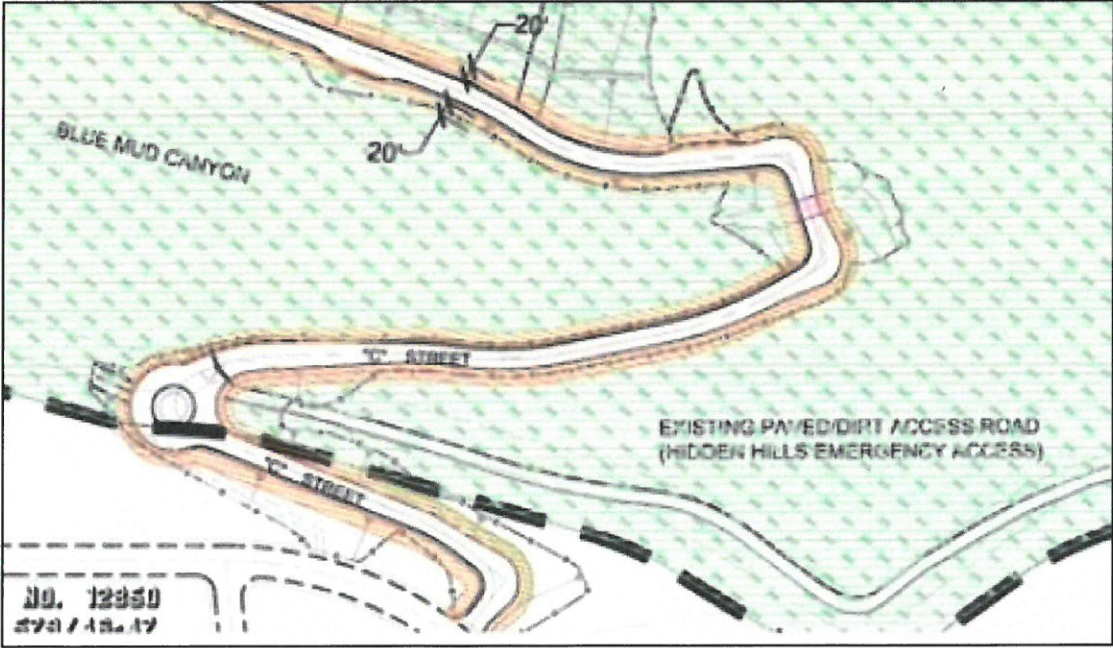
OPTION 1A



OPTION 1 TO OPTION 1A COMPARISON



OPTION 1 FUEL MODIFICATION PLAN



FIRE PRONE VEGETATION REMOVAL ZONE
ALL FIRE PRONE VEGETATION IN THIS ZONE OF NATURAL OPEN SPACE TO BE REMOVED

The Option 1A design still includes the secondary fire apparatus access roadway as in the previous proposal. As noted in the staff presentation on January 11, 2017, the OCFA criteria for a requiring a secondary access point for projects exceeding 150 dwelling units refers only to an additional access for fire and emergency vehicle apparatus and does not require that any such secondary access be available for full time public use. This conclusion has been verified by OCFA (Attachment 8) and is based upon OCFA Guideline B-09 and California Fire Code Section 503.1.2. Additionally, both public safety agencies, OCFA and OCSD, have previously testified that the Option 1 alternative (and by extension Option 1A) meet each respective agency's public safety criteria, including safe and timely evacuation if necessary. There have also been regularly held emergency response coordination meetings about which these agencies have testified.

Any need or requirement for a full-time secondary public access would be based upon the traffic analysis and an identification of a deficit level of service (LOS). The project RFEIR's assessment of Option 1 did not identify any negative traffic impacts, with an 'LOS A' for Stonehaven and an 'LOS B' for Via del Agua. It should also be noted that the traffic analysis within the RFEIR included a conservative estimate of the Stonehaven/Via Del Agua traffic capacity, assigning it a capacity of 6,250 ADT (average daily traffic), which is 50% less than its design capacity as a collector street (per the City of Yorba Linda's Draft 2016 General Plan Update). Additionally, it conservatively assumed an additional 38 units from the Bridal Hills property north of Esperanza Hills as well as 120 units from Cielo Vista. The Bridal Hills property could not achieve this unit count except with extensive fill (that will not now be available from the Esperanza Hills site) and the Cielo Vista project is now approved at only 83 units (instead of the 95 units that would have accessed Stonehaven/Via Del Agua). Thus, the traffic analysis in the RFEIR identified no traffic impacts for a combination of projects with a higher traffic count than will be realized onto a street with an actual carrying capacity 100% greater than analyzed.

Staff finds that the proposed Option 1A access alternative with the secondary fire apparatus access roadway complies with all environmental thresholds and regulatory standards.

Requirement for Pre-annexation Agreement Prior to Initial Tentative Tract Map Approval

As approved in June 2015 (but vacated in December 2016), Specific Plan Section 13.3 provided that the initial tentative tract map that establishes the public access roadway configuration shall require the approval of the Board of Supervisors and requires that the Board make a finding that "a Pre-annexation Agreement between the City of Yorba Linda and the developer has been completed."

With the revised project, the applicant requests the deletion of the finding requiring the pre-annexation agreement prior to initial tentative map approval by the Board. Previous staff reports and public testimony have documented the applicant's efforts to negotiate with the City regarding the pre-annexation agreement, as well as the applicant's earlier efforts with Orange County Local Formation Commission (OC-LAFCO) that were put on hold due to the City's nonparticipation in that process. The applicant has also testified before both the Planning Commission and the Board of Supervisors that they are not opposed to ultimate annexation, but that they are currently at an impasse with the City regarding the necessary components of any such pre-annexation agreement. The City has requested multiple primary access points to the project. This would necessitate access to the west across the Cielo Vista property, and the applicant has provided testimony regarding the failed negotiations with that property owner. Additionally, as noted above, based upon the siting of gnatcatcher and least bell vireo within the alignment of the access alternatives, the applicant has stated that even is this right-of-way

were available at no cost, he does not believe any road alignment through this area would receive the necessary resource agency approvals. The Esperanza Hills applicants have stated that they have abandoned any alternative for access to the west.

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 an annexation or 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.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REVIEW

The County determined that an EIR would be required for this project, issued a Notice of Preparation (NOP) on December 22, 2012, and held a public scoping meeting on January 31, 2013. Comments received during the public review period of the NOP, which extended from December 22, 2012 to February 1, 2013 (42 days) are included in the DEIR as Appendix B. The DEIR was released for public review from December 4, 2013 through February 3, 2014 (62 days). At the County's request, a public outreach meeting was held on January 16, 2014 which was videotaped and transcribed. All comments from the meeting were included as comments on the DEIR.

Revised Final EIR No. 616

The County approved Final EIR 616 on March 10, 2015 and approved various project entitlements including a General Plan Amendment, a Zone Change, and a Specific Plan on June 2, 2015. Following the County's certification of Final EIR 616 and the County's approval of the Esperanza Hills project, a Petition for Writ of Mandate was filed in Orange County Superior Court (Case No. 30-2015-00797300-CU-TT-CXC) on July 7, 2015 by Protect Our Homes and Hills et al., challenging the adequacy of the Final EIR, alleging 30 separate deficiencies.

Statement of Decision

Judge William Claster issued a Statement of Decision on June 24, 2016 ("Statement of Decision" Attachment 11), finding that 29 of the 30 issues raised were "without merit," and deeming the Final EIR adequate on every issue but Greenhouse Gas ("GHG") mitigation. The Court determined that the GHG mitigation measures were inadequate because "the FEIR impermissibly defers mitigation of impacts and arbitrarily limits the extent to which mitigation measures must be considered. . ." and that "the FEIR 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. (Statement of Decision, pp. 2-3, 39). The Writ of Mandate is included as Attachment 12. For a summarized table and information on the outcome of the Petition for Writ of Mandate, please also see Table 1 of Additional Environmental Analysis (Attachment 3).

GHG Section Revisions

The actions mandated by the court required that the mitigation measures addressing the project's potential for greenhouse gas impacts be specifically identified and required to be completed earlier in the development process. As a result, rather than proposing that a plan be developed to address these impacts at some future development trigger (as was proposed as the mitigation measure in FEIR 616), the currently proposed Mitigation Monitoring and Reporting Plan now includes forty (40) GHG

mitigation measures to specifically address the potential GHG impacts. In addition, portions of the GHG section of the EIR were revised in accordance with the Superior Court’s ruling.

OC Development Services staff have reviewed California Code of Regulations, Title 14, Chapter 3 (CEQA Guidelines) §15088.5 – Recirculation of an EIR Prior to Certification, to determine whether revisions to the GHG section of the EIR require recirculation of this portion of the EIR. Because the revisions to the EIR do not disclose a new significant environmental impact resulting from the project or a mitigation measure, there is no increase in the severity of the previously disclosed impacts (GHG was determined to be a significant unavoidable impact and remains such), and there are no new mitigation measures considerably different from those previously analyzed that the applicant is refusing to adopt, staff has concluded that recirculation is not required.

Option 1A

Because the Final EIR was de-certified on December 13, 2016, OC Development Services staff reviewed California Code of Regulations, Title 14, Chapter 3 (CEQA Guidelines) §15088.5 – Recirculation of an EIR Prior to Certification, to determine whether the Specific Plan revision to Option 1A constituted new information regarding requiring additional revisions to the RFEIR, and if revisions were required, whether recirculation was required. Staff’s conclusion is that recirculation is not required. The realignment proposed with Option 1A does not result in any new significant environmental impact, does not increase the severity of any previously identified environmental impact, or result in any new information not previously known with respect to the EIR. These conclusions are fully analyzed and discussed within “Esperanza Hills – Additional Environmental Analysis” (Attachment 3).

Therefore, Staff concludes that RFEIR 616 satisfies the requirements of CEQA for the proposed Option 1A access configuration and is in substantial conformance with the previous environmental assessments.

The Revised Final EIR (RFEIR) No. 616 for the Project is comprised of the following:

- Revised EIR –The Revised EIR included the project description, environmental analysis, discussion of significant impacts, alternatives analyses, discussion regarding direct, indirect and cumulative environmental impacts and technical studies as part of the appendices.
- Responses to Comments – The responses to the comments on the DEIR were made available to the public on-line on December 5, 2014, and included general responses to issues raised by multiple commenters, the comment letters received during the public review period, responses to each individual comment and revisions to the DEIR. The revisions to the DEIR contain clarification or revised information required to prepare a response to a specific comment, applicable updated information that was not available at the time of the DEIR publication, typographical error corrections and/or additional mitigation measures to fully respond to commenter concerns as well as provide additional clarification to mitigation requirements included in the DEIR. The revisions in the proposed Revised Final EIR do not disclose any new impacts resulting from the Project or a substantial increase in any previously-identified impacts, or identify new feasible alternatives or new feasible mitigation measures requiring recirculation of the document.
- Mitigation Monitoring and Reporting Program (MMRP) – This document presents all mitigation requirements in one summary to facilitate compliance, and has been updated to address the writ of mandate issued by the court in 2016.
- Esperanza Hills – Additional Environmental Analysis – This memorandum dated February 21, 2017 assesses the applicability of California Code of Regulations, Title 14, Chapter 3 (CEQA Guidelines)

§15088.5 – Recirculation of an EIR Prior to Certification to the addition of the forty (40) mitigation measures to address potential GHG impacts and the comparison of potential impacts stemming from Option 1A versus Option1 as was analyzed. (Attachment 3)

The proposed RFEIR finds that the proposed Project has either a) no impact, b) less than significant impact, c) less than significant impact with mitigation, or d) unavoidable adverse impact as detailed in the following table. The unavoidable adverse impacts are further described below.

Mineral Resources	Land Use and Planning	Aesthetics	Noise (Related to Aspen Way Access - Option 2 only)
No Impact	Less than Significant Impact	Less than Significant Impact with Mitigation	Unavoidable Adverse Impact
Agriculture and Forest Resources	Hydrology and Water Quality	Air Quality	Greenhouse Gas Emissions
Mineral Resources	Land Use and Planning	Aesthetics	Noise (Related to Aspen Drive Access - Option 2 only)
	Population and Housing	Biological Resources	Transportation and Traffic (Necessary because the County cannot compel the implementation of Mitigation Measures T-1 thru T-3 within the City of Yorba Linda, which are designed to reduce impacts to below a level of significance)
	Recreation	Cultural Resources	
		Geology and Soils	
		Hazards and Hazardous Materials	
		Public Services	
		Transportation and Traffic	
Utilities and Service Systems			

Analysis in the proposed RFEIR indicates that the Project will result in three unavoidable significant impacts as follows:

- Greenhouse Gas (GHG) Emissions – Even with mitigation, direct construction emissions and long-term operational emissions will exceed the SCAQMD advisory level thresholds, resulting in impacts which are significant and unavoidable. In addition, the proposed project combined with “related projects” in the project vicinity will further contribute to an excess of GHG emissions and, therefore, cumulative impacts remain significant and unavoidable. Forty (40) mitigation measures have been added to the MMRP to address potential GHG impacts.
- Noise – The Project will result in a perceptible 3dB increase in noise due to traffic under all options but will remain under the 65 dB CNEL for exterior noise under all options. Projected noise levels for Option 2 only (access via Aspen Way), however, exceed a 10 dB increase along Aspen Way resulting in an impact which is considered significant and unavoidable even though the noise levels remain below the 65 dB CNEL.
- Traffic – The Project will require traffic mitigation including installation of a three-phase traffic signal at the intersection of Yorba Linda Boulevard and Via del Agua, restriping at Yorba Linda Boulevard and Savi Ranch Parkway, and extension of the left-turn pocket along Yorba Linda Boulevard at Via del Agua. The traffic mitigation measures (T-1 thru T-3) reduce impacts to below a level of significance.

However, each of the improvements are located within the City of Yorba Linda, and the County cannot compel the City to implement such improvements. If the City does not allow for implementation of the improvements, traffic will be considered a significant and unavoidable impact.

Due to the potential for GHG, traffic noise levels, and traffic to result in unavoidable and significant impacts, a Statement of Overriding Considerations has been prepared for Board of Supervisors consideration. The Statement of Overriding Consideration provides factual support to allow for the balancing of the benefits of the proposed project against its unavoidable significant environmental effects. Based on this balancing, staff recommends that the determination can be made that the benefits of the project outweigh the unavoidable impacts. Note that although the proposed Specific Plan does not include access onto Aspen Way, staff recommends that it is prudent to include the noise impact in the Statement of Overriding Considerations given that the impact was identified in the RFEIR. The Statement of Overriding Considerations is included within the findings in support of the certification of the proposed RFEIR as attachments to the applicable recommended Resolution for Board certification of the RFEIR (Attachment 10). The MMRP, with the added GHG mitigation measures, is also an attachment to this Resolution.

Overview of Comments on the DEIR

A majority of the comments on the DEIR focused on several similar topical areas of concern. These comments were addressed in the Responses to Comments under Topical Responses. Summarized below are the topical areas identified in a number of the comment letters.

TOPICAL ISSUES	SECTION OF RFEIR SUMMARY
Fire Hazards – TR 1	The Project is located in a Very High Fire Hazard Severity Zone and a number of comments related to the addition of homes to an area where wildfires occur. Topical Response 1 details the area fire history and discusses how the computer model used to prepare the Fire Protection and Emergency Evacuation Plan (FPEP) was based on data sources that included the 2008 Freeway Complex Fire. The Topical Response also reiterates the steps that will be included in the Project design to reduce risks to life and property. Chapter 5.7 in the DEIR contains the complete analysis of fire hazards and identifies mitigation measures to reduce impacts. No new or more significant impacts were identified and the DEIR analysis remains complete.
Evacuation Plan – TR 2	Topical Response 2 details the evacuation planning proposed in conjunction with the Orange County Sheriff’s Department and the Orange County Fire Authority programs and plans. A fire evacuation analysis was completed in May 2014 in response to comments about how the additional homes would impact evacuation of the existing neighborhoods. Evacuation paths were modeled to provide estimated vehicle numbers and times for evacuation. The fire evacuation analysis is included as an Appendix in the Response to Comments document. No new or more significant impacts were identified and the DEIR analysis remains complete.
Traffic Ingress/Egress – TR 3	Comments included concerns regarding the addition of daily traffic from the Project which could impact existing intersection levels of service. Street capacity/vehicles per day information based on peak traffic count data was presented to show existing and Project related traffic impacts. Results of an additional day of traffic counts are included in the Topical Response, as well as an update to the Weir Canyon Road/SR-91 interchange analysis. No new or more significant impacts were identified in the updated analyses which are

	included in the Response to Comments document.
Water Provision/Capacity – TR 4	Several commenters expressed concerns regarding adequate water supply and availability to serve the additional 340 dwelling units and for firefighting purposes. The Yorba Linda Water District (YLWD) will be the potable water purveyor for the Project. Adequacy of water supply was confirmed in the YLWD Urban Water Management Plan and adequate infrastructure will be constructed for residential and fire-fighting uses. This information is detailed in Chapter 5.15 of the DEIR.
Segmentation/Piecemealing – TR 5	Several commenters stated that the Esperanza Hills, Cielo Vista, Bridal Hills, LLC and Yorba Linda Land sites should have been combined into a single analysis (DEIR). Only Esperanza Hills and Cielo Vista have applications pending for development and the applications were submitted more than two years apart. Neither are necessary parts of the same project, nor foreseeable results of the other action. The properties noted are owned separately and the County has discretion to approve or disapprove either or both of the projects. Each DEIR contains cumulative analysis; therefore there are no impacts not reviewed. This discussion is presented in Topical Response 5 of the Response to Comments document.
Biological Resources/Open Space – TR 6	Clarification regarding the amount of open space that will be preserved or otherwise incorporated into the project was requested by several commenters. Topical Response 6 details the types of open space and the acreages designated for each category. The comments did not raise additional issues or concerns but rather represented requests for more detailed information, particularly since the Project includes significant fuel modification areas and ungraded natural open space.
Special Status Vegetation/CDFW Jurisdiction – TR 7	In response to comments regarding impacts to special status and common vegetation resources within the CA Department of Fish and Wildlife (CDFW) jurisdiction, Topical Response 7 provides summary tables of impacts to such resources. A Habitat Mitigation and Monitoring Plan is referenced and has been included in the Response to Comments document. No new issues or concerns were raised by commenters and the analysis in the DEIR remains adequate and complete.
Noise Impacts – TR 8	Unlike the rest of the topical responses, Noise was not an issue raised by a large number of commenters. This topical response was provided to clarify the conclusions of the Noise Study and the information contained within the DEIR, and specifically the thresholds of significance.

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. 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 March 9, 2017. The notice was also published in the Orange County Register. Additionally, a notice of the public hearing was emailed to approximately 112 individuals who had previously requested such notice, plus an additional 18 persons associated with the City of Yorba Linda, as an elected or on

administrative staff. 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.

At the time that a draft of the new Specific Plan and related land plan graphics and bridge view studies were posted for public review on January 30, 2017, 130 email notices were sent to the combined lists notifying them of the availability. Comments were requested to be submitted by February 9. Four persons and the City of Yorba Linda submitted comments, which are included as Attachment 9. Several of the comments were of a common theme and these are responded to below.

The Additional Environmental Analysis (Attachment 3) for the project was posted on February 27, 2017, and 130 email notifications were sent at that time.

Comment Summary and Response (based upon January 30th Project Information Posting)

1. That the applicants do not have legal rights to cross or grade within property fronting upon Stonehaven Drive to gain access; that this property is technically owned by the City of Yorba Linda.

Response:

- a. Regarding the main access roadway, these claims were first raised in 2015 and again in 2016 with the review of the VTTM. The access rights and related easements have been reviewed by the County Survey Department and by the Subdivision Committee and found to be legal and adequate. Regarding the easement area which will be used as a fire apparatus access roadway, the validity of this easement area was challenged and litigated by Cielo Vista applicants and was adjudicated in favor of the Esperanza Hills applicants.
 - b. It is not cleared what is meant by 'technically owned by the City'. County tax rolls indicate private entities own all affected parcels and the property ownership records reflect easements in favor of the City and there are no documents transferring ownership of any of these parcels to the City. In any event, the access rights to cross the property for future roads predated any change in ownership and remain valid.
2. That the new road alignment and bridge were not analyzed. Reduced density project not assessed. Multiple access point projects were not assessed.

Response:

- a. The new roadway alignment and minor bridge adjustments were analyzed. Refer to Attachment 3.
- b. A reduced density project of 218 units was assessed as a project alternative in the project RFEIR. Several different multiple access point project alternatives were also assessed in the original FEIR, and the analysis was deemed adequate by the Court.

3. New firebreaks were not analyzed – within Blue Mud Canyon, along the residential edge. Non-native plant species will be introduced in fuel modification areas.

Response:

- a. There is no 'new firebreak' per se, but in the 100-foot area nearest the Cielo Vista project boundary within the Blue Mud Creek area, OCFA has requested that an area already designated as a fuel modification area be modified to a Zone C equivalent until such time as the Cielo Vista project is constructed and has installed their own fuel

modification areas. This area was already assessed for any impacts resulting from its use as a fuel modification area, and no impact was identified.

- b. There have been minor adjustments along the edges as land plans have been modified. However, the RFEIR assessed multiple land plan alternatives and any adjustments along the edges have been within the areas that were previously identified as disturbed by either grading and/or fuel modification activities.
 - c. For several years, OCFA has developed and used a palette of native and compatible fire-resistant plant species that will be used in all fuel modification areas. This palette also recognizes and maintains identified critical habitat plant types. The biological effects of the project on the existing plant population, Habitat Mitigation and Monitoring Program and fuel modification palette required by OCFA were all referenced and analyzed in the FEIR, and the analysis was deemed adequate by the Court. The latest Specific Plan results in no substantial changes.
4. A single access point is flawed and does not respond to the Board of Supervisors directive.
- Response:
- a. As noted previously in this report, a single access point to Stonehaven was assessed in the project RFEIR and was not to result in any traffic impacts below acceptable levels. Post development levels of service (LOS) on both Stonehaven and Via Del Agua would be at LOS A or LOS B which are well within acceptable criteria. Evacuation analysis for Option 1 as set forth in the FEIR was specifically deemed adequate by the Court.
 - b. The Board's referral on December 13, 2016 was to consider, among other items, a secondary access via Aspen Way (across Cielo Vista property). The Planning Commission's report to the Board on their January 11, 2017 consideration and discussion of the Board referral is included as Attachment 7.

5. Inadequacy of GHG analysis

Response:

As shown in the Revised FEIR, the Greenhouse Gas Emissions section has been modified to respond to the Court ruling and now includes 40 project-specific GHG mitigation measures obtained from the August 2010 CAPCOA "Quantifying GHG Mitigation Measures" publication. Application of these project-specific measures can achieve an estimated 7.93% reduction in construction and operational GHG emissions.

6. OCFA requires the secondary access to be public; evacuation concerns; recent oil spill/presence of hazardous waste on site, inadequate setback between homes and oil operations.

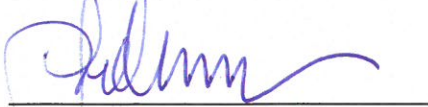
Response:

- a. The secondary access requirements of OCFA are limited to fire apparatus access; OCFA and OCSD have testified that Option 1 (and its variations) complies with relevant regulations in terms of evacuation (discussed above).
- b. The RFEIR identified, assessed and proposed mitigation measures (the application of related existing regulations) for any oil operations and/or closure and remediation.
- c. Homes within the Esperanza Hills project would have a minimum setback from any potential ongoing oil operation of approximately 450 feet, over three times the minimum County requirement.

CONCLUSION

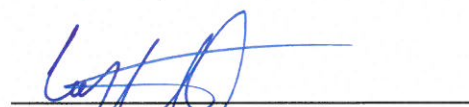
Staff has reviewed the applicant's request for certification of Final Revised EIR 616, and approval of General Plan Amendment LUE 16-01, Zone Change 16-05 and a Specific Plan and recommends that the Planning Commission adopt Resolution PC 17-01 (Attachment 10) recommending Board of Supervisors approval.

Submitted by:



Laree Alonso, Planning Manager
OC Development Services

Concurred by:



Colby Cataldi, Deputy Director
OC Public Works/Development Services

ATTACHMENTS:

1. Revised Final RFEIR 616 and technical appendices
2. Revised Final RFEIR 616 Mitigation Monitoring and Reporting Program
3. Additional Environmental Analysis memorandum dated February 21, 2017 from CAA Planning
4. CEQA Findings of Fact
5. Draft Esperanza Hills Specific Plan January 2017
6. Exhibits of Option 1 and Option 1A
7. Planning Commission Update to the Board of Supervisors
8. OCFA Verification of Second Access Requirements
9. Comments Letters (Received February 7 to 9, 2017)
10. Proposed Resolution No. 17-01 Recommending Certification of Revised Final 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
11. Statement of Decision – July 22, 2016
12. Writ of Mandate – August 24, 2016

All Staff Report Attachments, as well as all previous project documentation, are available at http://ocplanning.net/planning/projects/esperanza_hills