

February 5, 2018

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**Subject: Response to Comments Provided by the North State Building Industry Association and Parker Development Company, Re. 2017 Nexus Study Update**

The El Dorado Hills Community Services District (“District”) appreciates the opportunity to provide comment and responses in further clarifying questions and challenges presented by the North State Building Industry Association (“BIA”), and Parker Development c/o Mr. Kirk Bone. The associated comment letters are attached (Attachment #1, BIA & #2, Mr. Bone). The approach in responding will be to address the BIA’s comments item by item, reciting the comment prior to the response, and then to address Mr. Bone’s comments. Responses made by the District are a compilation of District, District’s Consultant, and/or District legal counsel – all of which are provided directly from the District in support of the Nexus Study Development Impact Fee Update.

BIA Comment #1

*It is unfair to collect fees for facilities that may never be built: For both the MultiGenerational Facility and the Aquatic Center, there are no identified funding sources to pay the difference between what new residents are being asked to pay and what the CSD needs to build these facilities. Without an identified funding source to cover the full anticipated costs, it calls into question the fairness of collecting funds from future homeowners for facilities that may not have a reasonable or realistic chance of being built to provide the expected benefits.*

District’s Response to Comment #1

Assembly Bill 1600 and Section 66000 et seq. of the Government Code govern development impact fees, and it is immediately unclear as to what requirement of those that the North State Building Industry Association (“NSBIA”) is relying upon for this comment. The District contends and asserts that there is an immediate and undeniable impact and need for the facilities referred to, which a portion of the development impact fee will fund to construct. That *need* is identified early (page V, Expansion) and often within the District’s Park & Recreation Facilities Master Plan (“Master Plan”). That same Master Plan includes eight (8) pages of funding strategies for construction and maintenance of District facilities. Such strategies and opportunities include, but are not limited to, park impact fees, General Funds, Mello-Roos

Districts (CFD), Bonds, Grants and donations. The entire Master Plan is included with this response; however, move directly to Appendix D titled *Funding Sources* for more details on this subject.

#### District's Consultant Response to Comment #1

The District, as recommended by the NSBIA, may create an additional fund for this portion of the fee to be deposited. This will allow for the approximately \$2,200 and \$956 for the Multi-Generational Facility and Aquatic Center, respectively, to be accounted for separately. In addition, AB1600 requires that every five years following collection of the first fees, an agency must make findings that:

- the funds collected are still needed to complete the identified projects, and
- there is a reasonable relationship between the fee and purpose for which it was collected.

If these findings are not made, any unexpended funds must be refunded.

#### BIA Comment #2

*New Residents' Share of the Multi-Generational Facility is Too High: In the event that the CSD is able to find other funding sources and decides to collect an impact fee for the Multi-Generational facility, the share allocated to new residents is too high. The total cost of this facility is \$26.6 million. Since new residents represent 23% of the population at buildout, their share of this facility should be 23% of the total cost, or \$6.1 million. New residents are currently being asked to pay \$9 million. Based on the population at buildout, new residents are being asked to pay \$3 million more than their proportionate share of the cost. This does not meet legal nexus requirements, where fee payers are being asked to pay for more than their fair share of a burden.*

#### District's and District's Consultant Response to Comment #2

With regards to the allocation breakdown, David Taussig & Associates, Inc. ("DTA") used the Buildout Level of Service ("LOS") standard to proportionally allocate the fee. The Buildout Standard represents the LOS for facilities that the District plans to make available to its residents at buildout (2037). This standard is based on all of the existing and future recreation facilities presented in the El Dorado Hills CSD Master Plan. The Master Plan provides square footages for both existing and future recreational facilities, and together these square footages provide the estimated buildout planned. By dividing this by the residential population at buildout, DTA arrived at a LOS Standard of 1,034 square feet per 1,000 residents. Using this standard, it was calculated that new development would be responsible for 13,565 square feet or 34% of the new Multi-Generational Recreation Center.

#### BIA Comment #3

*New Residents' Share of the Aquatic Center is Too High: In the event that the CSD is able to find other funding sources and decides to collect an impact fee for the Aquatic Center, the share allocated to new residents is too high. The total cost for this facility is \$8.4 million. The aquatic center contribution by new residents should be reduced to 23.01% to represent new residents' share of the buildout population. The contribution by new residents for that facility should be \$1.9 million. New residents are currently being asked to pay \$3.9 million, or about \$2 million more than their proportionate cost. Again, this does not meet legal nexus requirements, where fee payers are being asked to pay for more than their fair share of a burden.*

#### District's and District's Consultant Response to Comment #3

Similar to the Multi-Generational facility, the Buildout LOS standard was used to determine the cost per EDU for the Aquatic Center. However, instead of Square Feet, the number of integrated facilities (Centers) per service population was used as the standard. At buildout, the District will have two (2) Aquatic Centers, which equates to a Buildout LOS Standard of one aquatic center per 28,487 people or 0.04 Aquatic Centers per 1,000 people. Using this standard, it was calculated that new development would be responsible for 0.46 or 46% of the new Aquatic Center.

#### BIA Comment #4

*The CSD is Seeking More Funding than Required Under State Law. State parks law (The Quimby Act) requires 5.0 acres of parks for every 1,000 new homeowners. The CSD's nexus study calls for 5.33 acres. In addition, the El Dorado Hills CSD has historically built closer to 4 acres per 1,000 residents. This is an issue because the requirement of park dedication in excess of state law and past district practice result in artificially high impact fees and maintenance costs.*

#### District's and District's Consultant Response to Comment #4

The Quimby Act provides a maximum standard of 5.0 acres per 1,000 residents for dedication of parkland, which, El Dorado County's Subdivision Ordinance (120.12.090) aligns with, whereas there is no limit to the amount of land that can be owned, maintained, or otherwise serviced by public agencies. The BIA may be confusing and misapplying land dedication with service levels, as the issue at hand here – for the Nexus Study findings – is for level of service (LOS), not land dedication. The Nexus Study identified a LOS of 5.33 acres per 1,000. In order to provide the same LOS into the future, the 5.33 acres was applied as the standard for these AB 1600 Development Impact Fees – mitigation fees which are enacted under legislation different than the Quimby Act.

An argument could be made that an element of desirability and appeal that brings new residents to El Dorado Hills is the amount, type and quality of parks facilities, trails, recreation opportunities and open

space. That desirability factor is only partially funded by development impact fees. A cursory review of several builders' websites portray a reliance on both private and public park & recreation elements as "amenities" to draw prospective homebuyers. See accompanying attachments and the following webpage links:

- Central El Dorado Hills <http://www.parkerdevco.com/proposed-plans/central-el-dorado-hills-specific-plan/proposed-project-amenities>;
- Marble Valley <http://www.parkerdevco.com/proposed-plans/the-village-at-marble-valley/proposed-project-amenities>;
- Serrano <http://www.parkerdevco.com/communities/serrano>
- Saratoga Estates <https://www.elliotthomes.com/CA/el-dorado-hills/saratoga-estates/overview>

The Serrano Plan, proposed Marble Valley Plan, and proposed Central El Dorado Hills Plans (all by Parker Development) specifically callout many recreational opportunities, including the public parks that are – or will be – provided by the District. Elliott Homes' Saratoga Estates Plan specifically identifies that they will "feature two community parks and 45 acres designated for open space, parks and trails" ... "This project will offer recreation opportunities including multi-use parks for Saratoga Estates and surrounding residents. Multi-use trails will connect residents with vast open space and park areas...". Thus, it is curious as to why the symbiotic relationship of development impact fees resulting in increased value for home developers and builders is contested here by the BIA.

#### BIA Comment #5

*The CSD's Per Acre Construction Costs are Higher Than Neighboring Jurisdictions: We continue to have concerns with the CSD's park construction costs per acre, especially as they relate to surrounding jurisdictions and the CSD's ability to remain competitive. Per the October 2nd letter from David Taussig & Associates, the CSD's weighted average for construction costs for the CSD is \$684,525 per acre. In the Folsom Plan Area South of 50, the park construction costs per acre are \$446,261 for a Neighborhood Park and \$573,130 for a Community Park.*

#### District's and District's Consultant Response to Comment #5

Noted, however these park construction costs were initially pulled directly from the El Dorado Hills Community Services District Park and Recreation Facilities Master Plan, and then reviewed and adjusted based on that review, actual expenditures and projections. It should be noted that the District's most recently park constructed, Valley View Sports Park (2014-2015) had a final per acre cost of \$598,000/ac. for that Village Park. Those final per acre costs do not account for District staff time that was put forth toward design development review and project oversight during construction. In addition to unaccounted costs, construction costs have only risen since that time, thus further supporting the cost per acre presented in the Nexus Study.

Additional supporting responsive data is found in an analysis of housing construction costs and the relation of park impact fees as a percentage of those costs in the region (see Graph below and attached).



**BIA Comment #6**

*The CSD’s Fees are the Third Highest in the Region. The current proposed fee in the CSD’s most recent version of the nexus study is \$11,718 per home. If adopted, this fee would be 44% higher than the fee in Folsom’s North of Highway 50 area, and it would be 27% higher than the Folsom Plan Area South of Highway 50. The chart in Attachment 1 illustrates how the park fees in most every surrounding jurisdiction are much lower.*

**District’s and District’s Consultant Response to Comment #6**

Duly noted, however a comparison of fees in relation to other agency’s fees is more of a distraction than a bona fide argument. For any such fee-to-fee comparison to be made would require a number of other important factors to be considered as well (e.g., construction cost by location; level of service by acre;

quality of service; park amenities; etc.). Importantly, the District's proposed fee is not *the* highest, however, El Dorado Hills is a premier parks and recreation community.

Taking another look at Graph #1, the Fees as a percentage of New Construction, the District falls 0.25% below the average of other agencies in the region.

#### BIA Comment #7

*How Will the District's Facilities Be Maintained: We continue to have concerns about the CSD's ability to maintain the facilities that are listed in the nexus study and master plan. The CSD's master plan identified a number of new facilities to be built with no identified source of funding for maintenance. The CSD can require assessment districts to be formed on new development to provide new development's share of maintenance costs, but the CSD has not demonstrated the ability to provide for existing residents' share of ongoing maintenance costs.*

#### District's and District's Consultant Response to Comment #7

The District is well-known throughout the Region as providing some of the highest quality parks, ball fields and facilities. Again, the BIA has overlooked Appendix D: Funding Sources of the Master Plan, where many maintenance funding options are identified (i.e., Lighting & Landscaping Assessment Districts; CFDs; Facility Use Charges; Programming Fees; Entry Fees; Concessions; Park or Program Sponsorships; etc.). The District has existing policy to address this, which states:

6110.120 Prior to the acquisition or acceptance of new recreation facilities, park sites, or land, the District requires the property owner or developer to provide a funding mechanism, such as the formation of a Landscaping and Lighting Assessment District, to cover the cost of development, maintenance, and operation of said park site, facility or land.

#### Parker Development c/o Kirk Bone Comments (see attached letter/comments)

District's Responses to Mr. Bone's Comment #1. Responses provided above, as Mr. Bone's comment is merely supportive of all of the BIA's comments.

#### District's Response to Mr. Bone's Comment #2

An extensive investigation into Mr. Bone's claim(s) and request has been performed, which included several requests for the production of supporting documents to be made by Parker Development (see attached). However, the support tendered is inconsequential to the matter at hand, and, in the event that a fee reduction was warranted or approved in 2007 is not indicative of such action having solid bearing on current information and findings. Instead, the argument from the District is much the opposite than that of Mr. Bone's, and which may be presented vis-à-vis thought-provoking questions, "Why hasn't Parker Development contributed its fair share toward public park and recreation facilities, such as for a much needed Senior Center, Multi-Generational facility, or aquatic facility?" "Why is Parker Development treated any different than other projects that have private parks?" The variance in fees paid by any other single-family builder would've been \$7,354 more than a permit pulled in Serrano over the past 10 years. Consider the possibility of 1,000 or more homes built in Serrano since 2007; that is \$7.3 million that could've been applied toward public facilities that the whole community would have access to.

One very important factor that should be pointed out here is that private parks (i.e., neighborhood parks in the Serrano Plan) are not included in the overall LOS or fee structuring of the Nexus Study. This matter was broached to the entire group of attendees of a BIA meeting held at the Parker Development offices in 2017. The consultants representing developers, builders and the BIA were directly asked by the District, "do you want an analysis (i.e., Nexus Study) that includes private, behind-the-gates, parks?" The answer was a firm, "no". The reason for that ties back to BIA comment #4 (above) and the provided response. The benefit obtained by developers for private parks are aplenty, with one clear benefit as being afforded Quimby parkland dedication credit of up to 50%-75%, per El Dorado County Subdivision Ordinance. This means they don't have to provide as much parkland for public purposes. The offset is that development impact fees are not collected or applied to those private facilities, nor can a developer/builder apply assumed charges against the collected fees without first entering into an agreement with the District.

The District, with advice from its legal counsel, provided a clear response to the concerns presented in this comment from Mr. Bone in July 2017, with that entire response and related attachments provided hereto. The summary paragraph of that memo is provided below:

The District is in the process of preparing a new Nexus Study which, upon adoption, will set forth park fees for future development. In determining park fees going forward, a question exists as to whether a basis still exists for imposing reduced fees for development within Serrano. It appears that the Development Agreement has now expired, and there is no pending subsequent agreement. Additionally, Serrano has not fully complied with its obligations to dedicate and improve parkland as set forth in the former Development Agreement. Allowing Serrano to avoid full payment of fees while at the same time avoiding its obligations to dedicate and improve parkland would essentially permit Serrano to take advantage of the benefits of the Development Agreement while escaping all of its burdens. Given – among possible other reasons – the expiration of the prior Development Agreement, the lack of any new agreement and the existing unfulfilled parkland obligations, there no longer appears to be any justification in providing Serrano a reduction in fees. Serrano might be able to show that it has fully satisfied its parkland dedication and improvement obligations through pending and vested tentative maps or

Serrano might be prepared to enter into a new agreement confirming its dedication and improvement obligations in lieu of the imposition of the full fee amount. However, unless and until such a showing is made, no basis exists for singling out Serrano and providing it alone with a special reduction of fees. In closing, the argument that a Study by a given consultant, or that a previous Study's findings are binding upon future studies is an argument for justifying no need for study updates or new studies, which is not the case for addressing the changing Community – it's demographic and its needs.

Within Mr. Bone's comment there is mention of 26.5 acres which has been developed in the form of neighborhood parks. There is no contention that there are private neighborhood parks within the Serrano Plan. However, those parks provide minimal impact reduction for park facilities in the provision of ball field space, meeting or recreation programming spaces, senior center spaces, aquatic facilities, or otherwise. The 26.5 acres of parks do not serve the public at-large, and not to the extent needed beyond the closed gates of Serrano.

Mr. Bone also contends that parkland dedication for village parks has either been satisfied or is pending over 20 years after the project began. The 5.5 acre Allan Lindsey Park does provide some ball field space, however, the 10 acre Village Green provides no programmatic space for the District. Rather, the usable lawn areas near the gazebo at Village Green are not part of the 10 acre park – those lawns are still owned by Parker Development. It would behoove this Developer to dedicate or sell the usable parkland at Village Green to the District.

The final contention from Mr. Bone that *applicable law* be the path forward for the County to take is nebulous at best. Without the 'applicable law' or other requirements being cited then it is impossible to expand upon the District's previous response – which has already been provided to all interested parties.

Should additional concerns arise on this matter please do not hesitate to contact my office promptly, as the importance of the development impact fees affects the ability for the District to achieve its mission; a Mission Statement that reaches each and every current & future District residents' quality of life.

"Enhance the quality of life for El Dorado Hills Residents through innovative, responsible leadership and by providing superior services and facilities"

Cordially,



Kevin A. Loewen, General Manager