

January 23, 2009

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Dear Sir or Madam:

As counsel to Laurelwood Homes LLC (“Laurelwood”) we offer the following comments on the November 2008 Draft Environmental Impact Statement for Laurelwood Housing Area Access (“Draft EIS”). We appreciate the opportunity to do so.

Summary

While the Draft EIS identifies the many issues involved with the 300 Laurelwood housing units, there are a number of areas where additional information, particularly with regard to the total cost of the effort, that should be more fully developed before a final decision is made. These areas include the Buy Out Option that was apparently not considered, the total cost to the Navy and the public of the action, and the impact on the workings of Naval Weapons Station Earle should road options 2, 3 or 4 be selected. We urge the Navy to provide more specific information in each of these areas.

Cost-Benefit Analysis

As stated at Section 5-5.8 f. of OPNAVINST 5090.1c, in identifying the alternatives of the proposed action:

The action proponent should include sufficient analysis, if applicable, of such alternatives and their environmental benefits, costs, and risks to accompany the proposed action through the review process.

This is consistent with 40 C.F.R. § 1502.23 which states in relevant part:

If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating environmental consequences.

The importance of a cost-benefit analysis which has apparently not been performed is highlighted by the requirement of 40 C.F.R. § 1502.14 that requires the inclusion in the EIS of “the alternative of no action.” There are clear and quantifiable costs associated with each road alternative identified. At the same time, there are clear and quantifiable costs associated with taking no action. The final decision should be based on a comprehensive review as possible which would include such a cost-benefit analysis.

Buy Out Option Is The No Action Alternative

Section 2.4.1.5 of the Draft EIS states that a Buy Out Option was not considered because it would “fail to satisfy the contractual obligations under the lease arrangement” and therefore would not “meet the purpose and need for the proposed action...” We note that the need for the proposed action, as stated at Section 1.2 is “to satisfy the contractual obligation of a lease agreement for the Laurelwood housing area between the Navy and a private developer.”

Please note that Laurelwood does not consider a buy out of the lease as violating the contractual obligations of the Navy but rather is consistent with the options provided to the Navy pursuant to the terms of Supplemental Lease Agreement No. 43 which amended Paragraph D of Part I of the Lease and states in relevant part:

Should the Government fail to provide unimpeded access at the termination of the Inlease, the Government shall terminate the Lease and compensate the Lessee in an amount equal to Lessee’s right to use or occupy the Leased Property for what would have been the remaining useful life of Lessee’s improvements.

Based on this Lease provision, the Government has the right to not provide unimpeded access and instead to “buy out” Laurelwood’s interest in the lease. Therefore, in order for a final decision to be made about which action to take, given the impact and costs to the government and community with regard to providing unimpeded access, the Government should calculate and consider the buy out option provided for in the lease. Such an option would provide the decision maker with the full cost of all alternatives prior to making the final decision.

Laurelwood is willing to cooperate with the Navy in evaluating the buy out option.

School Age Children

The Draft EIS, at Section 4.3.1 and Table 4-3, utilizes the Center for Urban Policy Research’s multipliers for estimating the number of public school children that can be expected from a fully occupied Laurelwood housing area. The estimates appear to be materially low.

First, the estimates state that one third of the school age children would attend private schools rather than public schools. This conclusion would appear to be significantly high given the

January 23, 2009

Page 3

expected income level of the families that would occupy the Laurelwood housing and the very high quality of public education in the area.

Second, the total number of estimated students appears to be low based on prior occupancy levels. A better (although not perfect) source of data would be actual school enrollments when Laurelwood housing was fully occupied with Navy families. Available and actual enrollment data would provide the decision maker with more accurate facts with regard to the impact on schools in the area with regard to the number of children attending public schools and the need for bus transportation and other real costs.

Cost of Road Alternatives

An effort should be made to quantify the actual costs associated with each road alternative including both the construction costs of the access road, the construction costs associated with any remediation efforts on state highways, the long term (30 year) additional security costs, and the costs associated with the impact on the mission of Naval Weapons Station Earl should Alternative Alignment 4 be selected which divides the Station.


It does not appear that the reported cost of implementing the four road alternatives (Sections 4.2.1.1, 4.2.1.2, 4.2.1.3, and 4.2.1.4) identify the costs associated with reconstruction of state highway 34. Those costs must be considered as well. Similarly, the Draft EIS does not consider the extra costs associated with additional security and the real impact of making access to the base more difficult for Navy personnel.

Conclusion

We appreciate the opportunity to provide these comments. Laurelwood is willing to work with the Navy as appropriate to resolve outstanding issues.

Very truly yours,

K&L GATES LLP

By 
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cc: Teri A. Fischer
President, Laurelwood Homes, LLP