

BRJM, LLC
17 S. Wahsatch Avenue
Colorado Springs, CO 80903

DELIVERED VIA EMAIL

January 28, 2022

Ms. Elizabeth Nijkamp, P.E.
Mr. Gilbert LaForce, P.E.
El Paso County Development Services
2880 International Circle, Suite 110
Colorado Springs, CO 80910

RE: Latigo Trails, Filing Numbers 9 and 10, Eastonville Road

Dear Ms. Nijkamp and Mr. LaForce:

In the comments to the submitted Traffic Impact Study by LSC Transportation Consultants, Inc. dated October 13, 2021, for the above-referenced filings, the County had conditioned approval of the final plats on the construction of a three-lane urban collector on Eastonville Road from Latigo Blvd. to Rex Road (the location of which remains ambiguous). On January 4, 2022, Jeff Hodsdon, LSC Transportation Consultants, Inc. (LSC), Bryan Law, JR Engineering (JR), Bill Guman and Ed Morgan, Guman & Associates (Guman), and I, a manager of the developing entity, BRJM, LLC (BRJM), met with you (County) to discuss the condition. At the close of the meeting, the County asked BRJM to propose an alternative.

After the meeting, BRJM tasked LSC and JR to provide BRJM a sketch of a cross section of Eastonville Road and the cost of the segment of the improvement from the future Conestoga Trail South intersection to Rex Road. The approximate cost equaled \$1,432,722.00 with the Rex Road intersection projected to be located north of the ballpark fields on the west side of Eastonville Road. This estimate would likely need revisions.

As I mentioned in our meeting, I had questioned whether Latigo Trails Filing 9 or 10 had a roughly proportionate impact on Eastonville Road to justify the condition. Once BRJM had the cost information, it requested LSC to determine Latigo Trails Filings 9 and 10's impact on Eastonville Road. Latigo Trails Filing 9's Short-Term impact is 9.2%, and Latigo Trails Filing 10's Short-Term impact is 10.1%. The Long-Term impact is even less. The Short-Term impact was calculated assuming the Conestoga Trail South intersection was not constructed while the Long-Term impact was calculated assuming it was built. Please see attached Exhibits A and B.

For a jurisdiction to condition approvals on an exaction of this nature, the project's impact on the public expense must be "roughly proportional" to the cost imposed on the developer. Because our impact is minimal, it does not satisfy the roughly proportional requirement, regardless of cost. Moreover, it is BRJM's understanding that the County Traffic Impact Fee (TIF) was specifically designed and implemented to address these situations. To BRJM's knowledge, Eastonville Road is listed as an improvement for this program (and/or for the Regional Transportation Authority).

BRJM retained Bruce Wright, an attorney with Flynn & Wright, LLC, and asked him if the County had the legal right to condition Latigo Trails Filing 9 or 10 upon the construction of Eastonville Road. Upon review, Mr. Wright advises us that the County has no legal basis to condition any approval for Latigo Trails Filing 9 or 10 on the construction or improvement of Eastonville Road. Additionally, Mr. Wright advised BRJM that future filings could not be conditioned presently.

Given Latigo Trails Filing 9's or 10's minimal impact on Eastonville Road and per the advice of counsel, BRJM cannot justify the assumption of the responsibility of satisfying the County's request to improve Eastonville Road, regardless of size or nature. Latigo Trails Filings 9 and 10's Traffic Impact Fee covers its fair share.

BRJM will resubmit its applications for Latigo Trails Filings 9 and 10 within weeks. The resubmitted TIS will reference this letter in response to the County's comments on Eastonville Road and will ask the County to contact Bruce Wright with any questions it might have.

If you wish to meet to discuss BRJM's decision, please contact Bill Guman to schedule a time, and we will be pleased to meet with you.

Thank you for your time and consideration of this matter.

Sincerely,



Robert C. Irwin, Manager

cc:

Bruce Wright, Flynn Wright, & Fredman
Jeff Hodsdon, LSC Transportation Consultants, Inc.
Bryan Law, JR Engineering
Bill Guman, Guman & Associates
Ed Morgan, Guman & Associates

| Percent Impacts | | |
|---|------------------------------|-------------------|
| Eastonville Road South of the future Conestoga Trail | | |
| Latigo Trails Filings 9 and 10 | | |
| Scenario/ Traffic Source | Average Daily Traffic | |
| | Vehicles per day | % of Total |
| Short-Term | | |
| Existing Traffic | 480 | 80.7% |
| Latigo Trails Filing 9 (site) | 55 | 9.2% |
| Latigo Trails Filing 10 (site) | 60 | 10.1% |
| Total | 595 | 100% |
| Long-Term | | |
| Existing Traffic | 480 | 7.2% |
| Latigo Trails Filing 9 (site) | 140 | 2.1% |
| Latigo Trails Filing 10 (site) | 155 | 2.3% |
| Future Background Traffic | 5850 | 88.3% |
| Total | 6625 | 100% |
| <i>Source: LSC Transportation Consultants, Inc.</i> | | <i>01/25/22</i> |

| Percent Impacts | | |
|---|------------------------------|-------------------|
| Eastonville Road South of Latigo Blvd. | | |
| Latigo Trails Filings 9 and 10 | | |
| Scenario/ Traffic Source | Average Daily Traffic | |
| | day | % of Total |
| Short-Term | | |
| Existing Traffic | 480 | 80.7% |
| Latigo Trails Filing 9 (site) | 55 | 9.2% |
| Latigo Trails Filing 10 (site) | 60 | 10.1% |
| Total | 595 | 100% |
| Long-Term | | |
| Existing Traffic | 480 | 13.1% |
| Latigo Trails Filing 9 (site) | 40 | 1.1% |
| Latigo Trails Filing 10 (site) | 35 | 1.0% |
| Other Background Traffic | 3110 | 84.9% |
| Total | 3665 | 100% |
| <i>Source: LSC Transportation Consultants, Inc.</i> | | <i>01/25/22</i> |