

**STAFF REPORT**  
**City of Lancaster, California**

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Date: January 16, 2007

To: Mayor Hearn and City Council Members

From: Brian S. Ludicke, Planning Director

Subject: 

- **Appeal of the Certification of the Final EIR for the Fieldstone Projects**
- **Appeal of Vesting Tentative Tract Map No. 60291 (20.64 acres south of Avenue K-4 between 30th Street West and 40th Street West)**
- **Appeal of Vesting Tentative Tract Map No. 60664 (8 acres between Avenue K and Avenue K-4 and between Buena Vista Way and Alep Street)**

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**Recommendation:**

Uphold the certification of the Final EIR and the approval of Vesting Tentative Tract Map No. 60291 and Vesting Tentative Tract Map No. 60664.

**Discussion:**

Vesting Tentative Tract Maps (VTTMs) 60291 and 60664 were the subject of a Draft Environmental Impact Report (EIR) that was prepared and circulated for a 45-day public review starting on May 23, 2006. The comment period ended on July 9, 2006. Comments received during the public review period for the Draft EIR were responded to in the Responses to Comments, which was included in the Final EIR, dated November 2006. The Final EIR was distributed to responsible agencies, agencies submitting comments, and individuals who submitted comments on November 10, 2006. At the Planning Commission meeting on November 20, 2006, VTTMs 60291 and 60664 were reviewed and approved and the Final EIR for VTTM 60291/60664 was certified. The projects and the Final EIR were subsequently appealed on December 6, 2006.

On December 6, 2006, two appeals (one for VTTM 60291 and one for VTTM 60664) were filed by the Friends of the Prime Desert Woodlands, Antelope Valley Environmental Group, Sierra Club Antelope Valley Group and the Endangered Habitats League. Both appeals challenged the certification of the Final EIR.

The appeals focus on three primary issues: that 1) the range of alternatives is unreasonably narrow; 2) a Statement of Overriding Considerations may not be adopted because feasible alternatives exist to reduce impacts; and 3) aesthetics. Based on the issues, the appellants believe that the Draft EIR should be revised and re-circulated for public comment, and the certification of the Final EIR is invalid. The following discussion breaks down the reasons why staff disagrees with the reasoning of the appellants on a point-by-point basis.

**1. The project cannot be approved if there are feasible alternatives that would reduce adverse impacts.**

According to Section 15021(a)(2) of the State CEQA Guidelines “A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.” However, a public agency can approve a project that would have a significant effect on the environment if:

- There is no feasible way to lessen or avoid the significant effect (see Section 15091) and
- Specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project (see Section 15093).

Significant environmental impacts were identified in the Draft EIR for several environmental resources including biological resources, air quality, noise, hydrology and water quality, and cultural resources. Mitigation measures were provided for all resource areas analyzed in the Draft EIR. With implementation of the identified mitigation measures, all significant impacts would be reduced to less than significant levels with the exception of noise and air quality impacts during construction. While the mitigation measures identified for noise and air quality would reduce the level of impact, they would not reduce the impacts to less than significant levels and a Statement of Overriding Considerations was adopted. The Statement of Overriding Considerations specifically identified five benefits of the proposed project, which outweighed the unavoidable adverse short-term noise and air quality impacts. They are as follows:

- The project satisfies the City’s General Plan goals and objectives by developing infill parcels that are close to existing developments and can be easily serviced by existing infrastructure. More importantly, the project provides a development that is consistent with the City’s General Plan and zoning and compatible with surrounding existing residential uses.
- The project has been designed to promote walkability to schools and parks. The project will provide new sidewalks along the roadways in the project which will connect to new sidewalks installed by the project on Avenue K and Avenue K-4 that provide pedestrian linkages to allow residents to walk their children to school and nearby Rawley Duntley Park.
- The project provides public safety enhancements by improving Avenue K and Avenue K-4 and adding traffic controls such to ensure safer streets for both motorists and pedestrians.
- The project also provides as a design feature a defined border to the Prime Desert Woodland Preserve (PDWP) through erection of a 6-foot high block wall that will serve to discourage entry into the PDWP by domestic dogs and cats, and residents to help minimize edge effects and adverse impacts to the PDWP by humans and domestic animal disturbance.

- The project provides an attractive new development within the existing Lancaster community that will enhance the existing residential areas by improving streets to meet City standards, and installing additional landscape enhancements.

The Findings and Statement of Overriding Considerations were available to the public prior to and at the Planning Commission Meeting on November 20, 2006. Alternatives to the proposed project were analyzed in the Draft EIR, however, these alternatives would not have reduced the unavoidable adverse air quality and noise impacts of the proposed project. A discussion of the alternatives is provided below and in the Final EIR.

## **2. A reasonable range of alternatives must be considered, and was not.**

The California Environmental Quality Act (CEQA) requires the consideration of a reasonable range of alternatives as described in Section 15126.6. Accordingly, an “EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project....An EIR need not consider every conceivable alternative to a project”. A total of four alternatives to the proposed project were analyzed in the Draft EIR: 1) No Project/Future Development Consistent with Existing General Plan and Zoning Designations; 2) No Project/No Development; 3) Cluster Alternative for VTTM 060291; and 4) Incorporation of VTTM 060291 into the Prime Desert Woodland Preserve. These alternatives were chosen in order to reduce significant impacts to biological resources, which was viewed by City staff as the most important impact. The alternatives to the proposed project were selected for the following reasons.

- The No Project Alternatives were chosen because they are mandated by CEQA. Both a No Project/No Build and a No Project/Future Development Consistent with Existing General Plan and Zoning were selected because both are likely scenarios. The project as proposed does not include the maximum number of dwelling units allowed under the existing zoning. It is possible that sometime in the future a project could be submitted on the sites, which proposes a higher density than the proposed project.
- The Cluster Alternative was selected in order to comply with Policy 3.4.2 of the General Plan. This policy states “Protect areas designated as Prime Desert Woodlands by the following means, in priority order, in accordance with the availability of resources and enabling ordinances:
  - Fee simple acquisition of the subject parcel by the City
  - Acquisition by allowing a property owner to transfer or sell the development rights of the property for use in the development of other urban sites
  - Acquisition through dedication by the developer by allowing development of up to 50 percent of the parcel...”

It was determined that compliance with the first two bullets was not feasible. The City does not have the means to acquire the subject parcels for inclusion into the Prime Desert Woodland Preserve. Secondly, the City does not own any parcels, which could be swapped

with developer and meet most of the basic objectives of the proposed project. Therefore, allowing the developer to cluster the proposed project on the western half of 60291 with a residential planned development in accordance with Specific Action 3.4.2(c) was considered a feasible alternative. This alternative would preserve the best Joshua tree woodland on the project site and had the added benefit of moving the noise and air emission sources further away from the elementary school.

- Incorporation of VTTM 60291 into the PDWP was chosen in order to enlarge the size of the PDWP. This alternative was chosen because it was an approach that several opponents of the development thought should be considered for the sites.

A “Reduced Density” alternative was not selected for analysis because City staff felt that it would not reduce impacts to biological resources on either VTTM 60291 or 60664. Even if the density of the proposed development was reduced by approximately 30 percent to 46 dwelling units on VTTM 60291 and 27 dwelling units on VTTM 60664, both sites would be graded in their entirety in order to construct the development and install necessary improvements. This would result in the same impact to biological resources as the proposed project. It would also result in similar air quality and noise impacts during construction.

An alternative location alternative was not selected because no locations that met most of the basic selection criteria were identified (see discussion below).

### **3. Numerous and narrow objectives were improperly used to reject feasible alternatives.**

The applicant hired a land brokerage to identify available parcels land within the City of Lancaster that could feasibly serve as an alternative location to the proposed project. This firm conducted a search based on the criteria listed below.

- Approximately 30 acres in size;
- Within the City of Lancaster;
- Zoned for single family detached homes;
- In proximity to an existing elementary school and existing passive and/or active recreational facilities;
- Less than 2 miles from the Antelope Valley Freeway;
- Within 0.5 mile of a main road with a freeway on-ramp;
- No or very limited frontage onto a regional or major arterial road;
- Consistent with the City’s General Plan Objective 2.1 and Policy 18.2.1; and
- In proximity to existing utilities.

In a letter dated September 2005, this firm stated that they were unable to located any sites that closely matched the criteria primarily for the following two reasons 1) any tracts of land that are reasonably close to transportation corridors are not zoned residential and 2) the tracts of land are substantially smaller than 30 acres.

In response to comments received on the Draft EIR, the applicant revised its search criteria to make them less restrictive. Specifically, the criteria that the site be less than 2 miles from the Antelope Valley Freeway, within 0.5 mile of a main road with a freeway on-ramp and in proximity to existing utilities were dropped. Even with the revisions, alternative locations were not identified by the land brokerage firm.

The appellants have argued that the applicant should have looked for several smaller sites which totaled approximately 30 acres. The purpose of alternatives is to reduce one or more of the significant impacts of proposed project. The selection of several smaller parcels to achieve a 30-acre project site would not necessarily reduce the impacts of the proposed project. In all likelihood it would “spread” the impacts around to different areas of the City. Each potential project site has its own environmental issues be they biological, traffic, air quality, etc. While other sites may not be adjacent to the PDWP, it does not necessarily mean that there are no biological impacts associated with development the site, they may just impact different species. Construction activities generate noise and air quality impacts regardless of the location within the City. The “spreading” of the impacts to other locations does not make the impact go away, it simply places the impact adjacent to other neighbors and residents of the City. Additionally, by spreading the project to several locations throughout the City, significant impacts may be created for resource areas that currently have less than significant impacts or no impacts. There may be cultural resources, the proposed residences may generate significant traffic impacts at other intersections, etc.

**4. A statement of overriding considerations may not be adopted because feasible alternatives exist to reduce the impacts**

The appellants state that the EIR reports that the proposed project would have significant air quality and noise impacts during construction that would not be mitigated below a level of insignificance. City staff concurs with this statement. However, the appellant also states that the project, therefore, may not be approved because there are feasible alternatives that would reduce these impacts. City staff does not believe that this is a factual conclusion. The air quality and noise impacts are associated strictly with construction activities and the proximity of the project sites to adjacent receptors (e.g., residences and school).

As seen in the Project Alternatives analysis on pages 7.0-1 through 7.0-15 of the Draft EIR, noise and air quality impacts during construction would still be unavoidably significant under the alternatives. Even if a reduced density alternative had been examined, it is unlikely that these construction impacts would have been reduced to a less than significant level. The Draft EIR shows that most of the air quality impacts come during the grading operations associated with the proposed project. A reduced density alternative would still have required the same amount of grading and site preparation resulting in similar air quality impacts. Construction activities would still have occurred adjacent to Nancy Cory School, resulting in similar noise impacts. Therefore, City staff does not feel that there are any feasible alternatives, which would have reduced the construction related noise and air quality impacts associated with the proposed project.

## Aesthetics

The appellants also raise objections to the approval of the VTTMs and certification of the Final EIR on grounds that the EIR did not adequately address the aesthetic impacts of the proposed project. Specifically, they argue that the project will cast substantial light and glare into the depths of the PDWP and removal of the view of Quartz Hill south of Avenue K will create economic and social impacts that will potentially create deteriorating property values.

The appellant is correct in that the proposed project would generate light and glare impacts. However, the light and glare levels would be similar to those levels currently generated by the existing elementary school and residential neighborhoods that are immediately adjacent to the PDWP. The EIR stated that impacts related to increased light and glare are considered to be potentially significant. However, because of the existing lighting within close proximity to the PDWP, the added incremental increase of nighttime glare from the streetlights and residential units within VTTM 60291 would not be substantial. Additionally, mitigation was provided to reduce impacts from light and glare on the PDWP to less than significant levels. This mitigation ensures that street lighting on the project site facing downward onto the project site and not the surrounding area. Furthermore, as stated in the Responses to Comments, the distance of the closest street light to the southern boundary of VTTM 60291 would be 103 feet.

The appellant also argues that the proposed project would eliminate the views available of Quartz Hill from Avenue K and Avenue K-4, thereby creating economic and social impacts that will potentially create deteriorating property values. The General Plan designates five scenic resources within the Antelope Valley, including Quartz Hill. Policy 3.8.1 states “Preserve views of surrounding ridgelines, slope areas, and hilltops, as well as other scenic vistas.” Policy 3.8.2 states “Explore the potential for establishing scenic corridors within the Study Area.” Views of the mountains to the south of the Antelope Valley are available from Avenue K and Avenue K-4 through the project sites (see Figures 5.1-2, and 5.1-6 of the Draft EIR). However, the mountains and Quartz Hill are somewhat distant, and the view afforded from the roadways occurs only for short distances (approximately 375 feet along Avenue K and 1,375 feet along Avenue K-4). Staff feels that while these views nice, they are not significant due to other development in the area. Development of two residential subdivisions on residentially zoned property would not be expected to lead to economic or social impacts that would result in deteriorating property values. Additionally, neither Avenue K nor Avenue K-4 has been designated as scenic corridors.

Based on this analysis, staff therefore recommends that the City Council uphold the certification of the Environmental Impact and the approval of Vesting Tentative Tract Map 60291 and Vesting Tentative Tract Map 60664.