

CITY OF VICTORVILLE DEVELOPMENT DEPARTMENT
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DRAFT MITIGATED NEGATIVE DECLARATION
Preparation Date: November 7, 2019

Name or Title of Project: Vesting Tentative Tract Map PLAN19-00020 (TTM 20274).

Location: East of and abutting Amethyst Road and north of Eucalyptus Street.

Entity or Person Undertaking Project: KB Home; 36310 Inland Valley Dr.; Wildomar, CA 92595

Description of Project: To allow for the recordation and development of a 168-lot single-family residential subdivision (Vesting Tentative Tract Map 20274) with 7,200 sq. ft. minimum size lots, on an approximately 44-acre building site that is vacant and undeveloped with an approximate density of 3.8 units per acre.

Statement of Findings: The Planning Commission has reviewed the Initial Study for this proposed project and has found that there are no adverse environmental impacts to either the man-made or physical environmental setting if the following mitigation measures are implemented in conformance with the Mitigation Monitoring Policy, and does hereby direct staff to file a Notice of Determination, pursuant to the California Environmental Quality Act (CEQA).

A copy of the Initial Study and other applicable documents used to support the proposed Negative Declaration is available for review at the City of Victorville Planning Division.

Mitigation Measures:

Air Quality Measures:

- 1. The applicant/developer shall implement fugitive dust best management practices (including but not limited to applicable provisions of District Rule 403.2) during all grading and construction phases of the project as required by the Mojave Desert Air Quality Management District.**

Biological Measures:

- 2. Pre-construction surveys for Burrowing Owls and other sensitive wildlife species (i.e. Desert Tortoise, Desert Kit Fox) on the project site and in the surrounding area out to 500 feet (or as otherwise in accordance with California Department of Fish and Wildlife guidelines) shall be conducted no more than 30-days prior to ground disturbing activities in accordance with best practices identified by the California Department of Fish and Wildlife. If ground disturbing activities are delayed for more than 30-days, additional surveys will be required.**
- 3. Prior to the issuance of a grading permit the applicant shall conduct a trapping survey for the Mohave Ground Squirrel (*Spermophilus mohavensis*) in accordance with California Department of Fish and Wildlife (CDFW) protocol. Said survey shall be filled with the City Planner or his designee prior to issuing a grading permit. If the developer obtains a letter from the CDFW indicating that the site is not potential habitat for the Mojave Ground Squirrel and no further mitigation measures are necessary, no additional mitigation measures shall be applied. If the developer decides not to conduct trapping, if the Mojave Ground Squirrel is**

found on site or if a letter from CDFW indicating no further mitigation measures are necessary cannot be obtained, the following mitigation measures shall apply, or as required by the CDFW:

- a. The applicant shall provide mitigation lands at a ratio of 1:1. These lands will be purchased in an area known to support populations of the species. The mitigation lands will be evaluated to ensure they provide habitat equal to or better than the habitat that will be lost as a result of development of the project site. In addition, CDFW approval of the mitigation lands will be obtained before acquisition is completed, and an Incidental Take Permit will be applied for as part of the overall mitigation process.
 - b. Appropriate enhancement, endowment, and research fees will be provided by the project proponent as per CDFW requirements. These fees will be paid on a 1:1 basis prior to commencement of ground disturbing activities.
 - c. An educational brochure will be provided to all construction personnel regarding the Mohave Ground Squirrel prior to commencement of ground disturbing activities.
4. If burrowing owls are observed on the project site during future surveys, mitigations shall be required to reduce impacts to less than significant and will include the following as approved by the California Department of Fish and Wildlife and in accordance with the updated CDFW Staff Report on Burrowing Owl Mitigation (2012):
- a. Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by the California Department of Fish and Game verifies through non-invasive methods either: (1) the birds have not begun egg-laying and incubation; or (2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.
 - b. A burrowing owl survey shall be conducted on all portion of the site between September and January to determine the location of active (non-breeding) burrows.
 - c. Qualified biologists shall exclude all owls from active burrows using one-way doors. Concurrently, all inactive burrows and other sources of secondary refuge for burrowing owls shall be collapsed and removed from the site.
 - d. Following and 24 to 48 hour observation period all vacated burrows shall be collapsed.
 - e. A qualified biologist shall conduct a post-exclusion survey confirming the absence of borrowing owls on the site. Should newly occupied burrows be discovered on the site the exclusion shall be repeated.
 - f. A final clearance survey confirming the absence of active burrowing owls burrows shall be conducted within 30-days of proposed site disturbance.
5. If sensitive wildlife species such as the Desert Tortoise, desert kit fox, or nesting birds are detected on the project site during future surveys or assessments, all work on-site shall stop immediately and mitigation measures shall be required to reduce impact to a level of less than significant. Any proposed mitigation measures shall be determined by a qualified biologist, and be approved by the City Planner and the California Department of Fish and Wildlife as applicable in accordance with typical best practices.

6. **A new biological survey shall be filed with the City of Victorville to determine the presence or absence of endangered species on the site and to ensure appropriate mitigation measures are maintained. Said survey shall be filed with the City Planner or his designee prior to issuance of a grading permit and shall verify the adequacy of the adopted mitigation measures. Any measures deemed inadequate may cause the applicant to confer with the California Department of Fish and Wildlife (CDFW) to determine appropriate mitigation measures prior to the issuance of any grading permit. The survey shall be valid for a period of one year.**
7. **Unless otherwise deemed unnecessary by applicable reviewing agencies (e.g. U.S. Army Corps of Engineers, Regional Water Quality Control Board, and the California Department of Fish and Wildlife), a Jurisdictional Delineation shall be prepared to determine if waterways are present within the project footprint. If these potential jurisdictional features are within the project footprint, a jurisdictional delineation and notification package shall be submitted to applicable agencies for review and approval prior to project development. If impacts to the jurisdictional drainage feature are determined to be included in the projects scope of work, the necessary permits pursuant to Sections 404 and 401 of the Clean Water Act and Section 1602 of the Fish and Game Code shall be prepared accordingly.**

Cultural Resource Measures:

8. **The applicant shall provide for an on-site paleontological/archaeological inspector to monitor all grading operations, or a letter from said licensed professional indicating that monitoring is not necessary during grading. Further, if disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2. The results of said monitoring shall be filed with the Development Department prior to the final approval of the project.**
9. **If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.**
10. **In the event that Native American cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, Cabazon Band, Morongo Band, San Manuel Band, and Twenty-nine Palms Band of Mission Indians will be contacted if any such find occurs and be provided information and permitted/invited to perform a site visit when the archaeologist makes his/her assessment, so as to provide Tribal input.**
11. **If the remains are determined to be prehistoric, the County Coroner will notify the Native American Heritage Commission (NAHC), which will determine a notify a Most Likely Descendant (MLD). With the permission of the landowner or their authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours from the time access to the site is granted by landowner or their authorized representative. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials**

12. If significant Native American cultural resources are discovered, for which a Treatment Plan must be prepared, the developer or his archaeologist shall contact the Cabazon Band, Morongo Band, San Manuel Band, and Twenty-nine Palms Band of Mission Indians ("Tribe"). If requested by the Tribe, the developer or the project archaeologist shall, in good faith, consult on the discovery and its disposition (e.g. avoidance, preservation, return of artifacts to tribe, etc.).
13. If disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2. The results of said monitoring shall be filed with the City Planner or his designee prior to the final approval of the development.
14. Due to the heightened cultural sensitivity of the proposed project area, at least one archaeologist with at least 7 years of regional experience in archaeology shall conduct subsurface archaeological testing on the project with the Area of Concern (AoC) identified by the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) during consultation. Testing with the AoC shall be conducted via the employ of a number of subsurface investigative methods, including shovel test probes, remote sensing, and/or deep testing via controlled units or trenching of appropriate landscapes, with a sample size of at least 25% of the AoC dug and dry-sifted through 1/8-inch mesh screens, prior to any ground-disturbing activity. A Testing Plan shall be created by the archaeologist and submitted to SMBMI and the Lead Agency for review at least 15 business days prior to implementation, so as to provide time to review/modify the Plan, if needed. The Plan shall outline the protocol of presence/absence testing, to include thorough photographic and written recordation of the sediment/soil layers of each testing location, and contain a Treatment Plan detailing that 1) no collection of artifacts or excavation of features shall occur during testing, and 2) all discovered resources shall be properly recorded and reburied *in situ*. If the results of testing, as approved by SMBMI, are positive, then SMBMI and the Lead Agency shall, in good faith, consult concerning resource delineation, avoidance (or other appropriate treatment) of the resource, and any additional testing and/or construction monitoring needs. If the results of testing, as approved by SMBMI, are negative, then SMBMI and the Lead Agency will conclude consultation, unless any discoveries are made during project implementation. Any and all discoveries made during project implementation shall be subject to the Treatment Plan outlined within the Testing Plan, as well as the treatment guidelines within Tribal Cultural Resources Mitigation Measure #17.

Hydrology and Water Measures:

15. A "Water Will Serve" letter shall be obtained by the applicant/developer from the Victorville Water District prior to the recordation of any final map included in this proposal.
16. Prior to issuance of a grading permit the applicant shall obtain coverage under the statewide general NPDES permit for control of construction and post-construction related storm water in accordance with the requirements of the Small MS4 General Permit. In addition, the applicant shall:
 - Prepare a project specific Storm Water Pollution Prevention Plan (SWPPP) as required in the NPDES permit and shall identify site-specific erosion and sediment control best management practices that will be implemented;
 - The SWPPP shall be applicable to all areas of the project site including construction areas, access roads to and through the site, and staging and stockpile areas; and

- Temporary best management practices for all components of the project must be implemented until such time as permanent post-construction best management practices are in place and functioning.

Tribal Cultural Resource Measures:

17. Treatment of Cultural Resources - If a pre-contact cultural resource is discovered during archaeological presence/absence testing, the discovery shall be properly recorded and then reburied *in situ*. A research design shall be developed by the archaeologist that shall include a plan to evaluate the resource for significance under CEQA criteria. Representatives from the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI), the archaeologist/applicant, and the Lead Agency shall confer regarding the research design, as well as any testing efforts needed to delineate the resource boundary. Following the completion of evaluation, all parties shall confer regarding the archaeological significance of the resource, its potential as a Tribal Cultural Resource (TCR), avoidance (or other appropriate treatment) of the discovered resource, and the potential need for construction monitoring during project implementation. If construction monitoring during project implementation is determined to be necessary, the Morongo Band of Mission Indians shall be contacted for consultation and inclusion in the monitoring process.

Should any significant resource and/or TCR not be a candidate for avoidance or preservation in place, and the removal of the resource(s) is necessary to mitigate impacts, the research design shall be updated to include a comprehensive discussion of sampling strategies, resource processing, analysis, and reporting protocols/obligations. Removal of any cultural resource(s) shall be conducted with the presence of a Tribal monitor representing the Tribe, unless otherwise decided by SMBMI. All plans for analysis shall be reviewed and approved by the applicant and SMBMI prior to implementation, and all removed material shall be temporarily curated on-site. It is the preference of SMBMI that removed cultural material be reburied as close to the original find location as possible. However, should reburial within/near the original find location during project implementation not be feasible, then a reburial location for future reburial shall be decided upon by SMBMI, the landowner, and the Lead Agency, and all finds shall be reburied within this location. Additionally, in this case, reburial shall not occur until all ground-disturbing activities associated with the project have been completed, all monitoring has ceased, all cataloguing and basic recordation of cultural resources have been completed, and a final monitoring report has been issued to Lead Agency, CHRIS, and SMBMI. All reburials are subject to a reburial agreement that shall be developed between the landowner and SMBMI outlining the determined reburial process/location, and shall include measures and provisions to protect the reburial area from any future impacts (vis a vis project plans, conservation/preservation easements, etc.).

Should it occur that avoidance, preservation in place, and on-site reburial are not an option for treatment, the landowner shall relinquish all ownership and rights to this material and confer with SMBMI to identify an American Association of Museums (AAM)-accredited facility within the County that can accession the materials into their permanent collections and provide for the proper care of these objects in accordance with the 1993 CA Curation Guidelines. A curation agreement with an appropriate qualified repository shall be developed between the landowner and museum that legally and physically transfers the collections and associated records to the facility. This agreement shall stipulate the payment of fees necessary for permanent curation of the collections and associated records and the obligation of the Project developer/applicant to pay for those fees.

All draft records/reports containing the significance and treatment findings and data recovery results shall be prepared by the archaeologist and submitted to the Lead Agency and SMBMI for their review and comment. After approval from all parties, the final reports and site/isolate records are to be submitted to the local CHRIS Information Center, the Lead Agency, and SMBMI.

18. **Inadvertent Discoveries of Human Remains/Funerary Objects** - In the event that any human remains are discovered within the project area, ground disturbing activities shall be suspended 100 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. The on-site lead/foreman shall then immediately notify SMBMI, the applicant/developer, and the Lead Agency. The Lead Agency and the applicant/developer shall then immediately contact the County Coroner regarding the discovery. If the Coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, the Coroner shall ensure that notification is provided to the NAHC within twenty-four (24) hours of the determination, as required by California Health and Safety Code § 7050.5 (c). The NAHC-identified Most Likely Descendant (MLD), shall be allowed, under California Public Resources Code § 5097.98 (a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and funerary objects shall be treated and disposed of with appropriate dignity. The MLD, Lead Agency, and landowner agree to discuss in good faith what constitutes "appropriate dignity" as that term is used in the applicable statutes. The MLD shall complete its inspection and make recommendations within forty-eight (48) hours of the site visit, as required by California Public Resources Code § 5097.98.

Reburial of human remains and/or funerary objects (those artifacts associated with any human remains or funerary rites) shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The MLD in consultation with the landowner, shall make the final discretionary determination regarding the appropriate disposition and treatment of human remains and funerary objects. All parties are aware that the MLD may wish to rebury the human remains and associated funerary objects on or near the site of their discovery, in an area that shall not be subject to future subsurface disturbances. The applicant/developer/landowner should accommodate on-site reburial in a location mutually agreed upon by the Parties.

It is understood by all Parties that unless otherwise required by law, the site of any reburial of Native American human remains or cultural artifacts shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The Coroner, parties, and Lead Agencies, will be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code § 6254 (r).

Public Review Period: November 8, 2019 through December 7, 2019.

Tentative Public Hearing Date: December 11, 2019.

Adopted by the Planning Commission on December 11, 2019.