

CITY OF VICTORVILLE DEVELOPMENT DEPARTMENT
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DRAFT MITIGATED NEGATIVE DECLARATION
Preparation Date: February 6, 2020

Name or Title of Project: Vesting Tentative Tract Map PLAN18-00023 (TTM 18940).

Location: West of and abutting Second Avenue between Country Ranch Court and Silica Drive just south of the intersection of Country Ranch Court and Second Avenue

Entity or Person Undertaking Project: TMS Consortium; 807 E. Chase Drive; Corona, CA 92881

Description of Project: To allow for the recordation and development of a 17-lot single-family residential subdivision (Tentative Tract Map 18940) with 7,200 sq. ft. minimum size lots, on an approximately 5-acre building site that is vacant, undeveloped, and previously disturbed with an approximate density of 3.4 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.**
2. **Prepare and submit to the Mojave Desert Air Quality Management District (MDAQMD), prior to commencing earth-moving activity, a dust control plan that describes all applicable dust control measures that will be implemented at the project.**
3. **The following signage shall be erected not later than the commencement of construction: A minimum 48 inch high by 96 inch wide sign containing the following shall be located within 50 feet of each project site entrance, meeting the specified minimum text height, black text on white background, on one inch A/C laminated plywood board, with the lower edge between six and seven feet above grade, with the contact name of a responsible official for the site and a local or toll-free number that is accessible 24 hours per day:**

**“[Site Name] {four inch text}
[Project Name/Project Number] {four inch text}
IF YOU SEE DUST COMING FROM {four inch text}
THIS PROJECT CALL: {four inch text}**

[Contact Name], PHONE NUMBER XXX-XXXX {six inch text}
If you do not receive a response, Please Call {three inch text}
The MDAQMD at 1-800-635-4617 {three inch text}

4. Use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. For projects with exposed sand or fines deposits (and for projects that expose such soils through earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits.
5. All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed to keep it intact and remove windblown dropout. This wind fencing requirement may be superseded by local ordinance, rule or project specific biological mitigation prohibiting wind fencing.
6. All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Take actions to prevent project-related trackout onto paved surfaces, and clean any project-related trackout within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion.

Biological Measures:

7. Pre-construction surveys for Burrowing Owls and other sensitive wildlife species (i.e. Desert Tortoise, Desert Kit Fox, American Badger, and nesting birds) on the project site and in the surrounding area in accordance with California Department of Fish and Wildlife approved protocols for each species 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 (including the restarting of activities after project/ground disturbing delays of 30-days or more), additional surveys will be required.
8. If burrowing owls are observed on the project site during future surveys the California Department of Fish and Wildlife shall be immediately notified and mitigations shall be required to reduce impacts to less than significant, including 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.**
 - g. Unless deemed unnecessary by the CDFW, Compensatory mitigation lands for permanent impacts to nesting, occupied, and satellite burrows and burrowing owl habitat shall be provide by the applicant/developer in accordance with CDFW requirements.**
- 9. If sensitive wildlife species such as the Desert Tortoise, Desert Kit Fox, American Badger, 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. Mitigation measures shall include avoidance, minimization, and implementation methods to be utilized, which shall be implemented prior to the start and/or restart of project activities on-site. 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.**
 - 10. If any construction or project related activity on-site results in the take of a California Endangered Species Act (CESA) listed species, the project proponent shall gain appropriate authorization prior to the commencement of any project related activities on-site (e.g. clearing, grading, trenching, construction, etc.). This may include an incidental take permit or a consistency determination in certain circumstances as determined by the California Department of Fish and Wildlife.**
 - 11. Unless determined to be unnecessary by the project biologist in conjunction with the required updated biological survey, the applicant/developer shall provide a qualified biologist on-site prior to and during all ground and habitat disturbing activities to move out of harm's way wildlife that would otherwise be injured or killed from related project activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should only be moved as far as necessary to ensure their safety. Measures to prevent wildlife from re-entering the site should also be taken. Only qualified biologists with authorization by CDFW may move CESA-listed species.**
 - 12. A new biological survey shall be filed with the City of Victorville to determine the presence or absence of endangered species, threatened species, candidate species, Species of Special Concern, and fully protected species on the site and to ensure appropriate mitigation measures are maintained. Additionally, the new biological survey shall include a thorough, floristic-based assessment of special status plants and natural communities, following the California Department of Fish and Wildlife Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. 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 will 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, including species specific avoidance, minimization, and implementation methods. The survey shall be valid for a period of one year.

Cultural Resource Measures:

13. 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.
14. 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.
15. 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.
16. 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
17. 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.).
18. 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.

Hydrology and Water Measures:

19. 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.
20. 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:

21. Due to the heightened cultural sensitivity of the proposed project area, one of the following shall occur:
 - a. An extended Phase I survey of the proposed project area shall be conducted prior to any and all ground-disturbing activity in order to determine the presence/absence of cultural materials at the subsurface level. The testing plan shall be created in consultation with the Cultural Resources Department for the San Manuel Band of Mission Indians (SMBMI) in order to ensure a sufficient level of coverage. Any findings during testing shall be properly recorded by the archaeologist on-site and reburied within the original find location. A testing report shall be completed, to include recordation documents (if any finds occur), and be provided to the Lead Agency for dissemination to SMBMI. The Lead Agency shall, in good faith, consult with SMBMI concerning the results of the testing plan and, if positive, discuss appropriate mitigation for the proposed project. Any finds shall be subject to the Treatment and Disposition Plan, as described within Mitigation Measure 22; or
 - b. Should subsurface testing not be conducted on the project site prior to any and all ground-disturbing activity, both an archaeological monitor with at least 3 years of regional experience in archaeology and a Tribal monitor representing SMBMI shall be present for all ground-disturbing activities that occurs within the proposed project area (which includes, but is not limited to, tree/shrub removal and planting, clearing/grubbing, grading, excavation, trenching, compaction, fence/gate removal and installation, drainage and irrigation removal and installation, hardscape installation [benches, signage, boulders, walls, seat walls, fountains, etc.], and archaeological work). A sufficient number of archaeological and Tribal monitors shall be present each work day to ensure that simultaneously occurring ground disturbing activities receive thorough levels of monitoring coverage. A Monitoring Plan shall be created prior to any and all ground-disturbing activity in consultation with SMBMI and agreed to by all Parties. The Monitoring Plan shall include the Treatment and Disposition Plan described in Mitigation

Measure 22.

- 22. A Treatment and Disposition Plan (TDP) shall be established, in consultation with all parties, prior to the commencement of any and all ground-disturbing activities for the project, to include archaeological testing. The TDP will shall provide details regarding the process for in-field treatment of inadvertent discoveries and the disposition of inadvertently discovered non-funerary resources. Inadvertent discoveries of human remains and/or funerary object(s) are subject to California State Health and Safety Code Section 7050.5, and the subsequent disposition of those discoveries shall be decided by the Most Likely Descendent (MLD), as determined by the Native American Heritage Commission (NAHC), should those findings be determined as Native American in origin.**
- 23. A Tribal monitor representing the Morongo Band of Mission Indians and the Twenty-nine Palms Band of Mission Indians shall be present for all ground-disturbing activities that occurs within the proposed project area (which includes, but is not limited to, tree/shrub removal and planting, clearing/grubbing, grading, excavation, trenching, compaction, fence/gate removal and installation, drainage and irrigation removal and installation, hardscape installation [benches, signage, boulders, walls, seat walls, fountains, etc.], and archaeological work). A sufficient number of archaeological and Tribal monitors shall be present each work day to ensure that simultaneously occurring ground disturbing activities receive thorough levels of monitoring coverage. A Monitoring Plan shall be created prior to any and all ground-disturbing activity in consultation with Morongo Band and Twenty Nine Palms and agreed to by all Parties. Monitoring requirements may be adjusted, including rotating schedules between tribes, removal or reduction of tribal monitoring requirements, or the inclusion of additional tribal monitors (e.g. SMBMI tribal monitors included in rotation) assuming any rotating schedule is agreed to by all participants, and any reduction or removal of monitoring requirements is granted by each separate tribe individually as applicable.**

Public Review Period: February 7, 2020 through March 9, 2020.

Tentative Public Hearing Date: March 11, 2020.

Adopted by the Planning Commission on March 11, 2020.