

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY  
AND RECORD OF ACTION**

**April 8, 2025**

**FROM**

**MARK WARDLAW, Director, Land Use Services Department**

**SUBJECT**

Appeal of Planning Commission Approval of the Lovemore Ranch Subdivision

**RECOMMENDATION(S)**

1. Conduct a public hearing to consider an appeal of a Planning Commission action approving Project No. PROJ-2021-00169 consisting of Tentative Tract Map No. 20443 to subdivide a vacant 18.49-acre parcel into 64 single-family residential lots ranging from approximately 7,200 to 13,068 square foot lots.
  - Appellant: Morongo Basin Conservation Association
  - Applicant: Lovemore Investments, LLC
  - Community: Joshua Tree
  - Location: Between Hillview Drive and Sunset Road, north of Alta Loma Drive
2. Deny the appeal and take the following action to approve Project No. PROJ-2021-00169:
  - a. Adopt the mitigated negative declaration and the mitigation monitoring and reporting program.
  - b. Adopt the findings for approval of the tentative tract map.
  - c. Approve Tentative Tract Map No. 20443, subject to the conditions of approval.
  - d. Direct the Land Use Services Department to file a notice of determination in accordance with the California Environmental Quality Act.

(Presenter: Mark Wardlaw, Director, 387-4431)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Promote the Countywide Vision.**

**Create, Maintain and Grow Jobs and Economic Value in the County.**

**Ensure Development of a Well-Planned, Balanced, and Sustainable County.**

**FINANCIAL IMPACT**

Approval of this item will not result in the use of additional Discretionary Funding (Net County Cost). Sufficient appropriation and revenue to complete this action have been included in the Land Use Services Department (LUS), Planning Division 2024-2025 budget. All costs of processing this appeal application are paid by the Appellant, Morongo Basin Conservation Association (MBCA). The cost of processing the development application is paid by the Applicant, Lovemore Investments, LLC (Lovemore).

**BACKGROUND INFORMATION**

This item includes an appeal of a Planning Commission action approving the Lovemore Ranch Subdivision (PROJ-2021-00169), consisting of Tentative Tract Map (TTM) No. 20443 for a subdivision of single family homes consisting of 64 lots ranging in size from 7,200 to 13,068

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square feet, and three lettered lots, to include a wastewater treatment facility, communal utilities and onsite resident services/staff quarters, a social gathering space, learning zone, multipurpose space, recreational facility, pool, and private roads (Project) within a single 18.49-acre parcel (Project Site). The current application has been updated from the initial 2022 proposal, which originally sought to subdivide the parcel into 75, approximately 10,000 square foot lots. Through review of the Policy Plan (General Plan), San Bernardino County Development Code (Development Code), and input from surrounding property owners and interested parties, the Project was reduced to 64 residential lots and three lettered lots. Although the General Plan allows for a higher density on the Project Site, Lovemore has elected to develop the site at a lower density in order to be consistent with the community character of this area of Joshua Tree. Developing the Project Site in accordance with the existing RS density range is consistent with the interim procedures outlined in Resolution No. 2020-197.

A thorough discussion analyzing the proposed TTM, including the principles of land use planning, General Plan consistency, Development Code compliance, and environmental analysis are contained in the staff report to the Planning Commission, dated January 23, 2025, and included in the documents attached to this item (Attachment A). At the Planning Commission hearing of January 23, 2025, there were three speakers in person. All speakers spoke in favor of the Project.

**APPEAL**

On February 3, 2025, MBCA filed an appeal of the Planning Commission's approval of the Project. The appeal alleges that the Appellant did not receive notice of the hearing, notice of the availability of remote access to participate in the Planning Commission meeting and alleges that the Planning Commission staff report included deficiencies and errors. The appeal application and arguments in support of the appeal are included as documents attached to this item. A summary of the Appellant's arguments and a response from LUS are as follows:

***A – Public Review Process***

The Appellant alleges the Planning Commission approval was based on an improper public review process (Attachment B). A summary of the Appellant's allegations supporting this claim include the following:

1. MBCA was not notified of the Initial Study comment period or the Planning Commission hearing.
2. MBCA members are signed up for notifications for the desert region and should have received notice of the release of Project's Initial Study and public hearing.
3. Individuals and organizations who submitted comments in response to Supplemental Notices should have received notification of both the Initial Study and the public hearing.
4. Individuals and organizations that attended a project meeting and signed-up for an email list had an expectation of receiving CEQA and Project notices.
5. The Community of Joshua Tree was not informed of the public hearing from the Third District Supervisor, Field Representatives or the Third District Planning Commissioner.
6. There were no notices on local radio, local paper, or on social media of the Project.
7. Notices provided by Lovemore on its website do not satisfy notification requirements.
8. The notice of hearing did not indicate that the Bob Burke Joshua Tree Government Center would be available to participate in the public hearing.

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9. The staff report omitted public comments that were submitted in response to project notices, including two letters from MBCA.
10. The Third District Planning Commissioner was absent from the hearing.
11. The developer had ex parte communications with various Planning Commissioners.

***LUS Response:***

**Project Notice Background:**

Minimum noticing requirements for planning and zoning actions and environmental determinations are set forth in California law. The Development Code incorporates and, where applicable, modifies state noticing requirements. With respect to the TTM application, including the preparation of the Project's Initial Study, LUS was required to provide two types of notice prior to taking action on the Project, which included a notice of intent (NOI) to adopt a Mitigated Negative Declaration (MND) and a notice of public hearing on the TTM. Although not required by State law or the Development Code, LUS also mails a Supplemental Notice to surrounding property owners informing them of a project after a planning application is deemed complete utilizing similar standards set forth in Development Code Section 85.03.080.

In the case of this Project, two Supplemental Notices were mailed to inform surrounding property owners of the Project. The first Supplemental Notice (Attachment C) was mailed on May 17, 2022, after the original application was deemed complete and the second Supplemental Notice was mailed July 24, 2024, after changes to the project design were made.

With respect to the Initial Study, the NOI was noticed pursuant to CEQA Guidelines Section 15072, which required LUS to send the notice to (1) applicable public, responsible, and trustee agencies; (2) those who have previously requested such notice in writing; and (3) to do one of the following: (a) publish the notice of availability at least one time in the newspaper of general circulation in the area, (b) posting of notice by the lead agency on and off site in the area where the project is to be located, or (c) direct mailing to the owners and occupants of property contiguous to the Project. In satisfying CEQA noticing requirements (1) above, LUS provided the notice to the following agencies: Morongo Unified School District, Joshua Basin Water District, Colorado River Basin Regional Water Quality Control Board, Mojave Desert AQMD, California Fish and Wildlife, US Fish and Wildlife, USMC Military Base, Native American Heritage Commission, and Morongo Band of Mission Indians. Regarding requirement provision (2), no requests for CEQA noticing were submitted. LUS sent notices via mail to the surrounding property owners to satisfy the requirements of provision (3) (Attachment C).

With respect to the public hearing on the TTM, LUS provides notice pursuant to Section 85.03.080 which requires (1) publication of the notice in a newspaper of general circulation in the respective community, (2) mailed notice to persons who have filed a written request, and (3) mailed notice to certain surrounding and contiguous property owners. Because the subject property is 18.4 acres, mailed notice was sent according to Table 85-2 Distance Requirements for Noticing Purposes. This required sending notices to 63 property owners located within 300 feet of the exterior boundaries of the Project Site. The notice of hearing was published in the San Bernardino Sun, which is a newspaper of general circulation in the respective community (Attachment C).

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**Response to Appellant Allegations:**

Both State law and the Development Code allow for an interested individual or organization to file a written request with either the Clerk of the Board of Supervisors (Clerk) or the Director of LUS to receive certain environmental and project notices. In this regard, LUS has no record of MBCA filing a written request to be notified of environmental or project actions. In neither of the referenced comment letters submitted by MBCA do they request to be notified of public hearings or environmental actions. MBCA registering to receive email updates of various environmental documents on the Planning environmental website does not constitute a written request with the Clerk or LUS Director for project specific notifications. The notifications are not intended to satisfy project specific notification requirements. Nor does the submission of comments in response to Supplemental Notice constitute a request for future project notice unless the commentor expressly indicates a request for future notice as part of the comment letter.

MCBA's remaining notice claims do not constitute legal defects. The Development Code does not require the Supervisorial District Representative or District Commissioner to provide project notice as they are not the planning agency for the County, nor is there a requirement that notice be provided on local radio stations or posted on social media. All outreach and notification efforts conducted by the Applicant were considered supplemental and not intended to satisfy the County's mandated notice requirements. With respect to Applicant's outreach, the Development Code does not require that an applicant provide contact information that they have acquired during their independent public outreach efforts. For this Project, the Applicant, chose to conduct various meetings and post the notice of hearing to their website for supplemental information. Individuals or organizations interested or concerned about a project are directed to submit requests and comments with the planning agency.

MCBA also takes issue with the content of the public hearing notice they allege they did not receive. However, the notice of hearing included all state required content by identifying the date, time, and place of the Planning Commission's hearing on the Project. While the notice did not list the Bob Burke Joshua Tree Office location, the agenda for the Planning Commission meeting did inform the public that the Joshua Tree site was available for the public to participate in the meeting. At the time of the noticing, LUS was not able to secure the Bob Burke Joshua Tree Office. The teleconference location was eventually secured after the notice of hearing was sent and the posting of the notice to Bob Burke Joshua Tree Office was done in accordance with Brown Act requirements. The teleconference location was offered as a courtesy to the public only and no commissioners were attending the location to participate in the meeting. MCBA also alleges that LUS staff should have corrected the commissioners and advised that the Bob Burke Joshua Tree Office was not open. This is incorrect, the teleconference option was available, and LUS staff was on site to facilitate any public comments in Joshua Tree, and the Applicant also had a representative there as well.

Lastly, MCBA takes issue with the action of the decision-makers. While it is true that the Third District Planning Commissioner was not present at the meeting, the Planning Commission had a quorum and was able to hold the public hearing and vote. Prior to the start of the hearing, various commissioners disclosed ex parte communications received from the Applicant. Substantive ex parte communication which are disclosed prior to a hearing do not raise due process concerns.

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On appeal the Board of Supervisors may affirm, reverse, or modify the Planning Commission's approval of the Project. All decisions by the Board of Supervisors will be subject to the same criteria, findings, and requirements imposed by the Development Code, including, but not limited to, project noticing requirements. Accordingly, any errors or defects alleged in the public review process (if any) will be corrected as part of the appeal and should be considered harmless error.

***B – Staff Report Deficiencies***

The Appellant also alleges that there are deficiencies and errors in the Planning Commission staff report (Attachment B). A summary of the Appellant's allegations supporting this claim include the following:

- 1) Density of the proposed Project is not consistent with the goals and policies of the General Plan or the Joshua Tree Community Action Guide, or the Development Code.
- 2) The Project lacks required use permits.
- 3) Blading the whole 18.49-acre parcel is not consistent with the General Plan, Development Code or Community Action Guide. An exclusive HOA gated community is not consistent with the Joshua Tree Community Action Guide, General Plan or Development Code.
- 4) The Applicant has not met with the Joshua Basin Water District.
- 5) The subdivision could become a de-facto commercial resort of short-term rentals.
- 6) There is no minimum lot density required for the subdivision.
- 7) The project may not be subject to the Housing Accountability Act.

***LUS Response:***

Response to Appellant's Allegations:

The Project Site is located in the Low Density Residential (LDR) Land Use Category designation per the General Plan and the Single Residential (RS) Zoning District. Table A below identifies the density and corresponding number of dwelling units for the General Plan Land Use, Zone, and the Project. Per Table 82-9C of the Development Code, "[t]he actual number of units allowed [e.g., density] will be determined by the County through subdivision or planning permit approval, as applicable" noting that density may vary depending on a project's lot size. If the Applicant pursued the Project under the Interim Policies outlined in Resolution No. 2020-197, Section 6B, nonconformity between the Land Use Category and the Zoning District, it would allow for a potential RS Zoning District density of up to 6 dwelling units per acre. The Project proposes a density of approximately 3.5 dwelling units per acre, which is well within the allowed density range of two to five dwelling units per acre as provided in the General Plan.

Table A

DEVELOPMENT STANDARD	DENSITY (d.u.s/ac)	TOTAL DWELLING UNITS
Countywide Policy Plan (LDR Land Use)	2-5	37-92

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<b>Current RS Zoning</b> (7,200 sq.ft. min. lot size) Development Code Table 82-8B	6	112
<b>Proposed Subdivision</b>	3.5	64

LUS presented the Planning Commission with a demonstration of analysis and evaluation to determine consistency with the General Plan and Joshua Tree Community Action Guide. This review included analysis of the site characteristics, lot pattern, street pattern, and the use of a 3D massing model (Attachment A).

Through this evaluation, the Planning Commission found that the Project was consistent with the General Plan, including, but not limited to, the following policies:

- LU-1.1 Growth
- LU-1.2 Infill Development
- LU-2.1 Compatibility with Existing Uses
- LU-2.4 Land Use Map Consistency
- LU-4.5 Community Identity
- H-1.1 Appropriate Range of Housing
- TM-1.7 Fair Share Contribution
- TM-1.8 Emergency Access
- TM-2.2 Roadway Improvements
- TM-2.3 Concurrent Improvements

Regarding required entitlements, there are no required use permits needed for the proposed amenities on the Project Site, as they are part of the overall project approval. The Project's wastewater treatment plant does not require a use permit, as it is not a standalone utility facility, independent of the Project. Regarding the use of future residences as short-term rentals, the County's uniform short-term rental regulations will apply to the Project. Since the proposed lots are under two acres in size, each homeowner owner could potentially obtain one short-term rental permit under existing regulations. The Homeowner's Association may provide additional regulations on any short-term rental that is established within the community.

With respect to the wastewater facility, LUS received an email from Adrian Lopez, Water Resource Control Engineer, Land Disposal Unit with the Regional Water Quality Control Board, Colorado River Basin on December 9, 2024, stating that the Water Boards would be in support of a centralized treatment plant; however, would need more detail which would require the Applicant to complete a Form 200 application. The County Environmental Health Services division required the Applicant to complete Form 200 and submit it to the water boards prior to issuance of building permits.

In addition to the items addressed in the allegation list, concerns were raised regarding drainage impacts to the properties in the area. The applicant received a preliminary approved drainage study that identified onsite detention in Lot A. An Errata was prepared to clarify the hydrology section of the Initial Study to demonstrate consistency with the preliminarily approved drainage study that demonstrates that flows will divert away from Sunset Road so that flooding of adjacent sites will not be a concern.

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Lastly, the Housing Accountability Act (HAA) promotes the approval of housing development projects which include exclusively residential developments, such as the Project, by limiting the discretion agencies have to deny or impose density-reducing conditions. Where a housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria including design review standards, an agency cannot deny the project or impose conditions that lower the project's density without making certain findings. The written findings must be based on a preponderance of evidence that the project will have a specific adverse, and unmitigable impact to public health and safety and there is no feasible method to mitigate or avoid the adverse impact. The HAA applies to both affordable and market-rate housing development projects and include subdivision maps and other discretionary land use approvals or entitlements necessary for the issuance of a building permit for a housing development project. The Project is a market rate housing development project and the evaluation by LUS of the proposal is that it complies with applicable objective General Plan and Development Code standards and criteria for new subdivisions for residential lots.

If the Board of Supervisors deny the appeal, LUS is recommending approval of the Project. Findings and conditions of approval supporting the approval of the TTM are included in Attachment A.

In the event the Board of Supervisors grant the appeal, LUS would recommend the item be continued for the LUS staff to prepare a set of proposed findings consistent with the decision and the requirements of the HAA and the Development Code.

**PROCUREMENT**

N/A

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Jason Searles, Supervising Deputy County Counsel, 387-5455) on March 10, 2025; Finance (Iliana Rodriguez, Administrative Analyst, 387-4205) on March 19, 2025; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on March 19, 2025.

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Record of Action of the Board of Supervisors  
San Bernardino County

Hearing Opened

Public Comment: Ryan Le Tourneau, Glen Olsen, Jason Lewis, Janet Johnston, Licia Perea, Elena Hanson, Ry Rocklen, Levon Kazarian, Stacy Doolittle, David Dodge, Pamela Garcia, Jon Ossman, Sean Davey, Laird Davis, Jennifer Good, Jane Jarlsberg, Kelly Newfield, Lloyd Cline, Jet Tucker, Julianne Elliott, Keith Palmer, Joanie Tremblay, Sarah Taylor, Seth Zaharias, Valeree Woodard, Peter Spurr, Allie Irwin, Casey Kiernan, Avery Zoellin, Dawn Davis, Melissa Spurr, Laraine Turk, Christina Byers, Ryan Marean, Kaylee Neiman, Bonnie Hawthorne, Pat Flanagan, David Fick, Kim Stringfellow, Emily Felt

Hearing Closed

**APPROVED**

Moved: Curt Hagman Seconded: Jesse Armendarez

Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: April 8, 2025



cc: File - LUSD/Planning Appeals Lovemore Ranch Subdivision w/  
attachments

JLL 04/10/2025