

# RESPONSE SHEET

## PUBLIC NOTICING

1. **Morongo Basin Conservation Association (“Appellant”) did not receive the Notice of Intent to adopt the Mitigated Negative Declaration (“MND”) or the Notice of Hearing for the Planning Commission meeting.**
  - a. The Land Use Services Department (“LUS”) has no record of the Appellant filing a written request to be notified of environmental or project actions.
  - b. In neither of the referenced comment letters submitted by the Appellant do they request to be notified of public hearings or environmental actions.
2. **Appellant is registered for notifications for the desert region and should have received notice of release of the Initial Study and Notice of Hearing for the Planning Commission meeting.**
  - a. The Appellant 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.
  - b. The notifications are not intended to satisfy project specific notification requirements.
3. **Individuals and organizations who submitted comments in response to Supplemental Notices should have received notification of both the Initial Study and the Notice of Hearing for the Planning Commission meeting.**
  - a. Submission of comments in response to Supplemental Notice does not constitute a request for future project notice unless the commentor expressly indicates a request for future notice as part of the comment letter.
4. **Individuals and organizations who attended a project meeting and signed up for an email list had an expectation of receiving notice of the Initial Study and Notice of Hearing for the Planning Commission meeting.**
  - a. The Development Code does not require that an applicant provide contact information that they have acquired during their independent public outreach efforts.
5. **The Community of Joshua Tree was not informed of the public hearing from the 3<sup>rd</sup> District Supervisor, Field Representatives of the Third District Planning Commissioner.**
  - a. 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.

- 6. There were no notices on local radio, local paper, or on social media of the Project.**
  - a. The Development Code does not require that notice be provided on local radio stations or posted on social media.
  - b. The Notice of Hearing for the Planning Commission meeting was sent to the San Bernardino Sun, which is a newspaper in general circulation in the project area.
- 7. Notices provided by Lovemore on its website do not satisfy notification requirements.**
  - a. All outreach and notification efforts conducted by the Applicant are supplemental and not intended to satisfy the County's mandated notice 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.**
  - a. 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.
  - b. 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.
  - c. At the time of the noticing, LUS was not able to secure the Bob Burke Joshua Tree Office.
  - d. 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.
- 9. The Third District Planning Commissioner was absent from the hearing.**
  - a. The Third District Planning Commissioner was not present at the meeting, however the Planning Commission had a quorum and was able to hold the public hearing and vote.
- 10. The Developer had ex parte communications with various Planning Commissioners.**
  - a. Prior to the start of the hearing various commissioners disclosed ex parte communications received from the Applicant.
  - b. Substantive ex parte communication which are disclosed prior to a hearing do not raise due process concerns.

## **MINIMUM NOTICING REQUIREMENTS**

### **1. Minimum noticing requirements for planning and zoning actions and environmental determinations are set forth in California Law.**

- a. The Development Code incorporates and, where applicable, modifies state noticing requirements.
- b. For this Project, LUS was required to provide a Notice of Intent (“NOI”) to adopt a MND and a notice of Public Hearing for the Planning Commission meeting.

### **2. Supplemental Project Notice.**

- a. Although not required by State law or the Development Code, LUS mails out a Supplemental Notice to residents in the area after a planning application is deemed complete.
- b. Two supplemental notices were mailed to inform residents of the Project.
- c. The first notice was sent May 17, 2022.
- d. The second notice was sent July 24, 2024, after changes to the project design were made.

### **3. Notice of Intent, MND**

- a. NOI was noticed pursuant to CEQA Guidelines Section 15072. Requires LUS to send the notice to THE FOLLOWING:
  - i. Applicable public, responsible and trustee agencies,
  - ii. Those who have previously requested such notice in writing, and
  - iii. To do one of the following:
    1. Publish the notice of availability at least one time in the newspaper of general circulation in the area,
    2. Posting of notice by the lead agency on and off site in the area where the project is to be located,
    3. Direct mailing to the owners and occupants of property contiguous to the Project.
- b. LUS provided the notice to surrounding property owners and
- b. Public, responsible agencies that LUS sent the NOI to:
  - i. 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.
- c. LUS sent notices via mail to the surrounding property owners.

### **4. Public Hearing Noticing**

- a. Notices provided pursuant to Section 85.03.080
- b. This requires publication of notice in a newspaper of general circulation in the respective community.
  - a. Project was noticed in the San Bernardino Sun.
- c. Mailed notice to persons who have filed a written request and property owners within specified radius.
  - a. Sent to a radius of 300 feet per TABLE 85-2 Distance Requirements for Noticing Purposes.
  - b. This hearing includes all comments LUS received on the Project prior to the posting of the agenda for the regular meeting of the Board of Supervisors.

## **DENSITY**

**1. Density of the proposed Project is not consistent with the goals and policies of the General Plan, or the Development Code.**

- a. The General Plan designation of the property is Low Density Residential, LDR
- b. The Zoning District of the property is Single Residential, RS
- c. 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.
- d. 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.
- e. Project is proposing a density of 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.

<b>DEVELOPMENT STANDARD</b>	<b>DENSITY</b> (d.u.s/ac)	<b>TOTAL DWELLING UNITS</b>
<b>Countywide Policy Plan</b> (LDR Land Use)	2-5	37-92
<b>Current RS Zoning</b> (7,200 sq.ft. min. lot size)  Development Code Table 82-8B	6	112
<b>Proposed Subdivision</b>	<b>3.5</b>	<b>64</b>

**2. The Project lacks required applications.**

- a. Development Code Section 82.02.030(a)(1)(b) provides that where a single parcel is proposed for development with two or more allowed land uses, the overall project shall be subject to the highest permit level required by Subdivision (c) for any individual use. The amenities for the subdivision are being obtained concurrently within the tract map. The Tract Map is of equal or higher permit level as the various uses: pool, open space/park, wastewater treatment facility, and multipurpose room. The applicant will still be required to obtain any other building permits as necessary.
- b. Development Code section 87.06.030(g) states that lands to be subdivided for residential, park, playground, or land recreation purposes may be subject to environmental quality standards as established by ordinances and regulations of the different departments and agencies within the County.

- c. The project's wastewater treatment facility does not require a use permit, as it is not a standalone utility facility, independent of the Project.
  - d. A pool does not require a use permit nor does a park or open space area as part of a tract map.
- 3. Applicant has not met with the Joshua Basin Water District.**
  - a. 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.
  - b. Water Boards would be in support of a centralized treatment plant, however, would need more detail.
  - c. COAs from EHS require the applicant to complete Form 200 and submit it to the Water Boards prior to issuance of building permits.
- 4. Subdivision could become de-facto commercial resort of short-term rentals.**
  - a. County's uniform short-term rental regulations will apply to the Project.
  - b. Future lots will be under two acres, therefore the property owner could potentially obtain one short term rental permit under existing regulations.
  - c. The HOA may provide additional regulation on short term rental that is established within the Community.
- 5. The project may not be subject to the Housing Accountability Act (HAA).**
  - a. HAA applies to both affordable and market-rate housing development projects.
    - i. Includes subdivision maps and other discretionary land use approvals or entitlements necessary for the issuance of a building permit for a housing development project.
  - b. 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.
  - c. HAA promotes the approval of housing development projects which include exclusively residential development such as the Project, by limiting the discretion agencies have to deny or impose density-reducing conditions.
  - d. To deny or impose conditions that lower the project's density the agency must make written findings 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.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT, (CEQA)**

**1. Blading the whole 18.49-acre parcel is not consistent with the General Plan, Development Code. An Exclusive HOA community is not consistent with the Joshua Tree Community Action Guide, General Plan or Development Code.**

- a. MND identified a mitigation measure for removal of Joshua Trees.
- b. Requires applicant to either obtain an Incidental Take Permit (ITP) from California Department of Fish and Wildlife or a permit under the Western Joshua tree Conservation Act, prior to any grading.
- c. HOAs are not prohibited in the County.

**2. Additional Approval Required by other public agencies:**

- a. JBWD must be listed here as the Agency required for approval for water supply.

## **AESTHETICS SECTIONS**

- a. The Project would not establish structures greater than 35 feet tall.
- b. The Project would not have an adverse impact on a scenic vista, which includes views across desert landscapes, toward mountains and ridgelines, and toward rock formations and outcroppings within the East Desert region.
- c. The Project site is located between Hillview Road and Sunset Road on the north side of Alta Loma Road. These streets are local collector roads and are not Scenic highways.
- d. The linear features of a gated community will be softened by additional landscaping from the right of way.

## **AIR QUALITY**

- a. Project site is within the Mojave Desert Air Basin, and under the Mojave Desert Air Quality Management District.
- b. VALLEY FEVER: Short-term project ground disturbance activities would create the potential for introducing *Coccidioides immitis*, the fungus that causes Valley Fever, into the air and exposure of workers or others in the area to the fungus and potential contraction of Valley Fever. Although it is unknown whether *Coccidioides immitis* is present within the Project site, it may have the potential to occur. However, fugitive dust suppression measures are considered sufficient to minimize the potential for release of *Coccidioides immitis* to the environment. The Project would be required to comply with numerous required dust suppression measures in compliance with MDAQMD rules and regulations (see Rules 402, 403).

- c. Applicant is required to comply with Rules 402 for Nuisance and 403 for Fugitive Dust Control.
  - a. The Project proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities.
  - b. The Project proponent shall ensure that water of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading activity on the site. Portions of the Site that are actively being used shall be watered to ensure that a crust is formed on the ground surface and shall be watered at the end of each workday.
  - c. The Project proponent shall ensure that disturbed areas are treated to prevent erosion.
  - d. The Project proponent shall ensure that ground disturbing activities are suspended when winds exceed 25 miles per hour.

## **BIOLOGICAL RESOURCES**

- a. Survey methods and timeframes are established by the reviewing consultant and are expanded as necessary per state guidelines.
- b. Regarding transitory animals, there was no evidence scat, dens or otherwise that would require a follow up visit at the time of the surveys.

## **NOISE**

- a. Conditions of approval require that the Project adhere to Development Code Section 83.01.080 which identifies noise levels for residential zones.
- b. Temporary construction, maintenance, repair or demolition activities between 7:00 a.m. and 7:00 p.m. except on Sundays and Federal Holidays are exempt from the noise standards.

## **VECTOR**

- a. As a condition of approval, a vector control clearance application shall be submitted to the appropriate Mosquito and Vector Control Program.

## **ODOR**

- a. As required in the conditions of approval. The onsite wastewater treatment system shall be maintained so as not to create a public nuisance and shall be serviced by an EHS permitted pumper.

## **HYDROLOGY AND WATER QUALITY**



- a. Drainage easements are provided along the eastern portion of the site and the northwest corner.
- b. At the eastern portion and the northwest corner of the site, a streambed alteration permit is required as part of the mitigation monitoring and reporting program and is also a condition of approval.
- c. An Errata has been prepared to clarify the hydrology section of the Initial Study to reflect:
  - Subsequent to the preparation of the Initial Study, a corrected and revised preliminarily approved drainage analysis included the use of a detention basin.
  - Outflows onto Sunset Road from the project site will not exceed historical flows.
  - Confirming that flooding of adjacent sites will not be a concern.
  - The Preliminary drainage study was subsequently approved by Land Development.

## **POPULATION AND HOUSING**

- a. This area is within the LDR, Low Density Residential Land Use Category
- b. The Density for this General Plan area is a range from 2 - 5 units
- d. The Density proposed is 3.5 units per acre.
- e. The Appellant states that the Project would not serve to provide opportunities for affordable housing.
- f. Each new lot could permit two accessory dwelling units, adding additional affordable dwelling units to the market.

## **TRANSPORTATION**

- a. A transportation Study Screening Analysis was prepared for an earlier version of the Project with 75 lots by Ganddini Group, Inc.
- b. The 75 lots forecast approximately 708 daily trips with 70 peak hour trips.
- c. The Project is forecast to generate fewer than 100 peak hour trips.

## **UTILITIES AND SERVICE SYSTEMS**

- a. JBWD was provided the notice of availability and the first project notice.
- b. The applicant has provided a hold harmless agreement for entitlements and will be required to obtain a will serve letter prior to issuance of grading permits.
- c. The Urban Water Management Plan for JBWD is based upon projected growth included in General Plans for areas within their service area.
- d. The Proposed Project water demand is already anticipated from build out of the General Plan Policy Planning area.

- e. Prior to any land disturbance, the water systems shall be designed to meet the required fire flow.
- f. The required fire flow shall be 500 GPM for a 30 min duration at 20 PSI residual operating pressure.
- g. Conditions of Approval would require that no new above-ground power or communication lines shall be extended to the site.

