

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

January 14, 2025

FROM

MARK WARDLAW, Director, Land Use Services Department

SUBJECT

Reconsideration of the Moon Camp Development Project

RECOMMENDATION(S)

1. Conduct a public hearing to consider recirculated sections of the Moon Camp Environmental Impact Report and reconsideration of Tentative Tract Map No. 16136 to subdivide a 62.43-acre site into 58 lots, consisting of 50 numbered residential lots, eight lettered lots, and a marina with 55 boat slips.
 - Applicant: RCK Properties, Inc.
 - Community: Bear Valley
 - Location: North and south of North Shore Drive (Highway 38), approximately 180 feet east of Canyon Road.
2. Take the following action to reapprove the Moon Camp Project:
 - a. Certify the Final Environmental Impact Report No. 3.
 - b. Adopt the California Environmental Quality Act Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program.
 - c. Adopt the findings for approval of Tentative Tract Map No. 16136.
 - d. Adopt Tentative Tract Map No. 16136, subject to the conditions of approval.
 - e. Direct the Land Use Services Department to file the 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

Consideration of this item will not result in the use of Discretionary General Funding (New County Cost). Sufficient appropriation and revenue to complete this action have been included in the Land Use Services (LUS) Planning Division 2024-25 budget. All costs of processing this application are paid by the applicant.

BACKGROUND INFORMATION

This item includes the reconsideration of Tentative Tract Map No. 16136, consisting of a 58-lot subdivision on an approximate 62-acre site (Project), following a partial recirculation of the Project's Environmental Impact Report (EIR) in response to a court order. The Project includes 50 numbered lots, each with a minimum lot size of 20,000 square feet to be developed into

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custom homes, and eight lettered lots that include: Three lots designated as Open Space/Conservation easements and Neighborhood Lake Access; Three lots designated as well sites; One lot designated as a potential reservoir site; and, One lot to be developed as the marina parking lot, the majority of which has been reserved as a conservation easement for bald eagle and rare plant habitat conservation.

On July 28, 2020 (Item Nos. 84 and 85), the Board of Supervisors (Board) previously considered and unanimously approved the Project by a vote of 5-0, taking the following actions:

- Certifying the EIR and adopting the associated California Environmental Quality Act (CEQA) Findings of Fact, Statement of Overriding Considerations, and Mitigation and Monitoring and Reporting Program.
- Adopting the General Plan and Zoning amendment, from Rural Living, 40-acre minimum lot size to Single Residential, 20,000-square foot minimum lot size for the Project site.
- Approving Tentative Tract Map No. 16136 to create 58 lots.

Thereafter, various organizations filed a Petition challenging the Project approvals in Superior Court Case No. CIVDS2017298, entitled *Friends of Big Bear Valley, et al. v. County of San Bernardino, et al.* (the Action). On January 20, 2022, the Court granted the Petition on two limited grounds, concluding that the EIR was deficient under CEQA because substantial evidence did not support the County's finding regarding (1) the Project's impacts on the ashy-grey Indian paintbrush or pebble plain habitat, and (2) the Project's impacts on wildfire evacuation risks (Ruling).

On August 31, 2022, the Court issued an order requiring the Board to vacate the Project approvals except for the General Plan and Zoning amendment (Severable Approvals). The Court excluded the Severable Approvals from its order based on a finding that these approvals are supported independently by the County's subsequent certification of Program EIR (SCH# 2017101033) and the adoption of the Countywide Plan on October 27, 2020.

On November 15, 2022 (Item No. 39), the Board vacated the Project approvals in accordance with the court order and directed LUS to return to the Board for reconsideration of the Project at a later time. A Partially Recirculated Draft EIR No. 3 (PRDEIR No. 3) was then prepared to address those issues that the Court found deficient in its Ruling, consistent with the requirements of CEQA. The PRDEIR No. 3 includes updates to the following sections of the EIR:

- Chapter 1: Introduction. This section provides an updated history on the Project and updates General Plan and zoning information based upon the adoption of the Countywide Plan.
- Chapter 4.1: Biological Resources. This section analyzes the Project's impact on the ashy-grey Indian paintbrush and pebble plain habitat.
- Chapter 4.3: Hazards and Hazardous Materials (Wildfire Evacuation Risk). This section analyzes the Project's impacts on wildfire evacuation and associated risks. An updated evaluation was undertaken in collaboration with the San Bernardino County Fire Protection District and provides seven separate evacuation scenarios and combination of actions, including existing conditions, existing conditions plus the Project, evacuation of only certain portions of the Project site, and evacuation of the surrounding area and Project site.
- Chapter 4.4: Land Use and Planning. This section analyzes the Project's consistency with the 2020 Countywide Plan.

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The PRDEIR No. 3 analyzed the impacts on ashy-gray Indian paintbrush and pebble plain habitat to address the Ruling regarding the impact conclusions and mitigation utilized in the 2020 FEIR. In order to respond to the Court's Ruling on ashy-gray Indian paintbrush and pebble plain habitat, a Memorandum was prepared by Daniel Smith, Jacobs Engineering Group, Inc. (provided as Appendix 9 to PRDEIR No. 3). The Memorandum reviewed all of the former materials prepared for the Project pertaining to ashy-gray Indian paintbrush and pebble plain habitat to ensure consistency of the findings made in the previous reports, in the 2020 FEIR, and provided additional recommendations or clarifications to supplement the data that has been generated related to ashy-gray Indian paintbrush and pebble plain habitat for the Moon Camp Project.

The Memorandum reviewed the conclusions set forth in the 2010 Focused Special Status Plant Species Survey. Preservation of 4.84 acres, equal to protecting 4,895 occurrences of the ashy-gray Indian paintbrush onsite out of 5,567 occurrences (88% on an occurrence basis), was sufficient mitigation to determine that the Moon Camp Project would result in less than significant impacts to the ashy-gray Indian paintbrush species.

In addition, the proposed Project provides a number of other measures in response to concerns raised about ashy-gray Indian paintbrush including:

- Mitigation Measure MM BR-1a would provide for an attempt to salvage ashy-gray Indian paintbrush seed prior to any Project related impacts to this species to ensure adherence with federal recommendations for reducing threats to and providing conservation for the ashy-gray Indian paintbrush.
- Conservation easements are to be established through MM BR-1b, and the preservation of those conservation easements would be ensured through MM BR-1c.
- Mitigation Measure MM BR-1d would require construction within specific lots containing additional populations of ashy-gray Indian paintbrush to be restricted by means of building envelopes or building setback lines to prevent construction in the occupied ashy-gray Indian paintbrush habitat, wherever feasible, thereby minimizing impacts to the plants that can be feasibly retained as part of the Project.

The identified mitigation measures would facilitate protection of the species in place on site, and preservation of the species through genetic conservation by way of a seed collection. Thus, impacts on the ashy-gray Indian paintbrush are collectively concluded to be less than significant.

With regards to the pebble plain habitat, the Memorandum concludes:

- The independent review of the findings conducted by Dr. Krantz accurately concluded the Project site did not contain any pebble plain habitat due to the lack of the two key pebble plain indicator species (southern mountain buckwheat and Big Bear Valley sandwort).
- The 10-acre Dixie Lee Lane parcel is being offered as a benefit to the community to be preserved in perpetuity, which will be enforced through the County's Conditions of Approval for the Project. However, the creation of a conservation easement at the Dixie Lee Lane parcel is not considered mitigation to offset impacts to any sensitive natural communities (such as pebble plain habitat), as originally identified in the 2020 FEIR for the Moon Camp Project.

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As no true pebble plain habitat exists on the Project site, the implementation of the proposed Project will have no potential to impact pebble plain habitat, and thus would not result in a potentially significant impact and no mitigation is required.

With regards to wildfire evacuation risks, the PRDEIR No. 3 examined whether the Project would have a substantial adverse impact with respect to hazards or hazardous materials by impairing the implementation of, or physically interfering with, an adopted emergency response plan or emergency evacuation plan. A Wildfire Evacuation Plan (WEP) was prepared by Dudek, dated September 2023, provided as Appendix 12 to PRDEIR No. 3, consistent with the adopted emergency response plans, which include San Bernadino County Emergency Operations Plan and the Big Bear Valley Community Wildfire Protection Plan. The WEP found:

- The estimated minimum amount of time needed to move the existing, planned, and Project populations to urbanized and/or designated evacuation areas, and determined that the changes in evacuation time “with Project” when compared to “without Project” scenarios, increased the evacuation time by 1-to-6 minutes.

The PRDEIR No. 3 concluded that changes in evacuation times with the Project are considered minimal and do not result in excessive evacuation times for existing residents. Adopted mitigation measures are required to ensure that updates to the WEP are made periodically, and that a Ready, Set, Go! Program is implemented, and fire road access is maintained. Traffic mitigation would also serve to further minimize traffic conflicts during both normal and evacuation conditions, as the intent of these measures is to enhance circulation to a level of less than significant. Through the implementation of these mitigation measures, the Project would have a less than significant potential to impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.

In addition to the changes described above, the Land Use and Planning Subchapter of the 2020 FEIR has also been revised and recirculated as part of PRDEIR No. 3 to analyze the Project’s consistency with the San Bernardino County Countywide Plan, adopted on October 27, 2020, after the County’s approval of the 2020 FEIR. The Project was determined to be as follows:

- Consistent with the applicable San Bernardino Countywide Plan Goals and Policies, and the SCAG Connect SoCal Goals that have been adopted for the purpose of avoiding or mitigating an environmental effect.
- Contribute 50 units to the Southern California Association of Governments 6th Cycle Final Regional Housing Needs Assessment Allocation Plan which identified 8,832 dwelling unit deficit within the Unincorporated areas of the County, thus complying with the goals of the County’s Housing Element.

Based on the preceding information, the PRDEIR No. 3 concludes that implementation of the Project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, zone classification, or the County’s Development Code) adopted for the purpose of avoiding or mitigating an environmental effect. No significant adverse impacts are anticipated under Land Use and Planning and no mitigation is required.

The PRDEIR No. 3 was made available for public review between February 1, 2024, and March 18, 2024. Comments have been received and responses provided in the Responses to Comments that are attached as part of the Final EIR No. 3. There were 10 form comment letters that conveyed concern for the local bald eagle pair, ashy-gray Indian paintbrush, and

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pebble plain habitat as a result of Project implementation. Further, most of the comments expressed concerns about potential environmental impacts that are outside the scope of the PRDEIR No. 3, such as the Bald Eagle and development within the natural environment. Since these topics were previously addressed and not found deficient by the Court, no detailed responses were provided except to reference previously prepared documentation.

There were a number of comments specific to the three topics discussed in the PRDEIR No. 3, including the issue of ashy-gray Indian paintbrush and pebble plain habitat raised in the 10 form letters. Regarding the concern for impacts to the ashy-gray Indian paintbrush, the County responded that the analysis presented in the PRDEIR No. 3 determined that the preservation of 88% of the onsite occurrences of this species is sufficient mitigation—when combined with the expanded mitigation efforts intended to comply with the U.S. Fish and Wildlife Service (USFWS) 5-Year Review recommendations for preserving the species, as well as preservation of additional occurrences to the greatest extent feasible—to minimize impacts to this species to a level of less than significant.

Additional public comments focused on the land use consistency analysis, asserting that the Project would not be consistent with the goals and policies of the Countywide Plan pertaining to the preservation of the natural environment. In its discretion as the Lead Agency over its Countywide Plan, the County has interpreted that the Project has been designed to be compatible with the natural environment through the establishment of conservation easements, retainment of many bald eagle perch trees, prohibition of development along the Big Bear Lake shoreline, and compliance with the Very Low-Density Residential land use designation.

The Final EIR No. 3 also notes that onsite conservation of endangered and threatened species is legally recognized mitigation for project-related impacts to such species. Regarding pebble plain habitat, the Final EIR No. 3 refers commenters to the determination made in PRDEIR No. 3, which determined that the Project site does not contain the two key indicator species—southern mountain buckwheat and Big Bear Valley sandwort—that are necessary for an area to be considered true pebble plain habitat, and as a result no impacts to pebble plain habitat would result from implementation of the Project.

Tentative Tract Map No. 16136 has remained consistent with the design originally approved by the Board. The findings for approval of the tentative map have been updated to reflect the latest environmental documentation and the adoption of the Countywide Plan, in addition to modifying the conditions of approval to reflect the County’s current development requirements and procedures.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Jason Searles, Supervising Deputy County Counsel, 387-5455) on November 19, 2024; Finance (Penelope Chang, Administrative Analyst, 387-4886) on December 2, 2024; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on December 23, 2024.

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Record of Action of the Board of Supervisors
San Bernardino County

Hearing Opened
Public Comment: None
Hearing Closed

APPROVED

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: January 14, 2025



cc: File - LUSD/General w/ attachments
JLL 01/15/2025