

**Supplemental Environmental Impact Report for the Otay
Ranch Village Two Comprehensive Section Planning Area
Plan Amendment**

**CEQA Findings of Fact and
Statement of Overriding Considerations**

Lead Agency

City of Chula Vista
276 Fourth Avenue
Chula Vista, California 91910

AUGUST 2014

CEQA Findings of Fact and Statement of Overriding Considerations

TABLE OF CONTENTS

<u>Section</u>	<u>Page No.</u>
1.0 INTRODUCTION.....	1
2.0 PROJECT DESCRIPTION	3
2.1 Discretionary Actions	4
2.2 Project Objectives	4
2.3 Background.....	5
3.0 RECORD OF PROCEEDINGS	7
4.0 FINDINGS REQUIRED UNDER CEQA.....	9
4.1 Legal Effects of Findings.....	11
5.0 MITIGATION MONITORING AND REPORTING PROGRAM	13
6.0 SUMMARY OF IMPACTS	15
7.0 FINDINGS REGARDING SIGNIFICANT DIRECT, INDIRECT, AND CUMULATIVE EFFECTS AND MITIGATION MEASURES	17
7.1 Impacts that can be Mitigated to Below a Level of Significance	17
7.1.1 Transportation, Circulation, and Access.....	17
7.1.2 Noise	20
7.1.3 Biological Resources	27
7.1.4 Geology and Soils.....	32
7.1.5 Public Services.....	34
7.1.6 Utilities.....	35
7.2 Significant and Unavoidable Impacts	37
7.2.1 Transportation, Circulation, and Access.....	37
7.2.2 Air Quality	41
8.0 FEASIBILITY FOR POTENTIAL PROJECT ALTERNATIVES	45
8.1 Reduced Density Alternative	48
8.2 No Project Alternative	49
8.3 Environmentally Superior Alternative.....	50
9.0 STATEMENT OF OVERRIDING CONSIDERATIONS.....	51
9.1 Project Benefits.....	52
9.1.1 Implementation of the Otay Ranch General Development Plan Goals, Objectives and Principles.....	52
9.1.2 Extraordinary Benefits	55
10.0 CONCLUSION	57

TABLE

1	Comparison of Proposed Village Two Development	3
---	--	---

CEQA Findings of Fact and Statement of Overriding Considerations

INTENTIONALLY LEFT BLANK

CEQA Findings of Fact and Statement of Overriding Considerations

1.0 INTRODUCTION

The Final Supplemental Environmental Impact Report (EIR or SEIR) prepared for the Otay Ranch Village Two Comprehensive Sectional Planning Area (SPA) Plan Amendment (proposed project) addresses the potential environmental effects associated with implementation of the project. In addition, the Final EIR evaluates two alternatives to the project. These alternatives include the following: (1) Reduced Project Alternative and (2) No Project Alternative.

The Final EIR represents a Supplemental EIR, in accordance with California Environmental Quality Act (CEQA) Section 21166, and tiers from the certified the 2006 Second Tier EIR (EIR 02-02/ SCH #2003091012) for the Otay Ranch Villages Two, Three and a Portion of Village Four SPA Plan as amended and analyzed in the Addendum to the SPA Plan EIR and Otay Ranch Village Two SPA Plan Amendment Mitigated Negative Declaration (collectively referred to as the 2006 EIR).

These findings have been prepared in accordance with requirements of CEQA (Pub. Resources Code Section 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs. Title 14, Section 15000 et seq.).

CEQA Findings of Fact and Statement of Overriding Considerations

INTENTIONALLY LEFT BLANK

CEQA Findings of Fact and Statement of Overriding Considerations

2.0 PROJECT DESCRIPTION

Baldwin & Sons has planned the proposed project to create a complete village; one that is responsive to homebuyer preferences and is viable in light of current economic conditions, village ownership, infrastructure status, and government policy objectives/requirements. The plan features increased residential densities, diversity of residential product types, and resident amenities such as park and CPF uses and an additional neighborhood elementary school. The proposed project will provide opportunities for increased viability of commercial uses, transit ridership, village “walkability”, and decreased automobile dependence.

The proposed project would add 1,562 dwelling units in a variety of residential types for a total of 4,545 units in Village Two (3,435 du under Baldwin & Sons ownership). The proposed project would increase the allocated single family dwelling units by up to 311 and introduce 1,251 multi-family dwelling units. In addition, up to 130,000 square feet of commercial uses would be located on the MU-2, MU-3 and C-1 parcels combined. In order to account for the increase in residential uses, the proposed project will also include an additional 9.5 acres for a new elementary school, 10.8 acres of parkland (provided beyond the required parkland acreage), and 7.8 acres of CPF. The project would also result in the relocation of the City of San Diego waterline from its current alignment through Village Two to a proposed alignment along La Media Road and Olympic Parkway.

Table 1 shows a comparison of the development of Village Two as proposed under the current SPA Plan and the proposed project, which was analyzed in the 2006 EIR.

**Table 1
Comparison of Proposed Village Two Development**

Land Use	Current SPA Plan	Proposed Project	Net Change
Single-Family (B&S) (du)	451	762	311*
Multi-Family (B&S) (du)	1,422	2,673	1,251*
Other Residential** (du)	1,110	1,110	0
Total Residential (du)	2,983	4,545	1,562
Industrial (ac)	60.7	62.4	1.7
Mixed Use and Commercial (ac)	21.0	22.5	1.5
CPF (ac)	6.3	14.1	7.8
Park (ac)	58.7	69.5	10.8
School (ac)	10.3	19.8	9.5
Open Space (ac)	200.2	200.2	0.0
Future Development (ac)	33.1	0.0	-33.1

* A net change of 311 single-family residential units and 1,251 multi-family residential units is analyzed in this EIR, consistent with the project’s Traffic Impact Analysis (Chen Ryan 2013). These unit assumptions are considered conservative in terms of vehicle trip generation because single-family units generate a greater number of trips than multi-family units; therefore, these numbers are used for environmental impact analysis purposes. However, the proposed project would result in a net decrease of 70 single-family residential units, and a net increase of 1,632 multi-family units. As a result, impacts that result from traffic generation are overestimated in the EIR.

** Other Residential” is not a part of the proposed project, data is presented for information/analysis purposes.
B&S = Baldwin and Sons; du = dwelling units; ac = acres

CEQA Findings of Fact and Statement of Overriding Considerations

2.1 Discretionary Actions

The discretionary actions to be taken by the Chula Vista City Council include the following:

- Certification of a Final EIR and adoption of a Mitigation Monitoring and Reporting Program pursuant to the California Environmental Quality Act (CEQA).
- Approval of the Chula Vista General Plan Amendments
- Approval of the Otay Ranch General Development Plan Amendments
- Approval of SPA Plan Amendments for Villages 2, 3 and a Portion of 4
- Approval of the Otay Ranch Core Master Precise Plan Amendments
- Approval of Tentative Maps for Village Two
- Approval to relocate the City of San Diego waterline through Village Two from existing alignment into future alignment of La Media Road and Olympic Parkway

Future development proposed in accordance with the proposed project would require discretionary approvals. Such future discretionary actions are anticipated to include (but are not be limited to) the following: Design Review Permits, Conditional Use Permits, and Subarea Master Plans. While future discretionary actions will require future environmental review, once certified, this EIR can be relied upon for relevant environment analysis, subject to the laws governing such reliance. The City Council will determine whether the Final EIR is complete and in compliance with CEQA and the CEQA Guidelines as part of the certification process.

2.2 Project Objectives

As specified in the Final EIR, the primary objectives of the proposed project are as follows:

- **Increase density in and around the Core.** Density would be increased in and around Village Two to further the vision of the Otay Ranch GDP and the 2006 Village of Montecito SPA.
- **Increase housing choices and align with the housing market.** The proposed project would bring Village Two planning in-line with today's marketplace and homebuyer preference. This would provide Chula Vista residents with additional housing choices/opportunities. Aligning Village planning and today's housing market also facilitates construction and home sales.
- **Enhance the viability of transit.** Increasing the number of dwelling units (and population) in Village Two would provide additional ridership for the regional Bus Rapid Transit and local bus systems. This would increase ridership/viability of the transit system and reduce automobile dependence, emissions, and traffic.

CEQA Findings of Fact and Statement of Overriding Considerations

- **Enhance the viability of commercial and industrial uses.** Increasing the number of dwelling units (and population) in Village Two would strengthen the market for the commercial uses in the village. This would enhance the mixed use character of the Village and support the walkable, main street character of the village core. Supporting the commercial and industrial uses also would help to promote a balance between jobs and housing.
- **Mixing uses to encourage walking and biking.** With viable commercial uses, Village Two residents would be able to meet daily needs such as groceries, dry cleaning and entertainment within the village. By providing these uses, as well as schools and parks, close to resident's homes, the opportunity for walking and biking would be provided rather than automobile use. This would promote a healthy lifestyle, encourage local businesses, and reduce automobile dependence, emissions, and traffic.
- **Walking to schools.** Providing two elementary schools within Village Two puts residents and students closer to those schools which would allow implementation of programs such as 'walking school buses' where students walk to school in groups as opposed to getting rides or busing. This would promote a healthy lifestyle for students while reducing automobile dependence, emissions, and traffic.
- **Water pipeline relocation.** As part of the proposed project, the water pipeline owned by the City of San Diego which currently bisects Village Two would be relocated to La Media Road. This would allow cohesive development and reduce some of the development constraints that exist today.
- **Additional housing within the same development footprint.** Increasing density in select locations would create additional housing within the same village footprint. This would allow for new home creation in today's marketplace, increase affordability for homebuyers, increase viability of commercial uses, and decrease per capita costs of infrastructure and municipal services.

2.3 Background

Otay Ranch is a partially developed master-planned community that proposes a broad range of residential, commercial, retail, and industrial development interwoven with civic and community uses, such as libraries, parks, and schools. The community is 23,000 acres in size, and includes an open space preserve system consisting of approximately 11,375 acres. Village Two is one of the designated fourteen villages within the Otay Ranch General Development Plan (GDP) area. The GDP was most recently amended in 2013. The GDP establishes land plans, design guidelines, objectives, policies, and implementation measures that apply to all portions of Otay Ranch while supporting a balance of housing, shops, workplaces, schools, parks, civic facilities, and open spaces. The majority of development is intended to be clustered in villages, with

CEQA Findings of Fact and Statement of Overriding Considerations

conveniently located features and well-defined edges such as the Chula Vista greenbelt, open spaces, and wildlife corridors.

The proposed project is a comprehensive amendment to the existing SPA Plan. The SPA Plan is a document that refines and implements the land use plans, goals, and objectives of the Otay Ranch GDP for the development of Village Two. Under the implementation program for the Otay Ranch GDP, review and City Council approval of SPA plans is required before final development entitlements can be considered.

CEQA Findings of Fact and Statement of Overriding Considerations

3.0 RECORD OF PROCEEDINGS

For purposes of CEQA and the findings set forth below, the administrative record of the City Council decision on the environmental analysis of this project shall consist of the following:

- The Notice of Preparation and all other public notices issued by the City in conjunction with the project;
- The Draft and Final EIR for the project (SEIR #12-01), including appendices and technical reports;
- All comments submitted by agencies or members of the public during the public comment period on the Draft EIR
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and the City's actions on the project;
- All documents, comments, and correspondence submitted by members of the public and public agencies in connection with this project, in addition to comments on the EIR for the project;
- All documents submitted to the City by other public agencies or members of the public in connection with the EIR, up through the close of the public hearing;
- Minutes and verbatim transcripts of the scoping meeting, other public meetings, and public hearings held by the City;
- All findings and resolutions adopted by City decision makers in connection with this project, and all documents cited or referred to therein; and
- Matters of common knowledge to the City which the members of the City Council considered regarding this project, including federal, state, and local laws and regulations.

The City Council has relied on all of the documents listed above in reaching its decision on the project, even if every document was not formally presented to the City Council or City staff as part of the City files generated in connection with the project.

CEQA Findings of Fact and Statement of Overriding Considerations

INTENTIONALLY LEFT BLANK

CEQA Findings of Fact and Statement of Overriding Considerations

4.0 FINDINGS REQUIRED UNDER CEQA

Public Resources Code Section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would *substantially lessen* the significant environmental effects of such projects.” (emphasis added.) The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will *avoid* or *substantially lessen* such significant effects” (emphasis added). Section 21002 goes on to state that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects.”

The mandate and principles announced in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required (see Pub. Resources Code Section 21081, Subd. (a); CEQA Guidelines Section 15091, Subd. (a)). For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The first such finding is that “[c]hanges or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR” (CEQA Guidelines Section 15091, Subd. (a)(1)). The second permissible finding is that “[s]uch changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency” (CEQA Guidelines Section 15091, Subd. (a)(2)). The third potential finding is that “[s]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR” (CEQA Guidelines Section 15091, Subd. (a)(3)). Public Resources Code Section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” CEQA Guidelines Section 15364 adds another factor: “legal” considerations (see *also Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565 [276 Cal.Rptr. 410]).

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project (see *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 [83 Cal.Rptr. 898]). “ ‘[F]easibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors” (*Ibid.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 [29 Cal.Rptr.2d 182]).

CEQA Findings of Fact and Statement of Overriding Considerations

The CEQA Guidelines do not define the difference between “avoiding” a significant environmental effect and merely “substantially lessening” such an effect. The City must therefore glean the meaning of these terms from the other contexts in which the terms are used. Public Resources Code Section 21081, on which CEQA Guidelines Section 15091 is based, uses the term “mitigate” rather than “substantially lessen.” The CEQA Guidelines therefore equate “mitigating” with “substantially lessening.” Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects” (Pub. Resources Code Section 21002).

For purposes of these findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. In contrast, the term “substantially lessen” refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less than significant level. These interpretations appear to be mandated by the holding in *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 519-527 [147 Cal.Rptr. 842], in which the Court of Appeal held that an agency had satisfied its obligation to substantially lessen or avoid significant effects by adopting numerous mitigation measures, not all of which rendered the significant impacts in question less than significant.

Although CEQA Guidelines Section 15091 requires only that approving agencies specify that a particular significant effect is “avoid[ed] or substantially lessen[ed],” these findings, for purposes of clarity, in each case will specify whether the effect in question has been reduced to a less than significant level or has simply been substantially lessened but remains significant.

Moreover, although Section 15091, read literally, does not require findings to address environmental effects that an EIR identifies as merely “potentially significant,” these findings will nevertheless fully account for all such effects identified in the Final EIR.

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modifications or alternatives are not required, however, where such changes are infeasible or where the responsibility for modifying the project lies with some other agency (CEQA Guidelines Section 15091, Subd. (a), (b)).

With respect to a project for which significant impacts are not avoided or substantially lessened either through the adoption of feasible mitigation measures or a feasible environmentally superior alternative, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the

CEQA Findings of Fact and Statement of Overriding Considerations

specific reasons why the agency found that the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects” (CEQA Guidelines Sections 15093 and 15043, Subd. (b); see also Pub. Resources Code Section 21081, Subd. (b)). The California Supreme Court has stated that, “[t]he wisdom of approving...any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced” (*Goleta, supra*, 52 Cal.3d 553, 576).

4.1 Legal Effects of Findings

To the extent that these findings conclude that proposed mitigation measures outlined in the Final EIR are feasible and have not been modified, superseded, or withdrawn, the City hereby binds itself and any other responsible parties, including the applicant and its successors in interest (hereinafter referred to as “project applicant”), to implement those measures. These findings, in other words, are not merely informational or hortatory, but constitute a binding set of obligations that will come into effect when the City adopts the resolution(s) approving the project.

The adopted mitigation measures are express conditions of approval. Other requirements are referenced in the Mitigation Monitoring Reporting Program (MMRP) adopted concurrently with these findings and will be effectuated both through the process of implementing the Village Two Comprehensive SPA Plan Amendment and through the process of constructing and implementing the project.

CEQA Findings of Fact and Statement of Overriding Considerations

INTENTIONALLY LEFT BLANK

CEQA Findings of Fact and Statement of Overriding Considerations

5.0 MITIGATION MONITORING AND REPORTING PROGRAM

As required by Public Resources Code Section 21081.6, Subd. (a)(1), the City, in adopting these findings, also concurrently adopts a MMRP. The program is designed to ensure that during project implementation, the applicant and any other responsible parties comply with the feasible mitigation measures identified below. The program is described in the document entitled *Otay Ranch Village Two Comprehensive Sectional Planning Area Plan Amendment Mitigation Monitoring Reporting Program*. The City will use the MMRP to track compliance with project mitigation measures. The MMRP will be available for the public to review by request during the mitigation compliance period, which is on-going following project approval through buildout of the project.

The monitoring program will serve the dual purpose of verifying completion of the mitigation measures for the project and generating information on the effectiveness of the mitigation measures to guide future decisions. The program includes monitoring team qualifications, specific monitoring activities, a reporting system, and criteria for evaluating the success of the mitigation measures.

As the Final EIR tiers from the 2006 EIR, all applicable mitigation measures identified in the 2006 EIR are also included in the MMRP. The applicability of 2006 EIR mitigation measures is discussed throughout Chapter 5 of the Final EIR.

CEQA Findings of Fact and Statement of Overriding Considerations

INTENTIONALLY LEFT BLANK

CEQA Findings of Fact and Statement of Overriding Considerations

6.0 SUMMARY OF IMPACTS

Chapter 5 of the Final EIR presents the Environmental Impact Analysis of the proposed project. Based on the analysis contained in Chapter 5 of the Final EIR, the Final EIR concludes that the proposed Village Two Comprehensive SPA Plan Amendment will have no new significant impacts and require no new mitigation beyond what has been previously analyzed, approved, and mitigated for under the 2006 EIR with respect to the following issues:

- Land Use
- Water Quality and Hydrology
- Public Services: Fire Protection, Police Protection, Schools, Libraries
- Utilities: Water, Recycled Water, Solid Waste, Energy
- Climate Change
- Housing and Population

Chapter 9 of the Final EIR presents the Effects Found Not To Be Significant of the proposed project. Based on the discussion contained in Chapter 9 of the Final EIR, the Final EIR concludes that the proposed Village Two Comprehensive SPA Plan Amendment will not result in any potential environmental effects beyond what has been previously analyzed, approved, and mitigated for under the 2006 EIR with respect to the following issues:

- Aesthetics
- Agricultural and Forestry Resources
- Cultural Resources
- Hazards and Risk of Upset
- Mineral Resources

Based on the analysis contained in Chapter 5 of the Final EIR, the Final EIR concludes potentially significant impacts of the proposed Village Two Comprehensive SPA Plan Amendment will be mitigated, with mitigation beyond what has been previously analyzed, approved, and mitigated for under the 2006 EIR, to a level below significance with respect to the following issues:

- Transportation, Circulation, and Access
- Noise
- Biological Resources

CEQA Findings of Fact and Statement of Overriding Considerations

- Geology and Soils
- Public Services: Parks
- Utilities: Sewer

Based on the analysis contained in Chapter 5 of the Final EIR, the Final EIR concludes that no feasible mitigation measures, including those identified within the 2006 EIR, are available to reduce impacts to a level below significance for the following issues:

- Transportation, Circulation, and Access: Interstate 805, Olympic Parkway, and Orange Avenue
- Air Quality

CEQA Findings of Fact and Statement of Overriding Considerations

7.0 FINDINGS REGARDING SIGNIFICANT DIRECT, INDIRECT, AND CUMULATIVE EFFECTS AND MITIGATION MEASURES

7.1 Impacts that can be Mitigated to Below a Level of Significance

7.1.1 Transportation, Circulation, and Access

Level of Service

Thresholds of Significance

Impacts to traffic, circulation, and access would be significant if the proposed project would:

- Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersection).
- Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.

Impact

The proposed project would have direct and cumulative impacts to the surrounding circulation system, including roadway segments, intersection, and freeway segments under the Year 2020, Year 2025, and Year 2030 conditions.

Explanation

A portion of the direct and cumulative impacts to level of service of roadway segments and intersections would be mitigable. These impacts are as follows:

Year 2025 Conditions

Intersections

Project Specific

- Heritage Road/Olympic Parkway

Cumulative

- La Media Road/Olympic Parkway

CEQA Findings of Fact and Statement of Overriding Considerations

- La Media Road (SB)/Main Street (WB)
- La Media Road (NB)/Main Street (WB)
- La Media Road (SB)/Main Street (EB)
- La Media Road (NB)/Main Street (EB)
- Magdalena Avenue/Main Street

Roadway Segments

Project Specific

- Heritage Road, between East Palomar Street and Olympic Parkway

Cumulative

- Olympic Parkway, between Heritage Road and Santa Venetia Street

Mitigation

MM-TCA-3 *Heritage Road/Olympic Parkway (CV)* – Prior to occupancy of the 1,311th EDU of the Village Two Comprehensive SPA, the project applicant or its designee shall cause, through the payment of Transportation Development Impact Fees (TDIF), the construction of Main Street, between Heritage Road and La Media Road, as a 6-lane Prime Arterial.

MM-TCA-5 *La Media Road/Olympic Parkway (CV)* – Prior to the issuance of the final map that contains the 1,311th EDU of the Village Two Comprehensive SPA, the project applicant or its designee shall cause, through the payment of Transportation Development Impact Fees (TDIF), the construction of Main Street, between Heritage Road and La Media Road, as a 6-lane Prime Arterial.

MM-TCA-6 *La Media Road (SB)/Main Street (WB)* (all-way stop controlled) (CV) – Prior to issuance of the final map that contains the 1,311th EDU of the Village Two Comprehensive SPA, the project applicant or its designee shall pay its fair-share towards the cost of signaling the intersection of La Media Road (SB)/Main Street (WB).

MM-TCA-7 *La Media Road (NB)/Main Street (WB)* (all-way stop controlled) (CV) – Prior to issuance of the final map that contains the 1,311th EDU of the Village Two Comprehensive SPA, the project applicant or its designee shall pay its fair-

CEQA Findings of Fact and Statement of Overriding Considerations

share towards the cost of signaling the intersection of La Media Road (NB)/Main Street (WB).

MM-TCA-8 *La Media Road (SB)/Main Street (EB)* (all-way stop controlled) (CV) – Prior to issuance of the final map that contains the 1,311th EDU of the Village Two Comprehensive SPA, the project applicant or its designee shall pay its fair-share towards the cost of signaling the intersection of La Media Road (SB)/Main Street (EB).

MM-TCA-9 *La Media Road (NB)/Main Street (EB)* (all-way stop controlled) (CV) – Prior to issuance of the final map that contains the 1,311th EDU of the Village Two Comprehensive SPA, the project applicant or its designee shall pay its fair-share towards the cost of signaling the intersection of La Media Road (NB)/Main Street (EB).

MM-TCA-10 *Magdalena Avenue/Main Street* (one-way stop controlled) (CV) – Prior to issuance of the final map that contains the 1,311th EDU of the Village Two Comprehensive SPA, the project applicant or its designee shall pay its fair-share towards the cost of signaling the intersection of Magdalena Avenue/Main Street.

MM-TCA-11 *Heritage Road, between East Palomar Street and Olympic Parkway* (CV) – Prior to the issuance of the final map that contains the 1,311th EDU of the Village Two Comprehensive SPA, the project applicant or its designee shall pay Transportation Development Impact Fees (TDIF) for the construction of Main Street, between Heritage Road and La Media Road, as a 6-lane Prime Arterial, including the construction of Main Street bridge.

MM-TCA-13 *Olympic Parkway, between Heritage Road and Santa Venetia Street* (CV) – Prior to the issuance of the final map that contains the 1,311th EDU of the Village Two Comprehensive SPA, the project applicant or its designee shall pay Transportation Development Impact Fees (TDIF) for the construction of Main Street, between Heritage Road and La Media Road, as a 6-lane Prime Arterial, including the construction of Main Street Bridge.

Finding

Pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level of insignificance. Specifically, mitigation measures MM-TCA-3, MM-TCA-5 through MM-TCA-11, and MM-TCA-13 are feasible and shall be required as a condition of approval and made binding on the applicant. Implementation of these

CEQA Findings of Fact and Statement of Overriding Considerations

mitigation measures will reduce significant direct impacts related to these transportation impacts to a less than significant level.

Reference

FEIR Section 5.2

7.1.2 Noise

Excessive Noise Levels

Thresholds of Significance

Impacts to noise would be significant if the proposed project would:

- Expose persons to or generation of noise levels in excess of standards established in the Chula Vista General Plan or noise ordinance, or applicable standards of other agencies.

Impact

Implementation of the proposed project would have the potential to result in exposures to noise levels in excess of the City's noise standards from traffic noise; on-site land uses including schools, parks and recreation, industrial, and commercial; and off-site schools.

Explanation

Olympic Parkway provides access from Interstate 805 and SR-125 to Village Two, and is aligned along the northern boundary of the development portion of the Village. Olympic Parkway under the Year 2025 Plus Project scenario would carry up to 52,000 ADT (average daily traffic) adjacent to Village Two, and up to 39,300 ADT adjacent to Village Two in the Year 2030 Plus Project scenario. Residences are planned at the northern boundary of the development area, which are adjacent to Olympic Parkway. The first row of homes closest to Olympic Parkway could be exposed to noise levels ranging to 67 dB CNEL from future traffic (Years 2025 and 2030 with Project). This noise level associated with future Olympic Parkway traffic volumes would exceed the exterior noise criterion of 65 dB CNEL. Interior noise levels would potentially exceed 45 dBA CNEL at the proposed residences adjacent to Olympic Parkway, Heritage Road, and La Media Road resulting from future traffic.

On-site commercial and industrial land uses would have the potential to expose adjacent residential land uses to noise levels that exceed the City's noise thresholds and would result in a potentially significant impact. Noise levels associated with the commercial activities would vary depending on the number of delivery trucks, loading dock areas and customer traffic generated by the

CEQA Findings of Fact and Statement of Overriding Considerations

commercial site, as well as the location of parking areas. Similarly, HVAC equipment noise would vary depending on the number and types of equipment selected. Industrial land uses possess many of the same noise generating characteristics as commercial uses (loading/unloading docks and parking lots; HVAC equipment; maintenance activities; and additional truck traffic along adjacent roads), but often include manufacturing processes and materials handling operations with additional noise generation potential. These industrial activities would have the potential to result in average noise levels above the City's noise thresholds.

Six park sites are planned for Village Two. Visitors to the parks would participate in active and passive recreational activities. Based upon the most recent design drawings, three of the proposed parks would be separated from residences or other noise-sensitive land uses by a local roadway of approximately 60 feet or more. However, three of the parks (P-1, P-3, P-6B) would be located adjacent to residences. Thus, noise levels from the proposed parks could exceed 65 dB during daytime park operating hours. According to the Chula Vista Municipal Code Section 2.66.270, some parks in the city are permitted to stay open as late as 10:30 p.m.; the noise threshold between 10:00 p.m. and 10:30 p.m. is lower (45 dB) and therefore there could be significant impacts after 10 p.m. It is likely that noise levels after 10:00 p.m. would generally be lower than those occurring during peak park activity hours; however, noise levels could exceed the 45 dB threshold.

On-site traffic could expose on-site schools to exterior noise levels in excess of the City's noise thresholds and would result in a potentially significant impact. Two elementary schools are designated for Village Two. Proposed school site S-1 is located approximately at the center of the development area, bounded on all four sides by local roads (including Santa Victoria Road to the south). Traffic volume projections are not available for the roads bordering these school sites; therefore, future noise contours from roadway operations are not available. However, it is possible that future traffic volumes carried on one or more of these bordering roads could have an associated 65 dB CNEL contour that extends to the school sites. Therefore, traffic-related noise exposure levels within exterior use areas for the schools (i.e., playground, sports fields, athletic courts, etc.) could exceed the established noise standards

Otay Ranch High School is an existing source of operational noise, and is located north of Village Two. Typically, the main sources of noise from high schools to the surrounding area are organized sports activities at the football stadium that involve amplified speakers and crowd noise. The football field is located on the southwest side of the campus; the nearest loudspeaker (one of six) is located approximately 140 feet north of the proposed residential uses in Neighborhood R-8C of Village Two. Football games currently generate a noise level of approximately 63 dB at the proposed multi-family residential used in Neighborhood R-8C when speakers are in use, and 50 dB when crowd noise is the primary noise source. Therefore,

CEQA Findings of Fact and Statement of Overriding Considerations

recreational activities at Otay Ranch High School would exceed the City's noise standard of 55 dBA at the proposed project site.

Mitigation

MM-NOI-1 Prior to the approval of grading permits for residential development adjacent to Olympic Parkway at Neighborhood R-12A, the project applicant or its designee shall be responsible for the preparation of a subsequent acoustical study based on the final map design and implementation of any measures recommended as a result of the analysis to the satisfaction of the Development Services Director (or their designee). The study shall include, but not be limited to the following:

1. Location, height, and building material of the noise barriers in accordance with Figure 11 (Approximate Sound Wall Locations), contained in the Noise Assessment Technical Report for the Otay Ranch Village Two Comprehensive SPA Plan Amendment (Dudek 2014). The sound wall noise barriers shall be a minimum of six feet in height, must have a surface density of at least four pounds per square foot, and be free of openings and cracks. The wall may be constructed of acrylic glass, masonry material, earthen berm, or a combination of these materials. Heights are provided relative to final pad elevation. Required heights may be achieved through construction of walls, berms or a wall/berm combination;
2. A detailed analysis that demonstrates that barriers and/or setbacks have been incorporated into the project design, such that noise exposure to residential receivers placed in all useable outdoor areas, including multi-family residential patios and balconies, are at or below 65 dBA CNEL; and
3. Should pad grade elevations, lot configuration/site design, and/or traffic assumptions change during the processing of any final maps, the barriers shall be refined to reflect those modifications.

MM-NOI-2 Site-Specific Acoustic Analysis – Single-Family Residences. Concurrent with design review and prior to the approval of building permits for single-family residential development in Neighborhoods R-8A and R-8C (only units fronting Olympic Parkway), where the exterior noise level exceeds 60 dBA CNEL, the applicant shall prepare an acoustical analysis ensuring that interior noise levels due to exterior noise sources will be at or below 45 dBA CNEL. Design-level architectural plans shall be used to the exterior-to-interior transmissions loss for habitable rooms. Contingent upon the results of the interior acoustical analysis, units may need to include an air conditioning system to provide a habitable interior environment with the windows closed while meeting the interior standard

CEQA Findings of Fact and Statement of Overriding Considerations

of 45 dBA CNEL. The acoustical analysis shall be prepared to the satisfaction of the Director of Development Services (or their designee), and all required noise control measures identified in the acoustical analysis shall be made conditions of building permit issuance.

MM-NOI-3 Site-Specific Acoustic Analysis – Multi-Family Residences. Concurrent with design review and prior to the approval of building permits for multi-family areas where first and/or second floor exterior noise levels exceed 60 dBA CNEL and/or where required outdoor area (patios or balconies) noise levels exceed 65 dBA CNEL (all units fronting Heritage Road, Olympic Parkway, or La Media Road in Neighborhoods R-5A, R-6, R-12A, R-12B, and MU-3), the applicant shall prepare an acoustical analysis demonstrating compliance with California’s Title 24 Interior Noise Standards (i.e., 45 dBA CNEL) and the City’s Exterior Land Use/Noise Compatibility Guidelines for outdoor use areas (i.e., 65 dBA CNEL). Design-level architectural plans will be available during design review and will permit the accurate calculation of transmissions loss for habitable rooms. For these areas, it may be necessary for the windows to be able to remain closed to ensure that interior noise levels meet the interior standard of 45 dBA CNEL. Consequently, the design for buildings in these areas may need to include a ventilation or air conditioning system to provide a habitable interior environment with the windows closed based on the result on the interior acoustical analysis.

MM-NOI-4 As part of the site plan/development plan review process conducted in connection with future commercial, mixed residential, and commercial land use development applications submitted to the City, the applicant or its designee shall prepare site-specific acoustical analyses to the satisfaction of the Director of Development Services (or their designee) to ensure noise levels generated by the proposed use will comply with the City’s General Plan noise standards (maximum exterior noise levels of 65 CNEL). The applicant for each development proposal shall be responsible to fund the required acoustical analysis, which shall be prepared to the satisfaction of the Director of Development Services (or its designee). All required noise control measures identified in the acoustical analysis shall be made conditions of development approval.

MM-NOI-5 As part of the site plan/development plan review process conducted in connection with future industrial development applications submitted to the City, the applicant or its designee shall prepare a site-specific acoustical analysis to ensure noise levels generated by the proposed use will comply with the City’s General Plan noise standards for residential property boundaries proximate to the industrial zone (maximum exterior noise levels of 65 CNEL).

CEQA Findings of Fact and Statement of Overriding Considerations

The applicant for each development proposal shall be responsible to fund the required acoustical analysis, which shall be prepared to the satisfaction of the Director of Development Services (or their designee). All required noise control measures identified in the acoustical analysis shall be made conditions of development approval.

MM-NOI-6 Site Specific Acoustic Analysis - Neighborhood Parks. Concurrent with the preparation of site-specific plan(s) and prior to the approval of a precise grading plan for the neighborhood parks within Village Two, the applicant shall prepare, or in the case the City being the lead on the preparation of the site-specific plan, the applicant shall fund the preparation of an acoustical analysis that shall be conducted to ensure that noise levels generated from any active uses at the neighborhood parks, such as sports fields and playgrounds, do not exceed the exterior noise limits of the receiving land use category as identified in the Chula Vista Noise Ordinance. The applicant shall be responsible for the implementation of any measures recommended as a result of the analysis. Measures to reduce noise levels may include, but would not be limited to or siting of structures or buildings to provide setbacks between active areas and adjacent noise sensitive uses. Final noise attenuation design shall be determined by a site-specific acoustic analysis conducted by a qualified acoustical engineer, to the satisfaction of the Development Services Director, or their designee.

MM-NOI-7 Concurrent with design review and prior to the approval of building permits for the elementary schools (S-1 and S-2), the applicant shall be responsible for the preparation of an acoustical analysis ensuring that noise levels at exterior use areas (i.e., playground, sports fields, athletic courts, etc.) will be below 65 dBA CNEL and implementation of any measures recommended as a result of the analysis. Measures to reduce noise levels may include, but would not be limited to, setback of structures from the roadway, installing acoustic barriers, or orienting outdoor activity areas away from roadways so that surrounding structures provide noise attenuation. The acoustical analysis shall also address control measures for outdoor school activity noise and its effect upon immediately adjacent land uses, to ensure school activity related noise levels do not exceed 65 dB CNEL at exterior use areas of adjacent residential properties. The analysis shall also demonstrate that barriers or setbacks have been incorporated into the project design, such that, when considered with proposed construction specifications, ground level and upper story interior noise levels shall not exceed 45 dBA CNEL. Roof-ceiling assemblies making up the building envelope shall have a sound transmission class value of at least 50, and exterior windows shall have a minimum sound transmission class of 30 in

CEQA Findings of Fact and Statement of Overriding Considerations

compliance with the California Green Building standards code. The acoustical analysis shall be prepared to the satisfaction of the school district, and all required noise control measures identified in the acoustical analysis shall be made conditions of development approval.

MM-NOI-8 Prior to the approval of grading permits for residential development adjacent to Otay Ranch High School at Neighborhood R-8C, the project applicant or its designee shall be responsible for the preparation of a subsequent acoustical study based on the final map design and implementation of any measures recommended as a result of the analysis to the satisfaction of the Development Services Director (or their designee). The study shall include, but not be limited to the following:

1. Location, height, and building material of a noise barrier in accordance with Figure 11 (Approximate Sound Wall Locations, Neighborhood R-8C), contained in the Noise Assessment Technical Report for the Otay Ranch Village Two Comprehensive SPA Plan Amendment (Dudek 2014). The sound wall noise barriers shall be a minimum of six feet in height, must have a surface density of at least four pounds per square foot, and be free of openings and cracks. The wall may be constructed of acrylic glass, masonry material, earthen berm, or a combination of these materials. Heights are provided relative to final pad elevation. Required heights may be achieved through construction of walls, berms or a wall/berm combination;
2. A detailed analysis that demonstrates that barriers and/or setbacks have been incorporated into the project design, such that noise exposure to residential receivers placed in all useable outdoor areas, including multi-family residential patios and balconies, are at or below 65 dBA CNEL; and
3. Should pad grade elevations, lot configuration/site design, and/or traffic assumptions change during the processing of any final maps, the barriers shall be refined to reflect those modifications.

Finding

Pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level of insignificance. Specifically, mitigation measures MM-NOI-1 through MM-NOI-8 are feasible and shall be required as a condition of approval and made binding on the project applicant. Implementation of these mitigation measures will reduce significant direct impacts related to excessive noise levels to a less than significant level.

CEQA Findings of Fact and Statement of Overriding Considerations

Reference

FEIR Section 5.4

Temporary Increases in Ambient Noise Levels

Thresholds of Significance

Impacts to noise would be significant if the proposed project would:

- Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

Impact

Construction of the proposed project would potentially expose on-site residences and Otay Ranch High School to noise levels in excess of the City's noise standards.

Explanation

With respect to the potential for construction of the project or phases to have nuisance noise impacts upon completed and occupied components within Village Two, a worst-case scenario would be a completed "block" or "neighborhood" separated only by an internal public roadway from another block that is under construction. When the construction equipment is operating, the existing residences could be disturbed by the activities. The generation of noise from construction activities during noise sensitive time periods upon completed and occupied components of the project would be a significant impact.

Construction noise could affect existing off-site noise-sensitive land uses. The nearest off-site noise-sensitive land uses relative to the project site is Otay Ranch High School, located adjacent to the project site boundary. As such, project generated construction noise would pose a potentially significant impact on noise-sensitive receptors if construction hour limitations are not imposed.

Mitigation

MM-NOI-9 All project-related site preparation and construction activities shall be limited to the hours between 7:00 am–6:00 pm, Monday –Friday, and between 8:00 am–6:00 pm Saturday. No construction activities shall occur on Federal holidays (e.g., Thanksgiving, July 4th, Labor Day, etc.). All maintenance of construction equipment shall be limited to the same hours. This language shall be added to the Project grading plans. Non-noise-generating construction activities such as interior painting are not subject to these restrictions.

CEQA Findings of Fact and Statement of Overriding Considerations

Finding

Pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level of insignificance. Specifically, mitigation measure MM-NOI-9 is feasible and shall be required as a condition of approval and made binding on the applicant. Implementation of this mitigation measure will reduce significant direct impacts related to temporary increases in ambient noise level to a less than significant level.

Reference

FEIR Section 5.4

7.1.3 Biological Resources

Candidate, Sensitive, or Special Status Species and Migratory Birds

Thresholds of Significance

Impacts to biological resources would be significant if the proposed project would:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Wildlife Service.
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

Impact

Construction of the proposed project would potentially result in significant direct and indirect impacts to the least Bell's vireo, burrowing owl, and migratory birds.

Explanation

There is a small patch of southern willow scrub in conjunction with patches of mulefat scrub. There are a number of mid-sized willow trees within the southern willow scrub that potentially provide nesting opportunities for riparian bird species. With the addition of the adjacent mulefat scrub, there are also foraging opportunities. There is a moderate potential for the least Bell's vireo (*Vireo bellii pusillus*) to occur within the R-8C area during its breeding season (March 15

CEQA Findings of Fact and Statement of Overriding Considerations

to September 15). The least Bell's vireo is a federal and state-listed endangered species and an MSCP covered species. Impacts to the least Bell's vireo are potentially significant.

In addition to the potential presence of riparian wildlife species, there is some non-native grassland present that may be used by grassland dwelling species including the burrowing owl (*Athene cunicularia*). The burrowing owl is a MSCP Covered Species. Due to the decline of the population of the burrowing owl within the region, impacts are potentially significant.

Impacts could occur to migratory birds, protected under the Migratory Bird Treaty Act (MBTA), utilizing nesting habitat identified within the R-8C area. The nesting and breeding season for migratory birds is January 15 to August 31. If construction should occur within that time, impacts would potentially be significant.

Mitigation

MM-BIO-3 To avoid any direct impacts to raptors and/or any migratory birds protected under the MBTA, removal of habitat that supports active nests on the proposed area of disturbance should occur outside of the breeding season for these species (January 15 to August 31). If removal of habitat on the proposed area of disturbance must occur during the breeding season, the Project Applicant shall retain a City-approved biologist to conduct a pre-construction survey to determine the presence or absence of nesting birds on the proposed area of disturbance. The pre-construction survey must be conducted within 10 calendar days prior to the start of construction, and the results must be submitted to the City for review and approval prior to initiating any construction activities. If nesting birds are detected, a letter report or mitigation plan, as deemed appropriate by the City, shall be prepared and include proposed measures to be implemented to ensure that disturbance of breeding activities are avoided. The report or mitigation plan shall be submitted to the City for review and approval and implemented to the satisfaction of the City. The City's Mitigation Monitor shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction.

MM-BIO-4 Due to the moderate potential for least Bell's vireo to be present within the drainage, no construction will occur within 300 feet of the riparian habitat within the drainage during the vireo breeding season (March 15 to September 15). If construction, including clearing, grubbing, grading, must occur during the breeding season, protocol surveys will be conducted for least Bell's vireo. The survey shall be performed to the satisfaction of the Development Services Director (or their designee) by a qualified biologist familiar with the City's MSCP Subarea Plan. The results of the pre-construction survey must be submitted in a

CEQA Findings of Fact and Statement of Overriding Considerations

report to the Development Services Director (or their designee) for review and approval prior to the issuance of any land development permits and prior to initiating any construction activities. If the least Bell's vireo is detected, a minimum 300-foot buffer delineated by orange biological fencing shall be established around the habitat to ensure that no work shall occur within the occupied habitat from March 15 through September 15 and on-site noise reduction techniques shall be implemented to ensure that construction noise levels do not exceed 60 dB(A) L_{eq-h} at the location of any occupied sensitive habitat areas. The Development Services Director (or their designee) shall have the discretion to modify the buffer width depending on-site-specific conditions. If the results of the pre-construction survey determine that the survey area is unoccupied, the work may commence at the discretion of the Development Services Director (or their designee) following the review and approval of the pre-construction report.

- MM-BIO-5** Prior to issuance of any land development permits (including clearing and grubbing or grading permits), the project Applicant shall retain a City-approved biologist to conduct focused pre-construction surveys for burrowing owls. The surveys shall be performed no earlier than 30 days prior to the commencement of any clearing, grubbing, or grading activities. If occupied burrows are detected, the City-approved biologist shall prepare a passive relocation mitigation plan subject to the review and approval by the Wildlife agencies and City including any subsequent burrowing owl relocation plans to avoid impacts from construction-related activities.

Finding

Pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level of insignificance. Specifically, mitigation measures MM-BIO-4 and MM-BIO-5 are feasible and shall be required as a condition of approval and made binding on the applicant. Implementation of these mitigation measures will reduce significant direct and indirect impacts related to sensitive species and migratory birds to a less than significant level.

Reference

FEIR Section 5.5

CEQA Findings of Fact and Statement of Overriding Considerations

Riparian Habitats, Sensitive Vegetation Communities, or Jurisdictional Wetlands

Thresholds of Significance

Impacts to biological resources would be significant if the proposed project would:

- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service.
- Have a substantial adverse effect on Federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

Impact

The proposed project would directly impact wetlands vegetation communities and jurisdictional wetlands.

Explanation

Four vegetation communities and four land cover types were identified within the R-8C area which include: non-native grassland (NNG), mulefat scrub (MFS), disturbed mulefat scrub (dMFS), freshwater marsh (FWM), southern willow scrub (SWS), open water (OW), developed land (DEV), disturbed land (DL). Results of the delineation indicate there are two types of regulated jurisdictional resources within the R-8C area including wetlands and non-wetlands waters of the United States under the joint jurisdiction of ACOE, RWQCB, and CDFW except for one area that is under the jurisdiction of CDFW only. The proposed project would directly impact up to 0.97 acres wetlands vegetation communities and jurisdictional wetlands through development of the R-8C area and would be subject to the relevant resource agency's regulations. These vegetation communities and wetlands include 0.18 acres mulefat scrub, 0.19 acres disturbed mulefat scrub, 0.14 acres freshwater marsh, 0.35 southern willow scrub, 0.05 acres of open water, and 0.01 acres of disturbed habitat swale. Impacts would be significant.

Mitigation

MM-BIO-1 A total of up to 0.91 acres of wetland and 0.06 acre of waters of the U.S./State within the Project may be impacted within the Development Area. Prior to issuance of land development permits, including clearing, grubbing, and grading permits for areas that impact jurisdictional waters, the Project Applicant shall provide evidence that all required regulatory permits, such as those required under Section 404 of the federal Clean Water Act, Section 1600 of the California Fish and Game Code, and the Porter Cologne Water Quality Act.

CEQA Findings of Fact and Statement of Overriding Considerations

- MM-BIO-2** Prior to issuance of land development permits, including clearing, grubbing, and grading permits that impact jurisdictional waters, the developer(s) shall prepare a Wetlands Mitigation and Monitoring Plan to the satisfaction of the City, ACOE, and CDFW. This plan shall include, at a minimum, an implementation plan, maintenance and monitoring program, estimated completion time, and any relevant contingency measures. Areas under the jurisdictional authority of ACOE and CDFW shall be delineated on all grading plans. Mitigation areas shall occur within the Otay River watershed or other suitable location in accordance with the Wetlands Mitigation and Monitoring Plan to the satisfaction of the City, ACOE, and CDFW. The Project Applicant shall also be required to implement the Wetlands Mitigation and Monitoring Plan subject to the oversight of the City, ACOE, and CDFW.
- MM-BIO-6** Prior to recordation of each Final Map, the Applicant shall convey land within the Otay Ranch Preserve to the Otay Ranch Preserve Owner/Manager (POM) or its designee at a ratio of 1.188 acres for each acre of development area, as defined in the RMP. Access for maintenance purposes shall also be conveyed to the satisfaction of the POM, and each tentative map shall be subject to a condition that the Applicant shall execute a maintenance agreement with the POM stating that it is the responsibility of the Applicant to maintain the conveyed parcel until the Preserve CFD has generated sufficient revenues to enable the POM to assume maintenance responsibilities. The Applicant shall maintain and manage the offered conveyance property consistent with the RMP Phase 2 until the Preserve CFD has generated sufficient revenues to enable the POM to assume maintenance and management responsibilities.
- MM-BIO-7** Prior to the POM's formal acceptance of the conveyed land in fee title, the project Applicant shall prepare, to the satisfaction of the POM, Area Specific Management Directives (ASMDs) for the associated conveyance areas. The ASMDs shall incorporate the guidelines and specific requirements of the Otay Ranch RMP plans and programs, management requirements of Table 3-5 of the MSCP Subregional Plan and information and recommendations from any relevant special studies. Guidelines and requirements from these documents shall be evaluated in relationship to the Preserve configuration and specific habitats and species found within the associated conveyance areas and incorporated into the ASMDs to the satisfaction of the POM.

CEQA Findings of Fact and Statement of Overriding Considerations

Finding

Pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level of insignificance. Specifically, mitigation measures MM-BIO-1 and MM-BIO-2 are feasible and shall be required as a condition of approval and made binding on the applicant. Implementation of these mitigation measures will reduce significant direct impacts related to jurisdictional wetlands to a less than significant level.

Reference

FEIR Section 5.5

7.1.4 Geology and Soils

Unstable Soils

Thresholds of Significance

Impacts to geology and soils would be significant if the proposed project would:

- Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.
- Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property.

Impact

The proposed project would have potentially significant impacts associated with expansive and compressible soils.

Explanation

The surficial soil within the project site consisting of topsoil, colluvium, alluvium, and the compressible portions of the landslide debris are not considered suitable for the support of the proposed project development and would be considered potentially significant. Remedial grading consisting of the removal, moisture conditioning, and compaction of these soils would be required. A majority of the on-site materials possess a “very low” to “medium” expansion potential. The expansion potential of the bentonite claystone and surficial soil ranges from “high” to “very high” expansion potential. Recommendations found in the geotechnical report are intended to reduce the potential for cracking of slabs due to expansive soils.

CEQA Findings of Fact and Statement of Overriding Considerations

While the project site currently exists with potentially hazardous expansive and compressible soils, no soil or geologic conditions would preclude the continued development, including the proposed project, within Village Two. Compliance with the City's Grading Ordinance, current seismic design specifications, current CBC standards, and other regulatory requirements, in addition to implementation of project design features and BMPs, and following recommendations of the geotechnical investigation is required.

Mitigation

MM-GEO-1 Prior to the issuance of the grading permit, the applicant(s) shall verify that the applicable recommendations of the Update Geotechnical Report: Otay Ranch Village 2 SPA Plan Amendment prepared by Geocon, Inc. on February 10, 2014, have been incorporated into the project design and construction documents to the satisfaction of the City Engineer.

Recommendations include, but are not limited to:

1. Evaluation of soil expansion potential once final grade is achieved.
2. During grading, compressible soils shall be removed and replaced with compacted fill.
3. Site drainage and moisture protection measures such as provisions for underground utilities, landscaping, and maintaining adequate site drainage to prevent soil movement.
4. Additional geotechnical report updates as development of Village Two continues in order to assess proposed grading for each neighborhood.

Finding

Pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level of insignificance. Specifically, mitigation measure MM-GEO-1 is feasible and shall be required as a condition of approval and made binding on the applicant. Implementation of this mitigation measure will reduce significant direct impacts related to compressible and expansive soils to a less than significant level.

Reference

FEIR Section 5.7

CEQA Findings of Fact and Statement of Overriding Considerations

7.1.5 Public Services

Parks

Thresholds of Significance

Impacts to parks, recreation, and open space would be significant if the proposed project would:

- Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.
- The City's EIR Scoping Letter Contents and Thresholds states that the proposed project would have a significant impact on parks and recreation services if it would:
 - Fail to meet the City's threshold standard of three acres of neighborhood and community parkland per 1,000 residents.

Impact

The proposed project would have potentially significant impacts related to parkland provision requirements.

Explanation

The proposed project would result in an increase in population above what was previously approved in the 2006 EIR, which would subsequently increase the use of existing neighborhood and regional parks. However, new development in the City is required to provide public parkland, improved to City standards and dedicated to the City. Parkland dedication requirements are specified in CVMC Section 17.10.040 of the Chula Vista Municipal Code. While the proposed project, in and of itself, would not meet the PLDO requirements, parkland obligations should be analyzed as a whole within Village Two because the proposed project revises the overall plan of Village Two. Village Two is currently obligated to provide 58.7 acres of parkland (the parkland obligation for Village Two accounts for the following obligations: Original Village Two Approval (24.2 acres), Original Village Two deficit (1.1 acres), Obligation from SPA One (31.6 acres), and the JPB 197-Unit Amendment (1.8 acres)). With the addition of the proposed project obligation, Village Two as a whole would be required to provide a total of 70.9 acres of parkland. The total proposed parkland within Village Two is 69.5 acres, which would result in a parkland deficit of 1.4 acres. Therefore, there is a potentially significant impact related to parkland provision.

Mitigation

MM-PUB-1 Prior to the approval of the first final map(s), or prior to the approval of building permit(s), the applicant shall pay the City of Chula Vista in-lieu fee for land

CEQA Findings of Fact and Statement of Overriding Considerations

dedication and/or park development improvements, or dedicate additional parkland, pursuant to City of Chula Vista Municipal Code Section 17.10.070 and in accordance with the Public Facilities Financing Plan for the SPA Plan for the final 180 dwelling units to be constructed.

Finding

Pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level of insignificance. Specifically, mitigation measure MM-PUB-1 is feasible and shall be required as a condition of approval and made binding on the applicant. Implementation of this mitigation measure will reduce significant direct impacts related to parks provision to a less than significant level.

Reference

FEIR Section 5.8

7.1.6 Utilities

Sewer

Thresholds of Significance

Impacts to sewer services would be significant if the proposed project would:

- Result in a determination by the wastewater treatment provider, which serves or may serve the project, that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.
- Require the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.

Impact

The proposed project would significantly impact both the Salt Creek and Poggi Canyon interceptors as a result of increased development.

Explanation

The proposed project is located within the Salt Creek Sewer basin. The Salt Creek Interceptor was designed, sized and constructed to serve regional development in the Otay Ranch area and is located south of the project site. Development of the proposed project

CEQA Findings of Fact and Statement of Overriding Considerations

including cumulative projects considered in the sewage flow analysis, would increase Poggi Canyon flows by 248,730 gpd, and Wolf Canyon flows by 128,315 gpd.

The availability of the Poggi Canyon Interceptor was evaluated under the cumulative project condition. Data on the Poggi Canyon Interceptor was obtained from the April 2009 Poggi Canyon Basin Gravity Sewer Development Impact Fee Update (prepared by Dexter Wilson). Two reaches already identified for future replacement were determined as being over capacity and one additional reach was determined to be slightly over capacity.

The availability in the Salt Creek Interceptor was analyzed under baseline and cumulative conditions in a November 2010 report by PBS&J. This analysis was updated by Atkins in a memorandum dated March 4, 2014 to include additional flows resulting from the proposed project. The updated analysis concludes that these additional flows do not result in capacity deficiencies in the Salt Creek Interceptor.

Pursuant to the City's municipal code, prior to issuance of each building permit, the applicant or designee shall pay the Salt Creek Development Impact Fee and Poggi Canyon Development Impact Fee at the rate in effect at the time of building permit issuance. Both fee systems already exist and will provide for the necessary additional capacity. To ensure this requirement is met, payment of each impact fee is identified as mitigation measures. Additionally, the proposed project would be required to provide evidence that sufficient sewer capacity is available prior to building permit issuance.

Mitigation

MM-UTIL-1 Salt Creek Development Impact Fee. Prior to issuance of each building permit, the applicant or designee shall pay the Salt Creek Development Impact Fee at the rate in effect at the time of building permit issuance and corresponding to the sewer basin that the building will permanently sewer to, unless stated otherwise in a development agreement that has been approved by the City Council.

MM-UTIL-2 Poggi Canyon Development Impact Fee. Prior to issuance of each building permit, the applicant or designee shall pay the Poggi Canyon Development Impact Fee at the rate in effect at the time of building permit issuance and corresponding to the sewer basin that the building will permanently sewer to, unless stated otherwise in a development agreement that has been approved by the City Council.

MM-UTIL-3 Density Transfer Technical Report. Prior to design review approval in accordance with the Intensity Transfer provision in the Village Two SPA Plan, the applicant or designee shall provide an update to the Overview of Sewer Service for Otay Ranch University Village Two (Dexter Wilson 2014b) with each

CEQA Findings of Fact and Statement of Overriding Considerations

proposed project requesting an intensity transfer. The technical study shall demonstrate to the satisfaction of the City Engineer that adequate on-site wastewater infrastructure will be available to support the transfer. The transfer of residential density shall be limited by the ability of the on-site sewerage facilities to accommodate flows. Building permits would be issued only if the City Engineer has determined that adequate sewer capacity exists.

Finding

Pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level of insignificance. Specifically, mitigation measures MM-UTIL-1 through MM-UTIL-3 are feasible and shall be required as a condition of approval and made binding on the applicant. Implementation of these mitigation measures will reduce significant direct impacts related to sewer to a less than significant level.

Reference

FEIR Section 5.9

7.2 Significant and Unavoidable Impacts

7.2.1 Transportation, Circulation, and Access

Level of Service

Thresholds of Significance

Impacts to traffic, circulation, and access would be significant if the proposed project would:

- Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersection).
- Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.

Impact

The proposed project would have direct and cumulative impacts to the surrounding circulation system, including roadway segments, intersection, and freeway segments under the Year 2020, Year 2025, and Year 2030 conditions.

CEQA Findings of Fact and Statement of Overriding Considerations

Explanation

As discussed in Section 7.1.1 above, a portion of the level of service direct and cumulative impacts to roadway segments and intersections are mitigable to a level below significance. The remaining level of service impacts are as follows:

Year 2020 Conditions

Intersections

Cumulative

- I-805 SB Ramps/Olympic Parkway

Roadway Segments

Cumulative

- Orange Avenue, between Melrose Avenue and I-805 SB Ramps

Freeways/State Highways

Cumulative

- I-805, from Market Street to Imperial Avenue
- I-805, from Imperial Avenue to E Division Street

Year 2025 Conditions

Intersections

Cumulative

- I-805 SB Ramps/Olympic Parkway

Roadway Segments

Cumulative

- Orange Avenue, between Melrose Avenue and I-805 SB Ramps

CEQA Findings of Fact and Statement of Overriding Considerations

Freeways/State Highways

Cumulative

- I-805, from SR-94 to Market Street
- I-805, from Market Street to Imperial Avenue
- I-805, from Imperial Avenue to E Division Street
- I-805, from Plaza Boulevard to SR-54
- I-805, from Bonita Road to East H Street

Year 2030 Conditions

Intersections

Cumulative

- I-805 SB Ramps/Olympic Parkway

Roadway Segments

Cumulative

- Orange Avenue, between Melrose Avenue and I-805 SB Ramps

Freeway/State Highway Segments

Cumulative

- I-805, from SR-94 to Market Street
- I-805, from Market Street to Imperial Avenue
- I-805, from Imperial Avenue to E Division Street
- I-805, from Plaza Boulevard to SR-54
- I-805, from SR-54 to Bonita Road
- I-805, from Bonita Road to East H Street
- I-805, from East H Street to Telegraph Canyon Road

Mitigation

No feasible mitigation measures exist for the above identified impacts to level of service.

CEQA Findings of Fact and Statement of Overriding Considerations

Finding

Pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make the mitigation infeasible. These considerations are as follows:

I-805 SB Ramps/Olympic Parkway - There are right-of-way constraints that would make widening this intersection infeasible and, in addition, there is no plan or program in place into which the project applicant could pay its fair-share towards such improvement. Therefore, mitigation is infeasible and the impact will remain cumulatively significant and unavoidable at this location.

Orange Avenue, between Melrose Avenue and I-805 SB Ramps - Potential recommendation for improvements would require widening Orange Avenue/Olympic Parkway between Melrose Avenue and the I-805 SB Ramps; however, there are right-of-way constraints that would make such improvements infeasible. In addition, there is no plan or program in place into which the project applicant could pay its fair-share towards the cost of such improvement. Therefore, the impact will remain cumulatively significant and unavoidable at this location.

I-805, from SR-94 to Market Street, from Market Street to Imperial Avenue from Imperial Avenue to E Division Street, from Plaza Boulevard to SR-54, from SR-54 to Bonita Road, from Bonita Road to East H Street, from East H Street to Telegraph Canyon Road - The second phase of the I-805 South Project would further expand transportation choices by building out the HOV lanes into Express Lanes for a total of four lanes, two in each direction. Phase 2 also includes the addition of in-line transit stations and freeway-to-freeway direct connectors. However, on December 16th, 2011, SANDAG Board of Directors approved the purchase of SR-125 and the Addendum to SANDAG's 2030 RTP EIR. The Addendum consists of a swap of the two planned HOV lanes on I-805 between SR-54 and SR-905 (Phase 2 of the I-805 South Project discussed above) for the purchase costs of SR-125, which requires an amendment to the TransNet Extension Ordinance. It also concluded that while the reduction in tolls would result in a shift of traffic from I-805 to SR-125, freeway operations on both facilities would remain acceptable. The proposed project was modeled with Phase 2, however in order to remain consistent with the 2030 RTP Addendum, the Traffic Impact Analysis for the proposed project (prepared by Chen Ryan) is analyzed with one HOV lane in each direction (Phase 1) along I-805. At this time, neither Caltrans nor SANDAG has plans to construct additional lanes on the impacted facilities, nor is there a plan or program in place into which the project applicant could pay its fair-share towards the cost of such improvements. Therefore, mitigation is infeasible and the impacts would remain significant and unavoidable.

Because there are no applicable or feasible mitigation measures that the City can impose at this time to reduce impacts to level of service performance to below a level of significance, impacts

CEQA Findings of Fact and Statement of Overriding Considerations

to transportation, circulation, and access would remain significant and unmitigated. Adoption of a Statement of Overriding Considerations will be required should the decision makers choose to approve the project.

Reference

FEIR Section 5.2

7.2.2 Air Quality

Air Quality Plan Consistency

Thresholds of Significance

Impacts to air quality would be significant if the proposed project would:

- Conflict with or obstruct implementation of the applicable air quality plan or General Plan policies.

Impact

The proposed project would not be consistent with the goals and policies of local air quality plans including the SIP and RAQS and impacts would be significant.

Explanation

The air quality plans relevant to this discussion are the State Implementation Plan (SIP) and Regional Air Quality Strategy (RAQS). The SIP includes strategies and tactics to be used to attain and maintain acceptable air quality in the San Diego Air Basin (SDAB) based on the National Ambient Air Quality Standards (NAAQS), while the RAQS includes strategies for the SDAB to meet the California Ambient Air Quality Standards (CAAQS). Consistency with the RAQS is assessed via two lines of inquiry: (1) whether the proposed project exceeds the growth assumptions contained in the RAQS; and, (2) if the growth assumptions are exceeded, whether the proposed project increases the frequency or severity of existing air quality violations, contributes to new violations, or delays the timely attainment of air quality standards or interim reductions, as specified in the RAQS.

The proposed project would comply with all applicable rules and regulations that have been adopted as part of the SIP. Because the project is consistent with the goals of the RAQS and SIP, the project would not conflict with or obstruct implementation of the RAQS and SIP. However, the proposed project would require amendments to the City of Chula Vista General Plan, the Otay Ranch General Development Plan, the Specific Plan, and the Otay Ranch Core Master Precise Plan. Accordingly, the project as proposed is not accounted for in the current SIP

CEQA Findings of Fact and Statement of Overriding Considerations

emissions budget. Consequently, the proposed project is not consistent with Chula Vista's General Plan and is not considered consistent with the growth assumptions in the RAQS and SIP. As such, impacts would be considered significant and unavoidable.

Mitigation

Due to absence of feasible mitigation measures, the proposed project would remain inconsistent with the goals of local air quality plans. This impact would remain significant and unavoidable.

Finding

Pursuant to Section 15091(a)(2) of the CEQA Guidelines, such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding (City of Chula Vista). For the reasons described above, the proposed project is not accounted for in the current SIP emissions budget. While the approval of the proposed project would require amendments to the City of Chula Vista General Plan, the Otay Ranch General Development Plan, the Specific Plan, and the Otay Ranch Core Master Precise Plan, updating and amending the SIP is within the jurisdiction of the State of California Air Resources Board. For these reason, impacts regarding consistency with the SIP and RAQs are significant and unavoidable.

Because there are no applicable or feasible mitigation measures within the control of the City at this time to reduce impacts to air quality plan consistency to below a level of significance, impacts to air quality would remain significant and unmitigated. Adoption of a Statement of Overriding Considerations will be required should the decision makers choose to approve the project.

Reference

FEIR Section 5.3

Air Quality Standards

Thresholds of Significance

Impacts to air quality would be significant if the proposed project would:

- Violate any air quality standard or contribute substantially to an existing or projected air quality violation.
- Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality

CEQA Findings of Fact and Statement of Overriding Considerations

standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).

Impact

Volatile Organic Compounds (VOC) and Nitrogen Oxide (NO_x) emissions associated with operation of the project would exceed the City of Chula Vista's significance thresholds and would result in a cumulatively considerable contribution to regional VOC and NO_x emissions.

Explanation

Operational impacts associated with the proposed project would include impacts associated with vehicular traffic, as well as area sources such as natural gas use, consumer products use, and architectural coatings use for maintenance purposes. Operational emissions associated with the proposed project would exceed the significance thresholds for VOCs and NO_x for all buildout years (Years 2015, 2020, 2025, and 2030). The emissions are attributable to vehicles and area sources, including use of consumer products. Emissions associated with consumer products use would occur regardless of the location of residences. Impacts would be significant.

The SDAB is currently classified as a non-attainment area for the NAAQS and CAAQS for Ozone (O₃), which is caused by contributions from O₃ precursors NO_x and VOCs. Because the proposed project would result in operational emissions of VOCs and NO_x that are above the significance thresholds, the project would result in a cumulatively significant impact on air quality.

Mitigation

No feasible mitigation measures exist to reduce impacts related to VOC and NO_x emissions to a level below significance.

Finding

Pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make the mitigation infeasible. These considerations are as follows:

Significant reductions in VOC and NO_x emissions would be required to reduce emissions of these pollutants to less than significant and feasible mitigation measures are not available to achieve these reductions as emissions are attributable to consumer product use and mobile emissions. Therefore, criteria pollutant emissions for VOC and NO_x are anticipated to be above the thresholds. Emissions associated with vehicles have been reduced in the project through implementation of project design features, including incorporating a mix of uses into the project and access to transit

CEQA Findings of Fact and Statement of Overriding Considerations

through access to MTS bus routes. Additionally, there is a potential for development of a BRT station adjacent to the project site; however, no reductions have been included to account for this future measure. Further, there are no feasible means within the City's power to control for emissions resulting from consumer products. There are no additional measures that would reduce emissions associated with project operations to below a level of significance.

Because there are no applicable or feasible mitigation measures within the control of the City at this time to reduce impacts to air quality standards to below a level of significance, impacts to air quality would remain significant and unmitigated. Adoption of a Statement of Overriding Considerations will be required should the decision makers choose to approve the project.

CEQA Findings of Fact and Statement of Overriding Considerations

8.0 FEASIBILITY FOR POTENTIAL PROJECT ALTERNATIVES

Because the project will cause significant environmental effects, as outlined above, the City must consider the feasibility of any environmentally superior alternative to the project as finally approved. The City must evaluate whether one or more of these alternatives could avoid or substantially lessen the significant unavoidable environmental effects of Village Two.

In general, in preparing and adopting findings, a lead agency need not necessarily address feasibility when contemplating the approval of a project with significant impacts. Where the significant impacts can be mitigated to an acceptable (less than significant) level solely by the adoption of mitigation measures, the agency, in drafting its findings, has no obligation to consider the feasibility of environmentally superior alternatives, even if their impacts would be less severe than those of the projects as mitigated (*Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376 [253 Cal.Rptr. 426]; *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515 [147 Cal.Rptr. 842]; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692 [270 Cal.Rptr. 650]). Accordingly, for this project, in adopting the findings concerning project alternatives, the City Council considers only those environmental impacts that, for the finally approved project, are significant and cannot be avoided or substantially lessened through mitigation.

If project alternatives are feasible, the decision makers must adopt a Statement of Overriding Considerations with regard to the project. If there is a feasible alternative to the project, the decision makers must decide whether it is environmentally superior to the project. Proposed project alternatives considered must be ones that “could feasibly attain the basic objectives of the project.” However, the CEQA Guidelines also require an EIR to examine alternatives “capable of eliminating” environmental effects, even if these alternatives “would impede to some degree the attainment of the project objectives” (CEQA Guidelines Section 15126).

The City has properly considered and reasonably rejected project alternatives as “infeasible” pursuant to CEQA. CEQA provides the following definition of the term “feasible” as it applies to the findings requirement: “feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors” (Pub. Resources Code Section 21061.1). The CEQA Guidelines provide a broader definition of “feasibility” that also encompasses “legal” factors. CEQA Guidelines Section 15364 states, “the lack of legal powers of an agency to use in imposing an alternative or mitigation measure may be as great a limitation as any economic, environmental, social, or technological factor” (see also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565 [276 Cal.Rptr.410]).

CEQA Findings of Fact and Statement of Overriding Considerations

Accordingly, “feasibility” is a term of art under CEQA and thus may not be afforded a different meaning as may be provided by Webster’s dictionary or any other sources. Moreover, Public Resources Code Section 21081 governs the “findings” requirement under CEQA with regard to the feasibility of alternatives. Specifically, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless the public agency makes one or more of the following findings:

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR” (CEQA Guidelines Section 15091, Subd. (a)(1)).

“Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency” (CEQA Guidelines Section 15091, Subd. (a)(2)).

“Specific economic, legal, social, technological, or other considerations, including provisions of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR” (CEQA Guidelines Section 15091, Subd. (a)(3)).

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 [183 Cal. Rptr. 898]). “ ‘[F]easibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors” (Ibid.; see also *Sequoiah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 [29 Cal.Rptr.2d 182]).

These findings contrast and compare the alternatives where appropriate in order to demonstrate that the selection of the finally approved project, while still resulting in significant environmental impacts, has substantial environmental, planning, fiscal, and other benefits. In rejecting certain alternatives, the decision makers have examined the finally approved project objectives and weighed the ability of the various alternatives to meet objectives. The decision makers believe that the project best meets the finally approved project objectives with the least environmental impact.

The detailed discussion in Section 7.0 demonstrates that all but the following significant environmental effects of the project have been either substantially lessened or avoided through

CEQA Findings of Fact and Statement of Overriding Considerations

the imposition of existing policies or regulations or by the adoption of additional, formal mitigation measures recommended in the EIR:

Transportation, Circulation, and Access

- Cumulative impacts to I-805 SB Ramps/Olympic Parkway under the Year 2020, 2025, and 2030 Conditions
- Cumulative impacts to Orange Avenue, between Melrose Avenue and I-805 SB Ramps under the Year 2020, 2025, and 2030 Conditions
- Cumulative impacts to I-805, from Market Street to Imperial Avenue and I-805, from Imperial Avenue to E Division Street under the Year 2020, 2025, and 2030 Conditions.
- Cumulative impacts to I-805, from SR-94 to Market Street; I-805, from Plaza Boulevard to SR-54; and I-805, from Bonita Road to East H Street under Year 2025 and Year 2030 Conditions
- Cumulative impacts to I-805, from SR-54 to Bonita Road and I-805, from East H Street to Telegraph Canyon Road under Year 2030 Conditions

Air Quality

- Direct impacts to air quality plans
- Direct and cumulative impacts to air quality violations for VOC and No_x

To fully account for these unavoidable significant effects and the extent to which particular alternatives might or might not be environmentally superior with respect to them, these findings will focus on the impacts listed above, but may also address the environmental merits of the alternatives with respect to all broad categories of impacts – even though such a far-ranging discussion is not required by CEQA. The findings will also assess whether each alternative is feasible in light of the City’s objectives for the project.

The City’s review of project alternatives is guided primarily by the need to reduce potential impacts associated with the project, while still achieving the basic objectives of the project. The SPA Plan defines, in more detail, the development parameters for Village Two, including the intensity and location of development, the character and form of each neighborhood, design criteria, primary transportation patterns, open space and recreational amenities, and infrastructure and services necessary to support the community. Specific objectives of the proposed project are listed in Section 2.2.

The City evaluated two alternatives to the project, which are discussed below: Reduced Density Alternative and the No Project Alternative. Table 10-2 in the EIR provides a summary table

CEQA Findings of Fact and Statement of Overriding Considerations

comparing each of the alternatives. As the following discussion will show, no identified alternative qualifies as both feasible and environmentally superior with respect to the unmitigated impacts.

8.1 Reduced Density Alternative

Description

The Reduced Density Alternative would follow the same land use pattern existing SPA Plan, not the land use pattern of the proposed project. In addition to utilizing the existing approved land use pattern, the Reduced Density Alternative would propose an overall smaller increase in residential units. In summary, the Reduced Density Alternative would combine the current approved SPA Plan with SPA Lite, while still adding density to neighborhoods R-10, R-11, R-12, and C-1. The Reduced Density Alternative land use map is show in Figure 10-1 of the EIR. This alternative would result in a proposed increase of 484 additional residential units rather than 1,562 as proposed.

Impacts

Transportation, Circulation, and Access

The Reduced Density Alternative would reduce some level of service impacts, however would not avoid all significant and unavoidable traffic impacts resulting from the proposed project.

Air Quality

The Reduced Density Alternative would exceed the RAQS growth assumption, similar to the proposed project. While total operational emissions would be less than the proposed project, this alternative would still result in new significant and unavoidable criteria pollutant emissions, and would thus still be inconsistent with the RAQS and SIP. Direct and cumulative impacts would remain significant and unavoidable.

Finding

The Reduced Density Alternative would result in the development of fewer additional units, however would still increase density within Village Two. Also, this alternative would still include mixed use, pedestrian-oriented development, just at a lower density. The proposed project objectives center on increasing the number of dwelling units and population within the same Village Two development footprint, and in doing so promoting the viability of transit, industrial, and commercial uses. Therefore, the Reduced Density Alternative would achieve most of the proposed project objectives, but to a lesser degree than the proposed project. This alternative would not meet the project objective of relocating the City of San Diego water pipeline.

CEQA Findings of Fact and Statement of Overriding Considerations

As the City of San Diego water pipeline would not be relocated under the Reduced Density Alternative, potential geologic hazards impacts would occur at any proposed land use within the water pipeline easement.

The Reduced Density Alternative would not result in the provision of a site for a second elementary school. As a result, a significant number of students would be required to attend school at other elementary schools within the District and not in a reasonable walking distance. This would not achieve a planning objective to provide adequate elementary school capacity in a walkable environment within each Village.

With respect to the proposed project's significant and unavoidable traffic impacts, this alternative would not avoid all significant and unavoidable traffic impacts resulting from the proposed project.

With respect to the proposed project's significant and unavoidable air quality impact, this alternative would still require amendments to the City of Chula Vista General Plan, the Otay Ranch General Development Plan, the Specific Plan, and the Otay Ranch Core Master Precise Plan and is therefore not accounted for in the SIP emissions budget. Even with the approval of amendments to City of Chula Vista planning documents, the authority to update and amend the SIP is within the jurisdiction of the State of California Air Resources Board.

8.2 No Project Alternative

Description

The No Project Alternative would result in the continued development of the SPA Plan as it is currently amended without the proposed project. The change in land use pattern, additional school, parkland, and CPF, as well as the additional development of 1,562 residential units would not occur.

Impacts

Under the No Project Alternative, development of Village Two would proceed as under the current approved SPA Plan as amended. All significant, irreversible, and immitigable impacts identified in the environmental documents prepared for the current SPA Plan would occur. However, no further significant or potentially significant impacts would occur beyond what was analyzed, discussed, and mitigated for in the 2006 EIR.

Finding

This alternative would avoid all significant and unmitigable impacts identified as resulting from the proposed project. However, this alternative would only meet one of the overall project

CEQA Findings of Fact and Statement of Overriding Considerations

objectives of mixing uses to encourage walking and biking. The No Project Alternative fails to meet the remaining project objectives which have the primary goal of increasing density within Village Two. Therefore, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make this alternative infeasible.

8.3 Environmentally Superior Alternative

The No Project Alternative would result in the least environmental impacts and would be the environmentally superior alternative. However, Section 15126.6(e)(2) of the CEQA Guidelines states that if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. In this case, the environmentally superior alternative is the Reduced Density Alternative. The Reduced Density Alternative meets most of the proposed project objectives, but to a lesser degree than the proposed project while reducing impacts resulting from greater population growth of the proposed project. It would not, however, avoid the significant and unmitigable air quality impacts resulting from the proposed project and new impacts related to development within the City of San Diego water pipeline easement would occur.

CEQA Findings of Fact and Statement of Overriding Considerations

9.0 STATEMENT OF OVERRIDING CONSIDERATIONS

The project would have significant, unavoidable impacts on the following areas, described in detail in Section 7.0 of these Findings of Fact:

Transportation, Circulation, and Access

- Cumulative impacts to I-805 SB Ramps/Olympic Parkway under the Year 2020, 2025, and 2030 Conditions
- Cumulative impacts to Orange Avenue, between Melrose Avenue and I-805 SB Ramps under the Year 2020, 2025, and 2030 Conditions
- Cumulative impacts to I-805, from Market Street to Imperial Avenue and I-805, from Imperial Avenue to E Division Street under the Year 2020, 2025, and 2030 Conditions.
- Cumulative impacts to I-805, from SR-94 to Market Street; I-805, from Plaza Boulevard to SR-54; and I-805, from Bonita Road to East H Street under Year 2025 and Year 2030 Conditions
- Cumulative impacts to I-805, from SR-54 to Bonita Road and I-805, from East H Street to Telegraph Canyon Road under Year 2030 Conditions

Air Quality

- Direct impacts to air quality plans
- Direct and cumulative impacts to air quality violations for VOC and NO_x

The City has adopted all feasible mitigation measures with respect to these impacts. Although in some instances these mitigation measures may substantially lessen these significant impacts, adoption of the measures will, for many impacts, not fully avoid the impacts.

Moreover, the City has examined a reasonable range of alternatives to the project. Based on this examination, the City has determined that none of the alternatives: (1) meets project objectives, and (2) is environmentally preferable to the project.

As a result, to approve the project, the City must adopt a “statement of overriding considerations” pursuant to CEQA Guidelines sections 15043 and 15093. This provision allows a lead agency to cite a project’s general economic, social, or other benefits as a justification for choosing to allow the occurrence of specified significant environmental effects that have not been avoided. The provision explains why, in the agency’s judgment, the project’s benefits outweigh the unavoidable significant effects. Where another substantive law (e.g., the California Clean Air Act, the Federal Clean Air Act, or the California and Federal Endangered Species

CEQA Findings of Fact and Statement of Overriding Considerations

Acts) prohibits the lead agency from taking certain actions with environmental impacts, a statement of overriding considerations does not relieve the lead agency from such prohibitions. Rather, the decision maker has recommended mitigation measures based on the analysis contained in the Final EIR, recognizing that other resource agencies have the ability to impose more stringent standards or measures.

CEQA does not require lead agencies to analyze “beneficial impacts” in an EIR. Rather, EIRs are to focus on potential “significant effects on the environment,” defined to be “adverse.” (Pub. Resources Code Section 21068.) The Legislature amended the definition to focus on “adverse” impacts after the California Supreme Court had held that beneficial impacts must also be addressed (See, *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 206 [132 Cal.Rptr. 377]). Nevertheless, decision-makers benefit from information about project benefits. These benefits can be cited, if necessary, in a statement of overriding considerations (CEQA Guidelines Section 15093).

The City finds that the project would have the following substantial benefits. Any one of the reasons for approval cited below is sufficient to justify approval of the project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the City Council would stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this Section, and in the documents found in the Record of Proceedings, as defined in Section 3.0.

The City, after balancing the specific economic, legal, social, technological or other benefits of the project, including considerations for the provision of employment opportunities, determines and finds that the unavoidable adverse environmental effects may be considered “acceptable” due to the following specific considerations.

9.1 Project Benefits

9.1.1 Implementation of the Otay Ranch General Development Plan Goals, Objectives and Principles

By implementing many of the goals, objectives, and principles of the Otay Ranch General Development Plan, the proposed project provides benefit to Village Two, the surrounding community, and the City of Chula Vista as a whole. In particular, the proposed project would engender development of a complete, amenity rich community that furthers Otay Ranch Village goals and objectives by enhancing living, working, learning, shopping, and transit options while increasing residents’ opportunities for social interaction and recreation to a greater extent than the existing SPA Plan.

CEQA Findings of Fact and Statement of Overriding Considerations

Density in Core

Density is planned in and around the Village Two core as envisioned in the Otay Ranch General Development Plan and 2006 Village of Montecito SPA, enhancing this area along with the expansion of adjacent park and community facilities. Of the 1,562 proposed new units, 712 are located within the boundary of the existing core and another 420 are located in the new expanded core area (south of Santa Victoria).

Housing Choices and Alignment with Housing Market

The proposed project brings Village Two planning in-line with today's marketplace and homebuyer preference as well as home typologies attainable to a broader range of buyers and renters. This provides Chula Vista residents with a diverse range of housing choices and opportunities which conform to their preferences. Aligning Village planning and today's housing market also facilitates construction and home sales.

Viability of Transit

Increasing the number of dwelling units (and population) within Village Two provides additional ridership for the regional Bus Rapid Transit (BRT) and local bus systems, which would facilitate and support the introduction of transit on the Otay Valley Parcel. This increases ridership/viability of the transit systems and reduces automobile dependence, emissions, and traffic. Over 550 of the proposed 1,562 units (and over 1,500 of the total units within Village Two) would be located immediately adjacent to the proposed BRT route.

Viability of Commercial Uses

Increasing the number of dwelling units (and population) in Village Two strengthens the market for commercial uses in the Village. This promotes/enhances the mixed-use, walkable, main street character of the village core. Supporting the viability of the commercial are 413 residential units (353 of which would be developed as part of the proposed project) being developed in a mixed use format with the commercial land uses.

Design and Mix of Uses to Encourage Walking/Biking

The proposed project results in a village safe for walking and cycling and reduces the reliance upon the automobile. With viable commercial uses, Village Two residents can use the retail and commercial uses for daily needs which include groceries, restaurants, dry cleaning, and entertainment. By providing neighborhood serving uses close to homes, residents can walk or bike instead of using an automobile. This promotes a healthy lifestyle, encourages local businesses, and reduces automobile dependence, emissions, and traffic. Additionally, with the creation of parks P-5 and P-6, residents of Village Two South and Village Two West would have parks within a short walking distance.

CEQA Findings of Fact and Statement of Overriding Considerations

Walking to School

Providing two elementary schools within Village Two puts residents and students closer to elementary schools and helps ensure sufficient capacity would be available serve the students within the Village. This allows implementation of programs such as ‘walking school buses’ where students walk to school in groups, eliminated car and bus trips. This promotes a healthy lifestyle for students while reducing automobile dependence, emissions, and traffic.

Provision of Additional Park and Community Purpose Facilities

With approximately 7.8 acres of additional CPF and 10.8 acres of additional parkland located in and near the village core, the proposed project allows a greater number of residents immediate access to Park/CPF uses. Park/CPF provides residents valuable and unique opportunities for recreation, social interaction, learning, and teaching. A resident may be able to enjoy a private swim club, a community garden, a private recreational facility, a public park, and the town square within short walking distance to a greater extent than under the current SPA Plan.

Village Character

The proposed project achieves the goal of a complete and balanced community with a mix of density and uses, including housing, retail, employment, schools, parks, and civic facilities to a much greater extent than the current SPA Plan. Increasing the number of dwelling units within the Village, as well as increasing the parkland and CPF uses, would create a distinct character within Village Two. This would create a positive, unique sense of place for residents and visitors.

Additional Housing in the Same Footprint

Increasing density in select locations creates additional housing within the same Village footprint, thereby reducing the potential for urban sprawl by increasing density on an existing planned village. This furthers the goals of the City’s housing element by allowing for new home creation in today’s marketplace, increasing affordability for homebuyers, increasing viability of commercial uses, and decreasing per capita costs of infrastructure and municipal services.

Contextual Design

The proposed project would comply with existing Design Guidelines and be similar to the bulk, scale, and architectural design of surrounding projects. The project is also connected via transit, pedestrian bridges, and roadways to adjacent Villages.

Public Facilities Financing Plan

To identify, summarize, and implement the various facility costs associated with Village Two, a Public Facility Financing Plan (PFFP) was created in conjunction with the existing Montecito

CEQA Findings of Fact and Statement of Overriding Considerations

SPA, and amended in conjunction with 2012 SPA amendments. The PFFP implements the City's Growth Management Program and meets General Plan/Growth Management Element goals and objectives. The Chula Vista Growth Management Program ensures the City's necessary public facilities and services exist or are provided concurrent with the demands of new development.

9.1.2 Extraordinary Benefits

In addition to meeting the goals, objectives, and principles of the Otay Ranch General Development Plan, the Chula Vista General Plan, and the existing Village Two Sectional Planning Area Plan, the proposed project provides a number of public benefits to the immediate area, the Otay Ranch, and to the City of Chula Vista.

Extraordinary Benefit Contribution

Payment of a \$5,000 per unit Extraordinary Benefit Contribution (for each new unit) totaling up to \$7,810,000. The City Council has full discretion to determine the use of this contribution to benefit the citizens of Chula Vista.

Affordable Housing

The proposed project would comply with the Village Two Master Affordable Housing Agreement to build all affordable units on-site. These units would be located within and adjacent to the village core with access to neighborhood services and transit.

Heritage Road

The proposed project requires the completion and opening of Heritage Road to provide access from Village Two to Main Street. The condition of approval to ensure the opening of a portion of Heritage Road prior to the 155th building permit in the south planning area accelerates the phasing plan and provides greater certainty than the current requirement for Village Two.

Housing Located Adjacent to Existing Infrastructure

The proposed project furthers the goals of the City's Housing Element by constructing a diverse mix of housing on existing residential land, therefore preserving open space and other valuable land uses.

Public Services

The proposed project ensures the adequate provision of public services, including police services, fire protection and medical response, and an additional elementary school located within the Village. School generation impacts will be mitigated through provision of land for a second elementary school within Village Two. Additionally, all new units, like the existing units,

CEQA Findings of Fact and Statement of Overriding Considerations

would be subject to the existing Chula Vista Elementary School District and Sweetwater Union High School District Community Financing Districts.

Fiscal Impact

The proposed project encourages economic growth and diversity within the City of Chula Vista. Increasing the number of dwelling units within the same village footprint increases tax revenues from residential and commercial uses, supports employment of construction workers, and reduces per capita costs for provision of public services. According to research by the Real Estate Research Corporation, Robert Burchell and others report that compact growth can be up to 70% less costly for governments. The proposed project contributes a net positive fiscal impact using conservative assumptions for the efficiency of providing public services to a higher density project.

Adult Education/Vocational School

The proposed vocational school would provide local jobs, train local workers, and attract businesses to locate within the greater Chula Vista community. This provides an expanding fiscal benefit to local residents and the City of Chula Vista by training residents in skills targeted for jobs to support Chula Vista's economic base.

Water Conservation

The proposed project amends the existing Landscape Master Plan with sustainable concepts utilizing native, low water usage, and drought tolerant plants for manufactured open space lots, including those along Heritage Road and Olympic Parkway. The proposed project would also incorporate water conserving appliances and low water usage private landscape design.

Water Pipeline Relocation

Portions of the proposed project require the relocation of the City of San Diego Otay #2 Pipeline which currently bisects Village Two to Olympic Parkway and La Media Road. Relocation of the pipeline allows for cohesive development and reduces some development constraints that currently exist in the Village. Additionally, it would allow for the acquisition of the 4.2 acre strip of land dividing Community Park P-4 and the expansion of Neighborhood Park P-3 by 0.7 acres.

Economic Contribution

The proposed project encourages economic growth and diversity within the City of Chula Vista. Increasing the number of dwelling units within the same village footprint increases tax revenues from residential and commercial uses, supports employment of construction workers, and reduces per capita costs for provision of public services. Addition permanent jobs would be created by the build-out of the commercial and industrial land components of the proposed project.

CEQA Findings of Fact and Statement of Overriding Considerations

10.0 CONCLUSION

The proposed project implements the Otay Ranch General Development Plan and Chula Vista General Plan by responding to regulatory, economic and market changes which have occurred since the initial vision for Otay Ranch over 20 years ago. These include greater choice for both for sale and rental home typologies, increased density to use existing developable land more efficiently, and reducing the reliance on vehicular trips by locating additional residential development in proximity to transit, public amenities and neighborhood serving uses. Additional parkland and a second elementary school are planned to respond to the increase in population resulting from additional residential units. The amendment to the existing Village Two SPA includes greater certainty for the construction of public infrastructure such as the connection of Heritage Road from Village Two to Main Street.

The City finds that there is substantial evidence in the administrative record of benefits, as described above, which would directly result from approval and implementation of the proposed project. The City finds that the need for these benefits specifically overrides the impacts of the proposed project on air quality and transportation, circulation, and access. Thus, the adverse effects of the proposed project are considered acceptable.

CEQA Findings of Fact and Statement of Overriding Considerations

INTENTIONALLY LEFT BLANK