

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

FOR

Avion Project

PROJECT NO. 598173

SCH No. 97111070

August 13, 2020

I. INTRODUCTION

A. Findings of Fact

The following Candidate Findings are made for the Avion Project (project). The environmental effects of the project are addressed in the Final Supplemental Environmental Impact Report (SEIR) dated July 2, 2020, which is incorporated by reference herein.

The California Environmental Quality Act (CEQA) [Section 21081(a)] and the State CEQA Guidelines [Section 15091(a)] require that no public agency shall approve or carry out a project for which an environmental impact report has been completed which identifies one or more significant effects thereof, unless such public agency makes one or more of the following findings:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects on the environment;
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been or can or should be adopted by that other agency; or
3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

CEQA also requires that the findings made pursuant to Section 15091 be supported by substantial evidence in the record (Section 15091(b) of the State CEQA Guidelines). Under CEQA, substantial evidence means enough relevant information has been provided (and reasonable inferences from this information may be made) that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Substantial evidence must include facts, reasonable assumptions predicted upon facts, and expert opinion supported by facts (Section 15384 of the State CEQA Guidelines).

CEQA further requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental effects when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable" (Section 15093(a) of the State CEQA Guidelines). When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final SEIR but are not

avoided or substantially lessened, the agency shall state in writing the specific reasons to support its actions based on the Final SEIR and/or other information in the record. On July 28, 1998, the Council for the City of San Diego certified Environmental Impact Report No. 96-7902/SCH No. 97111070 (1998 EIR), for the Black Mountain Ranch (Subarea I) Subarea Plan (Project No. 96-7902) and adopted Findings and Statement of Overriding Consideration, and the Mitigation Monitoring and Reporting Program via Resolution No. 290524. The Subarea Plan identified several perimeter properties, which were originally held by 11 different ownerships. The Avion project site is within the area of the Subarea Plan referred to as the "Southeast Perimeter" properties, which are composed of four parcels (A, B, C, and D). The project site consists of Parcel C, totaling 41.48 acres. At that time the Subarea Plan allocated 117 units to the project site and the following impacts were determined to be significant: land use, traffic, biological resources, hydrology/water quality, landform alteration/visual quality, air quality, geology and soils, natural resources/agriculture, noise, public facilities and services, and water conservation. The 1998 EIR indicates that significant impacts for the project site would be substantially lessened or avoided if the mitigation measures recommended in the 1998 EIR were implemented by future development for various environmental issues.

A Notice of Preparation (NOP) for the project was distributed on May 24, 2019. The project was designed to be similar to the project as anticipated in the Subarea Plan; however, changes were identified which triggered a need for the preparation of a SEIR pursuant to Section 15163(a) of the CEQA Guidelines. Chapters 1 and 4 of the Final SEIR provide specific details relating to the determination for the preparation of a supplemental document and the history of the project and project site. Overall, it was determined that the project involved new information of substantial importance and could have one or more significant effects not discussed in the 1998 EIR and that additions would be necessary to make the 1998 EIR adequate. These Findings are made relative to the specific conclusions of the Final SEIR prepared for the proposed project and supplement those associated with the 1998 EIR. Therefore, these Findings are hereafter referred to as Supplemental Findings.

The Supplemental Findings have been submitted by the City of San Diego as Candidate Findings to be made by the decision-making body. They are attached to allow readers of this report an opportunity to review the applicant's position on this matter and to review potential reasons for approving the project despite the significant and unavoidable effects identified in the Final SEIR. It is the exclusive discretion of the decision-maker certifying the SEIR to determine the adequacy of the proposed Supplemental Findings. It is the role of staff to independently evaluate the proposed the Supplemental Findings, and to make a recommendation to the decision-maker regarding their legal adequacy.

B. Record of Proceedings

For purposes of CEQA and these Supplemental Findings and Statement of Overriding Considerations, the Record of Proceedings for the project consist of the following documents and other evidence, at a minimum:

- The NOP and all other public notices issued by the City in conjunction with the project;
- All comments on the NOP received by the City;
- The draft SEIR;
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft SEIR;

- All responses to the written comments included in the Final SEIR;
- The final SEIR;
- The Mitigation Monitoring and Reporting Program;
- All written and oral public testimony presented during a noticed public hearing for the project at which such testimony was taken;
- The reports and technical memoranda included or referenced in any responses to comments in the Final SEIR;
- All documents, studies, EIRs, or other materials incorporated by reference in, or otherwise relied upon during the preparation of, the Draft SEIR and the Final SEIR;
- Matters of common knowledge to the City, including, but not limited to, federal, state, and local laws and regulations;
- Any documents expressly cited in these Findings and Statement; and
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

C. Custodian and Location of Records

The documents and other materials which constitute the record of proceedings for the City's actions on the project are located at the City's Development Services Department \, 1222 First Avenue, San Diego, California 92101. The City is the custodian of the project's administrative record. The Draft SEIR was also placed on the City's CEQA website at <https://www.sandiego.gov/ceqa/draft>; whereas the Final SEIR was placed on the City's CEQA website at <https://www.sandiego.gov/ceqa/final>. This information is provided in compliance with the Public Resources Code 21081.6(a)(2) and the CEQA Guidelines 15091(e).

II. PROJECT SUMMARY

A. Project Objectives

The primary purposes, goals, and objectives of the project are:

- Provide residential development that is consistent with the location and the goals and objectives of the adopted Black Mountain Ranch Subarea Plan.
- Provide new residential development, which is consistent with existing residential development patterns in the surrounding area.
- Implement "smart growth" principles of development through the provision of new residences within a complete master planned community.
- Implement sustainable development principles through the provision of a community of new residences with many energy-efficient features.
- Provide infrastructure improvements consistent with the Subarea Plan.

B. Project Description

A request for a Rezone from AR-1-1 to RS-1-14; Vesting Tentative Map (VTM); Planned Development Permit (PDP); Site Development Permit (SDP); Multi-Habitat Planning Area Boundary Line Adjustment; a reorganization consisting of an expansion of latent powers for sewer service and the annexation of the project site to Olivenhain Municipal Water District and for the district's sewer service area. The project would subdivide the project site and construct 84 multi-family residential, the transfer of 19 affordable units and 14 dwelling units to Parcel 1 of Map No. 21331 in the Black Mountain Ranch North Village Town Center for a combined total of 117 dwelling units. The affordable units would be constructed as part of the Fairbanks Terrance Apartments Phase II. The project would also construct various site improvements which include associated public and private streets, hardscape, retaining walls, and landscaping. The project site consists of a 41.48-acre parcel of undeveloped land located approximately 0.6 mile south of Carmel Valley Road/Bernardo Center Drive, 1.2 miles west of Interstate 15, and 1.4 miles east of Black Mountain Road. The site is designated Low Density Residential and zoned AR-1-1 (Agricultural) within the Black Mountain Ranch Subarea Plan. Additionally, the site is within the Airport Land Use Compatibility Overlay Zone (Marine Corps Air Station [MCAS] Miramar), Airport Influence Area (MCAS Miramar - Review Area 2), Affordable Housing Parking Demand, and the Very High Hazard Severity Zone. (LEGAL DESCRIPTION PARCEL 1: The Southeast quarter of the Southeast quarter of Section 32, Township 13 South, Range 2 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California, except for all crude oil, petroleum, gas, brea, asphaltium, and all kindred substances and other minerals under and said land, as reserved in Deed recorded May 30, 1960 as Instrument No. 111628 of Official Records. LEGAL DESCRIPTION PARCEL 2: Lots 1 and 2 and the Southeast quarter of the Northeast quarter of Section 5, Township 14 South, Range 2 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California, except for all crude oil, petroleum, gas, brea, asphaltium, and all kindred substances and other minerals under and said land, as reserved in Deed recorded May 30, 1960 as Instrument No. 111628 of Official Records). Applicant: CalAtlantic Homes.

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The lead agency approving the project and conducting environmental review under the California Environmental Quality Act under California Public Resources Code Sections 21000, et seq., and the Guidelines promulgated thereunder in California Code of Regulations, Title 14, Sections 15000 et seq. (CEQA Guidelines), hereinafter collectively, CEQA shall be the City of San Diego (the City). The City as lead agency shall be primarily responsible for carrying out the project. In compliance with Section 15082 of the CEQA Guidelines, the City published a Notice of Preparation (NOP) on May 24, 2019, which began a 30-day period for comments on the appropriate scope of the SEIR. Comments on the NOP were received from the California Department of Fish and Wildlife, Native American Heritage Commission, Department of Toxic Substance Control, and a private citizen, Kimberly Uyeda. A copy of the NOP and public comment letters received on the NOP are provided in Appendix A of the Final SEIR.

The City published a Draft SEIR on January 13, 2020 in compliance with CEQA that was circulated for review and comment by the public, agencies, and organizations. The 45-day public review period began on January 13, 2020 and ended on February 27, 2020. Pursuant to CEQA Guidelines Section 15085, upon publication of the Draft SEIR, the City filed a Notice of Completion with the Governor's

Office of Planning and Research, State Clearinghouse, indicating that the Draft SEIR had been completed and was available for review and comment by the public. The City also posted a Notice of Availability of the Draft SEIR at this time pursuant to CEQA Guidelines Section 15087. During the public review period, the City received comments on the environmental document. Comments on the Draft SEIR were received from Rincon Band of Luiseño Indians, Viejas Tribal Government, the San Diego County Archeological Society, and Mitchell M. Tsai, Attorney at Law. After the close of the public review period, the City provided responses in writing to all comments received on the Draft SEIR.

The Final SEIR has been prepared in accordance with CEQA and the State CEQA Guidelines. The City, acting as the Lead Agency, has reviewed and edited as necessary the submitted drafts and certified that the Final SEIR reflects its own independent judgment and analysis under Guideline §15090(a)(3) and CEQA Statute §21082.1(a)-(c).

The Final SEIR addresses the environmental effects associated with implementation of the project. The Final SEIR is intended to serve as an informational document for public agency decision-makers and the general public regarding the objectives and components of the project. The Final SEIR addressed the potential significant adverse environmental impacts associated with the project and identifies feasible mitigation measures and alternatives that may be adopted to reduce or eliminate these impacts. The Final SEIR is incorporated by reference into this CEQA Findings document. The Final SEIR is the primary reference document for the formulation and implementation of a mitigation monitoring program for the project. Environmental impacts cannot always be mitigated to a level that is considered less than significant. In accordance with CEQA, if a Lead Agency approves a project that has significant unavoidable impacts that cannot be mitigated to a level below significance, the agency must state in writing the specific reasons and overriding considerations for approving the project based on the final CEQA documents and any other information in the public record for the project (CEQA Guidelines §15093). The Final SEIR for the project was published on July 2, 2020 and posted on the City's CEQA website at <https://www.sandiego.gov/ceqa/final>.

IV. CUSTODIAN AND LOCATION OF RECORDS

The documents and other materials which constitute the administrative record for the City's actions related to the project are located at the City of San Diego, Development Services Department, 1222 First Avenue, San Diego, California 92101. The City's Development Services Department is the custodian of the administrative record for the project. Copies of these documents, which constitute the record of proceedings, are and at all relevant times have been and will be available upon request at the offices of the City's Development Services Department. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and Guidelines Section 15091(e).

V. SUMMARY OF IMPACTS

The Final SEIR Sections 5.1 and 5.6 demonstrate, and the City hereby finds, based on the Final SEIR and the Record of Proceedings, that the project would have **less than significant impacts** and require no mitigation with respect to the following issues:

- Land Use
- Noise

The Final SEIR Sections 5.2, 5.3, and 5.5 demonstrate, and the City hereby finds, based on the Final SEIR and the Record of Proceedings, that potentially significant impacts of the project will be **mitigated to below a level of significance** with respect to the following issues:

- Biological Resources
- Cultural/Historical Resources
- Air Quality

The Final SEIR Section 5.4 demonstrates, and the City hereby finds, based on the Final SEIR and the Record of Proceedings, that **no feasible mitigation measures** are available to reduce impacts to below a level of significance for the following issue:

- Landform Alteration/Visual Quality

VI. FINDINGS REGARDING SIGNIFICANT IMPACTS

In making each of the findings below, the City has considered the Plans, Programs, and Policies discussed in the Final SEIR. The Plans, Programs, and Policies discussed in the Final SEIR are existing regulatory plans and programs the project is subject to, and, likewise, are explicitly made conditions of the project's approval.

A. Findings Regarding Potentially Significant Environmental Impacts Found To Be Less Than Significant After Mitigation

The City, having independently reviewed and considered the information contained in the Final SEIR and the Record of Proceedings, finds pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), adopts the following findings regarding the significant effects of the project, as follows:

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant effects on the environment as identified in the Final SEIR. (Project No. 598173/SCH No. 97111070) as described below:

Biological Resources

1. Description of Potentially Significant Impacts:

As described in Section 5.2 of the Final SEIR, the project would result in the following impacts to 15.20 acres of vegetation communities (Impact BIO-1):

- Coastal Sage Scrub: 0.56 acres
- Southern mixed chaparral: 13.04 acres
- Non-native Grassland: 1.50 acres

Facts in Support of Finding: MM-BIO-1 would be required to mitigate potential impacts associated with vegetation communities. MM-BIO-1 would require that prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the project would demonstrate to the satisfaction of the City that impacts to a total of 15.2 acres of sensitive vegetation would be mitigated by the on-site preservation of 24.03 acres of sensitive vegetation as summarized by habitat type in Table 5.2-5 of the Final SEIR. The preserved habitat areas on the site would all be within the boundaries of the Multi-Habitat Planning Area (MHPA) Boundary Line Adjustment (BLA) dedicated to the City in fee title. Acceptance of land dedicated in fee title is subject to approval by the City's Park and Recreation Open Space Division. Implementation of the mitigation measure would ensure that adequate ratios of sensitive habitat would be preserved to offset the impacts and support the ongoing viability of the MHPA.

2. As described in Section 5.2 of the Final SEIR, the project could result in impacts to sensitive wildlife residing within the project site. Likewise, construction and grading activities could result in significant impacts to nesting Cooper's hawk and/or rufous-crowned sparrow that have a moderate to high potential to occur within the project area (Impact BIO-2).

Facts in Support of Finding: MM-BIO-2 would require that prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits, and Building Plans/Permits, mitigation for general impacts to biological resources would be incorporated via standard measures including general mitigation measures, biological protections during construction (includes monitoring, preconstruction meetings, and development of a Biological Condition Monitoring Exhibit, etc.) as described in Section 5.2.4.4 of the Final SEIR. These Biological Resources Protection requirements shall be depicted on the construction documents verbatim and implemented accordingly. Implementation of the mitigation measure would ensure that both general and resource specific steps are taken to verify the presence, monitoring and protection of sensitive wildlife.

The City finds that with implementation of mitigation measures MM-BIO-1 and MM-BIO-2, the potential for adverse project impacts associated with vegetation communities and sensitive wildlife would be reduced to a level less than significant.

Reference: Final SEIR Section 5.2.

Historical Resources

1. *Description of Potentially Significant Impacts:* As described in Section 5.3 of the SEIR, the project would have the potential to unearth subsurface deposits associated with P-37-038893 during project construction, which would have the potential to result in a significant impact (Impact HIST-1).

Facts in Support of Finding: As described in the Final SEIR, mitigation measure MM-HIST-1 would be required to mitigate potential impacts associated with P-37-038893. This mitigation measure would require implementation of specific monitoring actions, prior to permit issuance, prior to start of construction, during construction, and upon completion of

construction. Implementation of the mitigation measure would ensure that should cultural resources be discovered, steps are taken to preserve, document, and record such resources. The City finds that with implementation of mitigation measure MM-HIST-1, the potential for adverse project impacts associated with P-37-038893 would be reduced to a level less than significant.

Reference: Final SEIR Section 5.3.

Air Quality

1. *Description of Potentially Significant Impacts:* As described in Section 5.5 of the SEIR, dust generated from blasting operations required during project construction would have the potential to release naturally occurring subsurface arsenic, which could result in short-term exposure that may result in a significant impact (Impact AIR-1).

Facts in Support of Finding: As described in the Final SEIR, mitigation measures MM-AIR-1a and MM-AIR1b would be required to mitigate potential impacts associated with blasting operations. Mitigation measure MM-AIR-1a would require Geocon to obtain periodic random samples from select air-track borehole spoils or the ground surface over the course of the blasting program. The number of samples shall vary and be based on judgement depending on the size of the shot. The samples shall be assigned for analysis of arsenic using U.S. Environmental Protection Agency Test Method 6010B with a reporting limit of 1.0 milligram per kilogram. The sampling shall be performed under the direct supervision of Geocon's Project Manager and Professional Geologist. Mitigation measure MM-AIR-1b would require that specific protocols listed in Section 5.5.5.4 of the Final SEIR shall be performed to minimize the generation of visible dust during the hard rock blasting events. Implementation of these mitigation measures would ensure that dust generation from blasting is maintained at acceptable levels to reduce potential exposure.

The City finds that with implementation of mitigation measures MM-AIR-1a and MM-AIR1b, the potential for adverse project impacts associated with dust generated from blasting operations would be reduced to a level less than significant.

Reference: Final SEIR Section 5.5.

B. FINDINGS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS

The City, having independently reviewed and considered the information contained in the Final SEIR and the Record of Proceedings pursuant to Public Resource Code §21081(a)(3) and State CEQA Guidelines §15091(a)(3), adopts the following findings regarding the significant effects of the project, as follows:

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final SEIR. (Project No. 598173/SCH No. 97111070) as described below:

Landform Alteration/Visual Quality

1. *Description of Potentially Significant Impacts:* As described in Section 5.4 of the SEIR, the project would result in a substantial change in an existing landform. Therefore, impacts would be significant. This impact is consistent with the conclusion in the 1998 EIR.

Facts in Support of Finding: The 1998 EIR determined that impacts related to Landform Alteration/Visual Quality would remain significant and unavoidable. The amount and severity of grading for development of the four perimeter properties could not be quantified at that time, and stated that in general, grading of the northeast and southeast perimeter properties may result in significant adverse impacts. The Avion project site is within the area of the Subarea Plan referred to as the southeast perimeter properties, which are composed of four parcels (A, B, C, and D). The project site consists of Parcel C, totaling 41.48 acres.

The project has implemented mitigation measures listed in the 1998 EIR to the extent feasible. For instance, each housing product type has been designed to articulate bulk and scale with varying gables and angled roof sheds mimicking the undulating hillsides in order to fit the natural landform. Proposed earthwork would be balanced onsite, and grading would include five terrace levels as the development steps up the hillside in order avoid grading one large pad. The proposed access road would wind around natural contours to reach the project site, and the proposed tops and toes of the manufactured slopes would be rounded as they intersect with the natural terrain in order to follow the shape of the existing landform and compliment the natural hillside. Project construction would grade 15.69 acres of the 41.48-acre project site (37.8 percent) in a manner that would avoid much of the steep sloping terrain and limit intrusion into open space. However, the project would create manufactured slopes over 10 feet in height by creating cut slopes of up to 52 feet in height on the perimeter of the development area. Therefore, the project would not implement be consistent with all of the measures listed in the 1998 EIR and would result in a substantial change in an existing landform. Impacts would remain significant and unmitigated.

Reference: Final SEIR Section 5.4.

VII. FINDINGS REGARDING ALTERNATIVES

In accordance with Section 15126.6(a) of the CEQA Guidelines, an EIR must contain a discussion of "a range of reasonable alternatives to a project, or the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives." Section 15126.6(f) further states that "the range of alternatives in an EIR is governed by the 'rule of reason' that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice." Thus, the following discussion focuses on project alternatives that are capable of eliminating significant environmental impacts or substantially reducing them as compared to the proposed project, even if the alternative would impede the attainment of some project objectives or would be more costly. In accordance with Section 15126.6(f)(1) of the CEQA Guidelines, among the factors that may be taken into account when addressing the feasibility of alternatives are: (1) site suitability; (2) economic viability; (3) availability of infrastructure; (4) general plan consistency; (5) other plans or regulatory limitations; and (6) jurisdictional boundaries; and (7) whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site.

As required in CEQA Guidelines Section 15126.6(a), in developing the alternatives to be addressed in this section, consideration was given regarding an alternative's ability to meet most of the basic objectives of the project. Because the project would result in potentially significant environmental effects unless mitigated, the City must consider the feasibility of any environmentally superior alternatives to the project evaluating whether these alternatives could avoid or substantially lessen the potentially significant environmental effects while achieving most of the objectives of the project. The project objectives are presented above, Section II.A.

The City, having reviewed and considered the information contained in the Final SEIR and the Record of Proceedings, and pursuant to Public Resource Code §21081(a)(3) and State CEQA Guidelines §15091(a)(3), makes the following findings with respect to the alternatives identified in the Final SEIR. Specific economic, legal, social, technological, or other considerations, including considerations of the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final SEIR (Project No. 598173/SCH No. 97111070) as described below.

"Feasible" is defined in Section 15364 of the CEQA Guidelines to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." The CEQA statute (Section 21081) and Guidelines (Section 15019(a)(3)) also provide that "other" considerations may form the basis for a finding of infeasibility.

Alternatives Under Consideration

The Final SEIR evaluated two alternatives. Potential impacts that could occur under each alternative was compared to the potential impacts that could occur under the proposed project. The two alternatives are as follows:

- Alternative 1: No Project (No Development) Alternative
- Alternative 2: Reduced Development Footprint Alternative

No Project (No Development) Alternative

The No Project (No Development) Alternative would maintain the project site in its current condition. This alternative would preserve the existing environmental setting, and would thereby eliminate all of the project's impacts. This alternative would not require any deviations from the City's Land Development Code (LDC), Environmentally Sensitive Lands (ESL) ordinance, or the Historic Resource Regulations. Similarly, this alternative would not conflict with the Multiple Species Conservation Program (MSCP)/MHPA. No grading or construction activities would occur under this alternative, which would avoid impacts to sensitive vegetation communities, wildlife species, or unknown subsurface deposits associated with P-37-038893. This alternative would not alter existing landforms on the project site, including steep hillsides. No construction or blasting activities would occur under this alternative, which would avoid generation of construction emissions, noise, and vibration.

Facts in Support of Findings: While this alternative would avoid impacts associated with the project, this alternative would not meet any of the project objectives described above and in Section 3.2 of

the Final SEIR. This alternative would not provide residential development that is consistent with the location and the goals and objectives of the adopted Black Mountain Ranch Subarea Plan. This alternative would not provide new residential development which is consistent with existing residential development patterns in the surrounding area. This alternative would not implement "smart growth" principles of development through the provision of new residences within a complete master planned community, and would not implement sustainable development principles through the provision of a community of new residences with many energy-efficient features. Nor would this alternative provide infrastructure improvements consistent with the Subarea Plan. This alternative also would not provide the project benefit of expanding the MHPA through a boundary line adjustment that would result in a net increase of 5.06 acres. Therefore, the City rejects this alternative as infeasible on the basis that it fails to meet the project objectives. The City finds that although the No Project (No Development) Alternative would have fewer environmental impacts, specific economic, legal, social, technological, or other considerations, as set forth in the Statement of Overriding Considerations and rejects the No Project (No Development) Alternative on such grounds.

Reduced Development Footprint Alternative

The Reduced Development Footprint Alternative would reduce the grading footprint compared to the project. This alternative would reduce the footprint of the project area thereby avoiding impacts to the MHPA and would not require a boundary line adjustment. Similarly, the smaller project footprint would reduce impacts to sensitive vegetation communities and reduce impacts on landform alteration because it would not require encroachment into steep hillsides. Under this alternative, the same number of residential units (117) as prescribed for the project site in the Black Mountain Ranch (Subarea I) Subarea Plan would be constructed. However, this alternative would produce attached multi-family structures with an increased density compared to the project. The Reduced Development Footprint Alternative would reduce the grading footprint, and thereby avoid encroachment into the MHPA, and thereby not require a boundary line adjustment. However, the increased density associated with the alternative would require a height deviation to allow for development of the 117 units within the reduced grading footprint. The reduced grading footprint would also lessen impacts to sensitive upland vegetation communities. This alternative would have similar potential to impact cultural resources associated with P-37-038893. On balance, the reduction of landform alteration and encroachment into steep slopes would lessen impacts compared to the project, but would remain significant and unavoidable. The Reduced Development Footprint Alternative would reduce the grading footprint, and thereby reduce the amount of construction emissions, construction noise, and construction vibration.

Facts in Support of Findings: The Reduced Development Footprint Alternative would be considered the environmentally superior alternative. This alternative would avoid impacts to the MHPA and would not require a boundary line adjustment. Similarly, the smaller project footprint would reduce impacts to sensitive vegetation communities and reduce impacts on landform alteration. Although, the increased density and introduction of attached multi-family residential units that would occur under this alternative would not be consistent with the character of the single-family and detached multi-family residential units surrounding the project site, it would be considered environmentally superior to the project due to the reduction in grading and biological impacts.

The City rejects this alternative as infeasible because the increased density and introduction of attached multi-family residential units that would occur under this alternative would not be

consistent with the character of the single-family and detached multi-family residential units surrounding the project site. Furthermore, this alternative would not transfer the affordable units to Fairbanks Terrace Apartments Phase II, which would better serve affordable housing tenants due to the closer proximity to transportation and commercial amenities at this site. The City finds that although the Reduced Development Footprint Alternative would have fewer environmental impacts, specific economic, legal, social, technological, or other considerations, make the Reduced Development Footprint Alternative infeasible, as set forth in the Statement of Overriding Considerations, and rejects the Reduced Development Footprint Alternative on such grounds.

STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Code §21081(b) of CEQA and CEQA Guidelines §15093 and §15043, CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

If the specific economic, legal, social, technological, or other benefits outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable pursuant to Public Resources Code §21081. CEQA further requires that when the lead agency approves a project which will result in the occurrence of significant effects which are identified in the SEIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the SEIR and/or other information in the record.

Pursuant to the Public Resources Code §21081(b) and CEQA Guidelines §15093, the City Council, having considered all of the foregoing, finds that the following specific overriding economic, legal, social, technological, or other benefits associated with the project outweigh unavoidable adverse direct impacts related to Landform Alteration/Visual Quality.

The City Council finds that it has adopted all feasible mitigation measures to reduce the proposed environmental impacts to an insignificant level; considered the entire administrative record, including the SEIR; and weighed the proposed benefits against its environmental impacts. This determination is based on the following specific benefits, each of which is determined to be, by itself and independent of the other project benefits, a basis for overriding and outweighing all unavoidable adverse environmental impacts identified in the Final SEIR.

BIOLOGICAL BENEFITS

- The project would result in the expansion of the Multi-Habitat Planning Area (MHPA) through a boundary line adjustment that would result in a net increase of 5.06 acres. Additionally, the use of slopes that exceed the ten-foot height restriction related to landform alteration would serve to preserve additional sensitive habitat that otherwise would have been impacted.

OPEN SPACE BENEFITS

- The project has reduced the development footprint in a manner that would preserve steep slopes consistent with Open Space Element of the Black Mountain Ranch Subarea Plan implementing principle to “maintain natural resources such as mature stands of native vegetation, seasonal stream courses, wetlands and significant landforms”.

The City Council finds in accordance with Public Resources Code §21081(b) and §21081.5, and CEQA Guidelines §15093 and §15043, that any, or any combination of, the Statement of Overriding Consideration benefits noted above would be sufficient to reach the conclusion that overriding findings justify the significant, unmitigable impacts that were found.