

CITY OF VICTORVILLE DEVELOPMENT DEPARTMENT
14343 Civic Drive, Victorville, California 92392
(760) 955-5135 FAX (760) 245-8250

MITIGATED NEGATIVE DECLARATION
Preparation Date: July 1, 2021

Name or Title of Project: Site Plan Case No. PLAN21-00010 (Lakeview Village Apartments).

Location: West of and abutting Ridgecrest Road between Chinquapin Drive and Landis Drive
(APN No. 3090-501-03)

Entity or Person Undertaking Project: Village Lake East, LLC; c/o Michael Asheghian; MJM Investment Co., LLC; 12300 Wilshire Blvd #410; Los Angeles, CA 90025

Description of Project: Village Lake East, LLC (Project Applicant) is requesting approval of a Site Plan for construction of an apartment complex with 18 buildings consisting of two-story and three-story structures with a total of 272 attached dwelling units. The Project Site is approximately 22 acres and described as APN 3090-501-01. The proposed apartment complex will include the following:

Use	Number	Size (square-feet)	Dwelling Units Each
3-Story Apartment Building	11	22,913	17
3-Story Apartment Building	3	17,632	15
2-Story Apartment Building	4	15,093	10
Club House Building	1	4,312	
Pool Building	1	1,413	
Parking Spaces/Private Streets	546	204,732	
Common Open Space (incl. recreation, pool deck, interior sidewalks, building driveways & landscape)		321,891	

The above uses will total approximately 9.2 acres (402,316 sf) of building coverage; 5.4 acres (235,224 sf) of landscape, and private hard surface coverage of 6.6 acres (287,496 sf) which include the parking spaces and private streets.

Statement of Findings: The City of Victorville Planning Commission has reviewed the Initial Study for this proposed project and has found that there are no adverse environmental impacts to either the man-made or physical environmental setting if the following mitigation measures are implemented in conformance with the Mitigation Monitoring Policy, and does hereby direct staff to file a Notice of Determination, pursuant to the California Environmental Quality Act (CEQA).

A copy of the Initial Study and other applicable documents used to support the proposed Negative Declaration is available for review at the City of Victorville Planning Division.

Mitigation Measures:

Air Quality Measures:

- (AQ-1) The Project Proponent shall ensure compliance with Mojave Desert Air Quality Management District (MDAQMD) Rules 402 & 403, including but not limited to the following**

measures:

- a. The Project Proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities.
 - b. The Project Proponent shall ensure that watering of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading activity on the site. Portions of the site that are actively being used shall be watered to ensure that a crust is formed on the ground surface and shall be watered at the end of each workday.
 - c. The Project Proponent shall ensure that disturbed areas are treated to prevent erosion.
 - d. The Project Proponent shall ensure that ground disturbing activities are suspended when winds exceed 25 miles per hour.
 - e. All equipment must be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel.
 - f. The operator shall comply with all existing and future CARB and MDAQMD Off-Road Diesel Vehicle Regulations related to diesel-fueled trucks, which may include among others: (1) meeting more stringent emission standards; (2) retrofitting existing engines with particulate traps; (3) use of low sulfur fuel; and (4) use of alternative fuels or equipment.
2. (AQ-2) The Project Proponent shall ensure a minimum duration of 65 days for architectural coating unless otherwise deemed unnecessary by the MDAQMD in writing prior to the issuance of a building permit.

Biological Measures:

3. (BIO-1) Prior to the issuance of a grading permit, a preconstruction burrowing owl clearance survey shall be completed by a qualified biologist within 30 days prior to ground disturbance to avoid direct take of burrowing owls. Once complete, a written report summarizing the results of the clearance survey shall be prepared and submitted to the City of Victorville and CDFW for review and concurrence. • If no burrowing owls are detected, construction may proceed. If construction is delayed or suspended for more than 30 days during the breeding season (March 1 to August 31), the project site or work area shall be resurveyed. • If burrowing owls are detected on the project site during the breeding season (March 1 to August 31), a 500-foot "no work" buffer shall be established around the active burrow and all work within the buffer shall be halted until the qualified biologist has determined through non-intrusive methods that the nesting effort is complete (i.e., all young have fledged). Once the nesting effort is complete or if a burrowing owl burrow is detected on-site during the nonbreeding season (September 1 to February 28), passive and/or active relocation of burrowing owls may be implemented by a qualified biologist following consultation and approval from the City of Victorville and CDFW. The preconstruction burrowing owl surveys, passive or active relocation, and reporting shall follow the Staff Report on Burrowing Owl Mitigation (CDFG 2012).
4. (BIO-2) A biological monitor shall be present during all ground disturbance activities and will oversee all project-related staging, storage areas, laydown sites, equipment storage, installation of exclusionary fencing, and any other surface disturbing activities. The biological monitor will also ensure compliance measures are followed which will be provided in resource agency permits with special focus on vegetation removal and disturbance and monitoring within ecologically sensitive areas (e.g., Joshua tree).

5. **(BIO-3) Pursuant to the Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code, removal of any trees, shrubs, or any other potential nesting habitat shall be conducted outside the avian nesting season. The nesting season generally extends from February 1 through August 31 but can vary slightly from year to year based on seasonal weather conditions. If ground disturbance and vegetation removal cannot occur outside of the nesting season, a preconstruction clearance survey for burrowing owls and nesting birds shall be conducted within 7 days of the start of any ground-disturbing activities to ensure that no nesting birds will be disturbed during construction. The biologist conducting the clearance survey shall document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the preconstruction clearance survey, construction activities shall stay outside of a 300-foot buffer around the active nest. For raptors and special status species, this buffer will be expanded to 500 feet. A biological monitor shall be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Once it is determined by a qualified biologist that the young have fledged, or the nest otherwise becomes inactive under natural conditions, normal construction activities can occur. A qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.**
6. **(BIO-4) Joshua trees shall be protected to comply with the Victorville City Development Code through transplantation, stockpiling and implementation of protective measures as recommended in the Protected Plant Preservation Plan, February 2021. Additionally, prior to the implementation of the recommended measures outlined in the Protected Plant Preservation Plan, an ITP shall be obtained from the California Department of Fish and Wildlife (CDFW) for any Joshua Tree on-site removed from its current position as deemed applicable by the CDFW.**

Cultural Resource Measures:

7. **(CR-1) In the event that the Contractor encounters buried cultural materials, work in the immediate vicinity of the find shall cease and a qualified archaeologist shall be retained to assess the significance of the find. The qualified archaeologist shall have the authority to stop or divert construction excavation as necessary. If the qualified archaeologist finds that any cultural resources present meet eligibility requirements for listing on the California Register or the National Register, plans for the treatment, evaluation, and mitigation of impacts to the find will be developed subject to review and approval by the City Zoning Administrator or their designee.**
8. **(CR-2) If human remains are encountered during the undertaking, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of the origin and disposition of remains pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC.**

Geology and Soils Measures:

9. **(GEO-1) Before development of the Proposed Project, planned retaining walls adjacent to slopes shall be subject to City review and approval.**

10. (GEO-2) After rough grading of the Project Site, the soil will be required to be tested for expansive potential subject to review by the City Building Official and City Engineer or their designee.
11. (GEO-3) Excavation activity associated with the development of the project area may impact identified paleontologically sensitive Pleistocene alluvial units. The project would therefore be subject to a paleontological monitoring program should excavations impact older Quaternary alluvium. A qualified paleontologist should be on-site for initial excavations to determine the need for a monitoring program.

Transportation:

12. (TRAN-1) Sight distance at each project access point will be reviewed and approved by the City Engineer or their designee with respect to sight distance standards at the time of final grading, landscaping and street improvement plans.
13. (TRAN-2) The applicant/developer shall comply with all mitigation measures outlined in the Traffic Impact Analysis approved by the City of Victorville, including but not limited to payment of traffic impact fees (e.g. development impact fees, fair share contributions, etc.) and direct project mitigations, as required by the City Engineer of the City of Victorville in conjunction with the project's Site Plan entitlement.

Tribal Cultural Resources Measures:

14. (TCR-1) Should human remains and/or cremations are encountered during any earthmoving activities, all work shall stop immediately in the area in which the find(s) are present (suggested 100-ft radius area around the remains and project personnel will be excluded from the area and no photographs will be permitted), and the San Bernardino County Coroner will be notified. The City of Victorville, Development Department, the project proponent shall also be called and informed of the discovery. Disturbing human remains and/or cremations are against federal and state laws and there are criminal/civil penalties including fines and/or time in jail up to several years. The Coroner will determine if the bones are historic/archaeological or a modern legal case.

State law dictates that the Coroner will immediately contact the Native American Heritage Commission (NAHC) in the event that remains are determined to be human and of Native American origin, in accordance with California Public Resources Code Section 5097.98.

All discovered human remains shall be treated with respect and dignity. California state law (California Health & Safety Code 7050.5) and federal law and regulations ([Archaeological Resources Protection Act (ARPA) 16 USC 470 & 43 CFR 7], [Native American Graves Protection & Repatriation Act (NAGPRA) 25 USC 3001 & 43 CFR 10] and [Public Lands, Interior 43 CFR 8365.1-7]) require a defined protocol if human remains are discovered in the state of California regardless if the remains are modern or archaeological.

Modern Remains

If the Coroner's Office determines the remains are of modern origin, the appropriate law enforcement officials will be called by the Coroner and conduct the required procedures. Work will not resume until law enforcement has released the area.

Archaeological Remains

If the Coroner's Office determines the remains are archaeological and there is no legal question, the Coroner will make recommendations concerning the treatment and disposition of the remains to the person responsible for the excavation, or to his or her authorized representative. If the Coroner believes the remains to be of Native American origin, the Coroner shall contact by telephone within 24 hours the California NAHC. The NAHC will immediately notify the person it believes to be the Most Likely Descendent (MLD) of the remains. The MLD has 48 hours to make recommendations to the land owner for treatment or disposition of the human remains. If the MLD does not make recommendations within 48 hours, the land owner shall reinter the remains in an area of the property secure from further disturbance. If the land owner does not accept the MLD recommendations, the owner or the MLD may request mediation by the NAHC.

Public Review Period: July 2, 2021 through August 2, 2021.

Tentative Public Hearing Date: August 11, 2021