

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

MITIGATED NEGATIVE DECLARATION
Preparation Date: April 22, 2022

Name or Title of Project: Tentative Parcel Map Case No. PLAN22-00001 (TPM 20491).

Location: Northeast corner of Cottonwood Avenue and Pahute Avenue (APN No. 3093-141-02)

Entity or Person Undertaking Project: Prime A Investments, LLC, 3480 Guasti Road, 3rd Floor, Ontario, CA 91761

Description of Project: A Tentative Parcel Map with a Mitigated Negative Declaration to allow for the creation of 3 parcels from one existing 15 acre C-2 (General Commercial) zoned property located at the northeast corner of Cottonwood Street and Pahute Avenue.

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) Fugitive Dust Best Management Practices.** Fugitive Dust Best Management Practices (including but not limited to applicable provisions of the District Rule 403) shall be implemented on all non-paved transport roads, access points, and parking areas.
- (AQ-2) District Permits.** The construction contractor shall obtain MDAQMD permits for any miscellaneous process equipment that may not be exempt under MDAQMD Rule 219 including, but not limited to, internal combustion engines with a manufacture's maximum continuous rating greater than 50 break horsepower.

Biological Measures:

- (BIO-1) Burrowing Owl Pre-Construction Survey.** Before any other ground-disturbing activity, a pre-construction burrowing owl clearance survey must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation, State of California Natural Resource Agency, Department of Fish and Game, May 7, 2012, by a qualified biologist within 14 days before the beginning of project activities, and a secondary survey must be conducted by a qualified biologist within 24 hours before the start of project construction to determine if the project site contains burrowing owl or sign thereof and to avoid any potential impacts to the species. The surveys shall include 100 percent coverage of the project site. If both surveys reveal no burrowing owls are present or sign thereof, no additional actions related to this measure are required, and a letter shall be prepared by the qualified biologist documenting the results of the survey. The letter shall be submitted to CDFW before construction. If occupied active

burrows or signs thereof are found within the development footprint during the pre-construction clearance survey, Mitigation Measure BIO-2 shall apply.

4. **(BIO-2) Burrowing Owl Passive Relocation.** If active burrows or signs thereof are found within the development footprint during the pre-construction clearance surveys, site-specific non-disturbance buffer zones shall be established by the qualified biologist and shall be no less than 300 feet. If determined appropriate, a smaller buffer may be established by the qualified biologist following monitoring and assessments of the Project's effects on the burrowing owls. If it is not possible to avoid active burrows, passive relocation shall be implemented if a qualified biologist has determined there are no nesting owls and/or juvenile owls are no longer dependent on the burrows. A qualified biologist, in coordination with the applicant and the City, shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities onsite and proposed mitigation for permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation. When a qualified biologist determines that burrowing owls are no longer occupying the Project site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.
5. **(BIO-3) Desert Tortoise Pre-Construction Survey.** Prior to construction and issuance of any grading permit, a CDFW-approved biologist shall conduct a protocol level presence or absence survey within the Project area and 50-foot buffer no more than 48 hours prior to Project activities during desert tortoise active season (April to May or September to October), in accordance with the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Results of the survey shall be submitted to CDFW. If the survey confirms absence, the CDFW-approved biologist shall ensure desert tortoises do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take to the desert tortoise. If complete avoidance cannot be achieved, CDFW recommends Project proponent not undertake Project activities and Project activities are postponed until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained.
6. **(BIO-4) Nesting Bird Pre-Construction Survey.** If construction occurs during the non-nesting season (typically September 16 through December 31), a pre-construction sweep shall be performed to verify the absence of nesting birds. A qualified biologist shall conduct the pre-activity sweep within the Project areas (including access routes) and a 300-foot buffer surrounding the Project areas within 2 hours before initiating Project activities if project activities are planned during bird nesting season (generally, raptor nesting season is January 1 through September 15; and passerine bird nesting season is February 1 through September 1, a nesting bird survey shall be conducted by a qualified biologist within thirty no more than three (3) days before the initiation of project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. If nesting bird activity is present, a no disturbance buffer zone shall be established by the qualified biologist around each nest. The buffer shall be a minimum of 300 feet for raptors and 100 feet for songbirds unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. If there is no nesting activity, then no further action is needed for this measure.

7. **(BIO-5) Incidental Take Permit Required During Candidacy Period for Western Joshua Tree.** If any western Joshua trees (WJT) are to be relocated, removed, or otherwise taken, the Project Proponent shall obtain an incidental take permit (ITP) from California Department of Fish and Wildlife (CDFW) under CDFW under §2081 of the California Endangered Species Act (CESA), prior to the relocation, removal, or take. The Project Proponent shall comply with the following measures as approved by the CDFW:
- a) Special Order 749.11 Mitigation for Qualifying Dead WJT. If the site has only dead WJT and these trees can qualify for mitigation under Special Order 749.11, the Project Proponent shall pursue mitigation under Special Order 749.11.
 - b) Seed Preservation for Non-Qualifying Dead WJT. If avoidance of dead WJT is infeasible, seeds shall be collected from the dead tree by a certified arborist or a qualified desert plant biologist and preserved at a CDFW approved repository. Subsequent to the collection of seeds, the dead tree can be removed for disposal.
 - c) Payment of Mitigation Fee to Western Joshua Tree Mitigation Fund. For unavoidable impacts to live WJT, the Project Proponents shall propose making a payment to the Western Joshua Tree Mitigation Fund as established under Special Order 749.10. This mitigation should strictly follow the census requirements, occupied habitat acreage calculation methodology, and mitigation ratio listed under Special Order 749.10. More specifically, Project Proponent shall calculate impacts to WJT and associated habitat using the impact area methodology identified in Special Order 749.10. Alternatively, the project proponent may pay a mitigation fee consistent with the mitigation fee requirements identified in Special Order 749.12.

In the event Joshua tree is not listed as a threatened species, Mitigation Measure BIO-5 shall not apply. The Project would be subject to Municipal Code Chapter 13.33 - Preservation and Removal of Joshua Trees as a condition of approval and not mitigation as defined by CEQA.

Cultural Resource Measures:

8. **(CUL-1) Inadvertent Discovery of Archaeological Resources.** If archaeological resources are encountered during implementation of the Project, ground-disturbing activities will be temporarily redirected from the vicinity of the find. The Project Archaeologist will be allowed to temporarily divert or redirect grading or excavation activities in the vicinity to make an evaluation of the find. If the resource is significant, Mitigation Measure CR-2 shall apply.
9. **(CUL-2) Archeological Treatment Plan.** If a significant archaeological resource(s) is discovered on the property, ground disturbing activities shall be suspended 100 feet around the resource(s). The archaeological monitor, the Project Proponent, and the City Planning Department shall confer regarding mitigation of the discovered resource(s). A treatment plan shall be prepared and implemented by the archaeologist to protect the identified archaeological resource(s) from damage and destruction. The treatment plan shall contain a research design and data recovery program necessary to document the size and content of the discovery such that the resource(s) can be evaluated for significance under CEQA criteria. The research design shall list the sampling procedures appropriate to exhaust the research potential of the archaeological resource(s) in accordance with current professional archaeology standards (typically this sampling level is two (2) to five (5) percent of the volume of the cultural deposit). At the completion of the laboratory analysis, any recovered archaeological resources shall be processed and curated according to current professional repository standards. The collections and associated records shall be donated to an appropriate curation facility. A final report containing the significance and treatment findings shall be prepared by the archaeologist and submitted to the City of Victorville Planning Department and the South-Central Coastal Information Center.

Geology and Soils Measures:

- 10. (GEO-1) Inadvertent Discovery of Paleontological Resources.** If paleontological resources are encountered during implementation of the Project, ground-disturbing activities will be temporarily redirected from the vicinity of the find. A qualified paleontologist (the "Project Paleontologist") shall be retained by the developer to make an evaluation of the find. If the resource is significant, Mitigation Measure GEO-2 shall apply.
- 11. (GEO-2) Paleontological Treatment Plan.** If a significant paleontological resource(s) is discovered on the property, in consultation with the Project proponent and the City, the qualified paleontologist shall develop a plan of mitigation which shall include salvage excavation and removal of the find, removal of sediment from around the specimen (in the laboratory), research to identify and categorize the find, curation in the find a local qualified repository, and preparation of a report summarizing the find.

Tribal Cultural Resources Measures:

- 12. (TCR-1) Discovery of Cultural Resources.** In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) and any tribes noticed in conjunction with the AB 52 process shall be contacted, as detailed within TCR-4, regarding any pre-contact and/or historic-era finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.
- 13. (TCR-2) Monitoring and Treatment Plan.** If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to SMBMI and any tribes noticed in conjunction with the AB 52 process for review and comment, as detailed within TCR-4. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.
- 14. (TCR-3) Discovery of Human Remains.** If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.
- 15. (TCR-4) Tribal Input.** The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) and any tribes noticed in conjunction with the AB 52 process shall be contacted, as detailed in TCR-1, of any pre-contact and/or historic-era cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with SMBMI and any tribes noticed in conjunction with the AB 52 process, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents SMBMI and any tribes noticed in conjunction with the AB 52 process for the remainder of the project, should SMBMI or any tribes noticed in conjunction with the AB 52 process elect to place a monitor on-site.

16. (TCR-5) Archaeological/Cultural Documents. Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to SMBMI and any tribes noticed in conjunction with the AB 52 process. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI and any tribes noticed in conjunction with the AB 52 process throughout the life of the project.

Public Review Period: April 22, 2022 through May 23, 2022.

Tentative Public Hearing Date: June 8, 2022