

EXHIBIT “B”
SIGNIFICANT IMPACTS THAT
CANNOT BE FULLY MITIGATED

The Final EIR identifies the following significant or potentially significant adverse environmental impacts of the Proposed Project that cannot be mitigated to an insignificant level and are, therefore, significant unavoidable impacts:

Introduction

The mitigation measures relating to the addition of center turn lanes (“center turn lanes”) for Randolph Lane and Lawndale Road are within the jurisdiction of Caltrans. Should Caltrans fail to approve these center turn lanes, then the Board makes the following findings.

TRAFFIC AND CIRCULATION

Impact 5.2-1. 2005 Intersection Operation with Project and No Special Events.

Facts

In Section 5.2 (Traffic and Circulation), the Final EIR found year 2005 base case-plus-project volumes would result in five seconds or more increase in average control delay for critical movements at the State Route 12 intersection with Randolph Avenue where base case conditions are at Level of Service F.

Finding

Based upon the Final EIR and the entire record, the Board finds that operation of the State Route 12 / Randolph Avenue intersection in 2005 with the Proposed Project and no special events will be a significant and unavoidable impact unless specified mitigations are employed. Conditions of Approval 34, 35, 37, 38, and 39 of the Subdivision Conditions of Approval require specific roadway improvements to be completed which will reduce Impact 5.2-1 to a less than significant level; however, these improvements will require permits and/or approval by the State of California Department of Transportation (“Caltrans”). While there is nothing in the record that suggests that Caltrans will modify its prior oral statements that these improvements are desirable, no final Caltrans approval has yet been obtained. Although implementation of these improvements will reduce the identified impacts to a less-than-significant level, the

approval and acceptance of the improvements are within the jurisdiction of Caltrans and not the County. Because it cannot be assured that Caltrans will issue the permits and accept the improvements, the Board finds that the mitigation measure may not be feasible.

In the event that the mitigation measure proves infeasible, the Board concludes that this impact would not be reduced to a level of less-than-significant. This impact is overridden by project benefits as set forth in Statement of Overriding Considerations.

Rationale

During the Planning Commission's review of the Proposed Project, the Project Applicant proposed alternative mitigation measures for the identified impacts at the State Route 12 intersections with Lawndale Road and Randolph Avenue. In general, the Project Applicant proposed construction of short segments of two-way center turn lanes on State Route 12 that could be used as refuge areas for vehicles turning left from Lawndale Road and Randolph Avenue intersections. In addition, the Project Applicant proposed center turn lanes (i.e. left turn pockets) on the State Route 12 westbound approach to both intersections.

At a meeting attended by Caltrans staff, the Project Applicant's traffic consultant, PRMD staff, and the EIR traffic consultant at Caltrans' office in Oakland on April 28, 2004, Caltrans staff agreed that the Project Applicant's mitigation was acceptable in concept and that it would consider these improvements to mitigate project level of service impacts at these intersections to a less than significant level.

The Conditions of Approval require that right-of-way along the north (Project Applicant's) side of State Route 12 shall be granted by separate grant deed to the State of California. The area to be dedicated shall accommodate eight foot wide shoulders the length of the Proposed Project's frontage with State Route 12, and center turn lanes between the entrance to the Project Site and Lawndale Road, at a minimum.

Furthermore, the Conditions of Approval require that prior to building occupancy the following improvements will be completed: construction of center turn lanes on State Route 12 between the entrance to the Project Site and Lawndale Road and at the Randolph Avenue intersection.

Analysis of Friday PM and Sunday PM peak hour intersection level of service, taking into account the proposed center two-way center turn lanes, will result in acceptable intersection operation at the State Route 12 intersections with Randolph Avenue and Lawndale Road for all analyzed time periods, including time periods

analyzed with special events in progress (i.e. during the Friday PM peak hour and Sunday PM peak hour).

In sum, although a mitigation measure has been identified to reduce the impact of the operation of the State Route 12 / Randolph intersection in 2005 with the Proposed Project and no special events to a less-than-significant level, the Board does not have the jurisdiction to implement this measure. Implementation of this measure is within the jurisdiction of Caltrans. Therefore, it is concluded that this impact cannot be mitigated to a less-than-significant level.

Impact 5.2-2. 2012 Intersection Operation with Project and No Special Events.

Facts

In Section 5.2 (Traffic and Circulation), the Final EIR found the project traffic contribution to cumulative (year 2012 plus project) traffic volumes would result in five seconds or more increase in average control delay for critical movements at the State Route 12 intersection with Randolph Avenue where base case conditions are at LOS F. This would be a significant cumulative impact unless specified mitigations are employed.

The project traffic contribution to year 2012 cumulative volumes at the State Route 12/Randolph Avenue intersection would add to Friday AM peak hour approach volumes meeting rural signal warrant levels. This would be a significant cumulative safety impact and the Proposed Project's incremental contribution of traffic would be cumulatively considerable unless specified mitigations are employed.

Finding

Based upon the Final EIR and the entire record, the Board finds that operation of the State Route 12 / Randolph intersection in 2012 with the Proposed Project and no special events will be a significant and unavoidable impact unless specified mitigations are employed. Conditions of Approval 34, 35, 37, 38 and 39 of the Subdivision Conditions of Approval require specific roadway improvements to be completed; however, these improvements will require permits and/or approval by Caltrans. Although implementation of these improvements will reduce the identified impacts to a less-than-significant level the approval and acceptance of the improvements are within the jurisdiction of Caltrans and not the County. Because it cannot be assured that Caltrans will issue the permits and accept the improvements, the Board finds that the mitigation measure may not be feasible. In the event that the mitigation measure proves infeasible, the Board concludes that this impact would not be reduced to a level of

less-than-significant. This impact is overridden by project benefits as set forth in Statement of Overriding Considerations.

Rationale

During the Planning Commission's review of the Proposed Project, the Project Applicant proposed alternative mitigation measures for the identified impacts at the State Route 12 intersections with Lawndale Road and Randolph Avenue. In general, the Project Applicant proposed construction of short segments of two-way center turn lanes on State Route 12 that could be used as refuge areas for vehicles turning left from Lawndale Road and Randolph Avenue intersections. In addition, the Project Applicant proposed center turn lanes (i.e. left turn pockets) on the State Route 12 westbound approach to both intersections.

At a meeting attended by Caltrans staff, the Project Applicant's traffic consultant, PRMD staff, and the EIR traffic consultant at Caltrans' office in Oakland on April 28, 2004, Caltrans staff agreed that the Project Applicant's mitigation was acceptable in concept and would consider these improvements to mitigate project level of service impacts at these intersections, including Impact 5.2-2.

The Conditions of Approval require that right-of-way along the north (Project Applicant's) side of State Route 12 shall be granted by separate grant deed to the State of California. The area to be dedicated shall accommodate eight foot wide shoulders the length of the Proposed Project's frontage with State Route 12, and a center turn lanes between the entrance to the Project Site and Lawndale Road, at a minimum.

Furthermore, the Conditions of Approval require that prior to building occupancy the following improvements will be completed: construction of center turn lanes on State Route 12 between the entrance to the Project Site and Lawndale Road and at the Randolph Avenue intersection.

Analysis of Friday PM and Sunday PM peak hour intersection level of service, taking into account the proposed center two-way center turn lanes, will result in acceptable intersection operation at the State Route 12 intersections with Randolph Avenue and Lawndale Road for all analyzed time periods, including time periods analyzed with special events in progress (i.e. during the Friday PM peak hour and Sunday PM peak hour). This would result in the Proposed Project's cumulative contribution being less than cumulatively considerable.

In sum, although a mitigation measure has been identified to reduce the impact of the operation of the State Route 12 / Randolph intersection in 2012 with the Proposed Project and no special events to a less-than-significant level, the Board does not have the jurisdiction to implement this measure. Implementation of this measure is within the jurisdiction of Caltrans. Therefore, it is concluded that this impact cannot be mitigated to a less-than-significant level.

Impact 5.2-5. 2012 Intersection Operation with Proposed Project and Average Size Special Event.

Facts

In Section 5.2 (Traffic and Circulation), the Final EIR found the project increment (project average size special event traffic) of cumulative condition (year 2012-plus-project with average size special event traffic) would increase average control delay for critical movements by more than five seconds at the State Route 12 intersections with Lawndale Road and Randolph Avenue where base case conditions are at LOS F. This would be a significant cumulative impact unless specified mitigations are employed.

Finding

Based upon the Final EIR and the entire record, the Board finds that operation of the State Route 12 intersections with Lawndale Road and Randolph Avenue in 2012 with the Proposed Project and an average size special event will be a significant and unavoidable impact unless specified mitigations are employed. Conditions of Approval 34, 35, 37, 38 and 39 of the Subdivision Conditions of Approval require specific roadway improvements to be completed; however, these improvements will require permits and/or approval by Caltrans. Although implementation of these improvements will reduce the identified impacts to a less-than-significant level, the approval and acceptance of the improvements are within the jurisdiction of Caltrans and not the County. Because it cannot be assured that Caltrans will issue the permits and accept the improvements the Board finds that the mitigation measure may not be feasible. In the event that the mitigation measure proves infeasible, the Board finds that this impact would not be reduced to a level of less-than-significant. This impact is overridden by project benefits as set forth in Statement of Overriding Considerations.

Rationale

During the Planning Commission's review of the Proposed Project, the Project Applicant proposed alternative mitigation measures for the identified impacts at the State Route 12 intersections with Lawndale Road and Randolph Avenue. In general, the Project Applicant proposed construction of short segments of two-way center turn lanes on State Route 12 that could be used as refuge areas for vehicles turning left from Lawndale Road and Randolph Avenue intersections. In addition, the Project Applicant proposed center turn lanes (i.e. left turn pockets) on the State Route 12 westbound approach to both intersections.

At a meeting attended by Caltrans staff, the Project Applicant's traffic consultant, PRMD Staff, and the EIR traffic consultant at Caltrans' office in Oakland on April 28, 2004, Caltrans staff agreed that the Project Applicant's mitigation was acceptable in concept and would consider these improvements to mitigate project level of service impacts at these intersections, including Impact 5.2-5.

The Conditions of Approval require that right-of-way along the north (Project Applicant's) side of State Route 12 shall be granted by separate grant deed to the State of California. The area to be dedicated shall accommodate eight foot wide shoulders the length of the Proposed Project's frontage with State Route 12, and center turn lanes between the entrance to the Project Site and Lawndale Road, at a minimum.

Furthermore, the Conditions of Approval require that prior to building occupancy the following improvements will be completed: construction of center turn lanes on State Route 12 between the entrance to the Project Site and Lawndale Road and at the Randolph Avenue intersection.

Analysis of Friday PM and Sunday PM peak hour intersection level of service, taking into account the proposed center two-way center turn lanes, will result in acceptable intersection operation at the State Route 12 intersections with Randolph Avenue and Lawndale Road for all analyzed time periods, including time periods analyzed with special events in progress (i.e. during the Friday PM peak hour and Sunday PM peak hour).

In sum, although a mitigation measure has been identified to reduce the impact of the operation of the State Route 12 intersections with Randolph Avenue and Lawndale Road for all analyzed time periods to a less-than-significant level, the Board does not have the jurisdiction to implement this measure. Implementation of this measure is within the jurisdiction of Caltrans. Therefore, it is concluded that this impact cannot be mitigated to a less-than-significant level.

Impact 5.2-8. State Route 12 Operating Conditions at Specified Intersections with Cumulative Average Size Special Events.

Facts

In Section 5.2 (Traffic and Circulation), the Final EIR found cumulative event traffic volumes would result in significant additional delays at the Randolph Avenue, Adobe Canyon Road, and Lawndale Road / State Route 12 intersections operating at LOS E or F unless specified mitigations were employed. Subsequently, in response to comments on the Draft EIR, the projections were re-analyzed and the Final EIR concluded that impacts at Adobe Canyon Road were not cumulatively considerable nor cumulatively significant. The remaining impact at Randolph resulting from the Proposed Project's contribution of traffic would be cumulatively considerable unless specific mitigations are employed.

Finding

Based upon the Final EIR and the entire record, the Board finds that Proposed Project's cumulatively considerable contribution to cumulative impacts at the State Route 12 / Randolph Avenue intersection will be a significant and unavoidable impact. Conditions of Approval 34, 35, 37, 38 and 39 of the Subdivision Conditions of Approval require specific roadway improvements to be completed; however, these improvements will require permits and/or approval by Caltrans. Although implementation of these improvements will reduce the identified impact to a less-than-significant level the approval and acceptance of the improvements are within the jurisdiction of Caltrans and not the County. Because it cannot be assured that Caltrans will issue the permits and accept the improvements the Board finds that the mitigation measure may not be feasible.

Accordingly, in the event that the mitigation measure proves infeasible, the Board concludes this impact would not be reduced to a level of less-than-significant. This impact is overridden by project benefits as set forth in Statement of Overriding Considerations.

Rationale

During the Planning Commission's review of the Proposed Project, the Project Applicant proposed alternative mitigation measures for the identified impacts at the State Route 12 intersections with Lawndale Road and Randolph Avenue. In general, the Project Applicant proposed construction of short segments of two-way center turn lanes on State Route 12 that could be used as refuge areas for vehicles turning left from

Lawndale Road and Randolph Avenue intersections. In addition, the Project Applicant proposed center turn lanes (i.e. left turn pockets) on the State Route 12 westbound approach to both intersections.

At a meeting attended by Caltrans staff, the Project Applicant's traffic engineer, County staff, and the EIR traffic consultant at Caltrans' office in Oakland on April 28, 2004, Caltrans staff agreed that the Project Applicant's mitigation was acceptable in concept and would consider these improvements to mitigate project level of service impacts at these intersections to a less than significant level.

The Conditions of Approval require that right-of-way along the north (Project Applicant's) side of State Route 12 shall be granted by separate grant deed to the State of California. The area to be dedicated shall accommodate eight foot wide shoulders the length of the project's frontage with State Route 12, and center turn lanes between the entrance to the Project Site and Lawndale Road, at a minimum.

Furthermore, the Conditions of Approval require that prior to building occupancy the following improvements will be completed: construction of center turn lanes on State Route 12 between the entrance to the Project Site and Lawndale Road and at the Randolph Avenue intersection.

Analysis of Friday PM and Sunday PM peak hour intersection level of service, taking into account the proposed center two-way center turn lanes, will result in acceptable intersection operation at the State Route 12 intersections with Randolph Avenue and Lawndale Road for all analyzed time periods, including time periods analyzed with special events in progress (i.e. during the Friday PM peak hour and Sunday PM peak hour).

In sum, although a mitigation measure has been identified to reduce the impact of the operation of the State Route 12 intersections with Randolph Avenue and Lawndale Road for all analyzed time periods to a less-than-significant level, the Board does not have the jurisdiction to implement this measure. Implementation of this measure is within the jurisdiction of Caltrans. Therefore, it is concluded that this impact cannot be mitigated to a less-than-significant level at Randolph Avenue. The potential impact at Lawndale Road would not be significant, with or without the turn lane because there are fewer than 30 vehicles on either turn movement during the applicable peak period.

VISUAL AND AESTHETIC QUALITY

Impact 5.8-4. Light Pollution.

Facts

In Section 5.8 (Visual and Aesthetic Quality), the Final EIR found that implementation of the Proposed Project would result in new lighting sources on the Project Site, which together with other proposed development, could lead to increased light pollution.

Finding

The Board finds the light pollution impact to be significant and unavoidable notwithstanding evidence in the record which arguably could support a contrary finding. The applicant has proposed the use of lighting standards applicable to National Parks. The Ferguson Observatory was satisfied that the use of these lighting standards would address potential impacts to the night sky. Mitigation measure 5.8-4 has been incorporated into the Conditions of Approval. In addition, Conditions of Approval 101 and 102 of the Inn/Spa/Restaurant Conditions of Approval and Conditions of Approval 98 and 99 of the Winery Conditions of Approval require preparation of an exterior lighting plan to minimize lighting impacts. Nevertheless, while these measures will reduce light pollution impacts substantially, it is not certain that they would be effective enough to reduce this impact to a less-than-significant level. This impact is overridden by project benefits as set forth in Statement of Overriding Considerations.

Rationale

Light pollution impacts will be reduced with the mitigation measures incorporated into the Inn/Spa/Restaurant and Winery Conditions of Approval. An exterior lighting plan will be prepared for the Inn/Spa/Restaurant and the Winery. Measures included in the exterior lighting plan include the full shielding of light sources from off-site view, the use of on-demand lighting systems where possible, and the prohibition of the use of mercury, sodium vapor, and similar intense and bright lights except where their need is specifically approved and their source of light is restricted. In addition, lighting standards are to be employed for the Inn/Spa/Restaurant, the Winery, and residential uses. These standards will be in accordance with the standards established for the LZ1 lighting zone as described in the 2005 California Energy Efficiency Building Standards being developed by the California Energy Commission. These restrictive standards are for parks, recreation areas, and wildlife preserves.

As discussed in the Final EIR, because there is no existing development there are no nighttime light sources on the Project Site (such as from vehicle headlamps, streetlights, outdoor landscape or safety lighting or interior lighting) visible from State Route 12 or Adobe Canyon Road. It is evident that there would be a number of new light sources with the Proposed Project and that nighttime lighting may be visible from State Route 12 and Adobe Canyon Road.

Therefore, even with the implementation of the stringent mitigation measures to reduce on-site light pollution, given the lack of existing sources of nighttime lighting on the Project Site, the number of new lighting sources associated with the Proposed Project, and the visual sensitivity of the Project Site, the Board finds that the increase in light pollution is a significant unavoidable impact.

CONCLUSION

With respect to all of the unmitigated impacts referenced above and those impacts discussed in Exhibit "A", the Board finds that all feasible mitigation measures and alternatives have been adopted to avoid or substantially lessen the environmental impacts of the Proposed Project. For example, if, for any reason, Caltrans will not approve the mitigation measures described herein which will reduce all traffic impacts to an insignificant level, the County has provided for contingent and additional mitigation to substantially lessen impacts of the Proposed Project, albeit not to a level less than significant. Condition Number 36 requires the payment of traffic mitigation fees prior to the issuance of any building permit. Alternative mitigation is set forth in conditions 38 and 39 to the major subdivision approval. Conditions 40 and 41 to the major subdivision approval also address traffic related impacts and will be employed regardless of whether Caltrans ultimately approves the most desirable mitigation measures identified by the County herein. Accordingly, even in the absence of Caltrans approval, changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant environmental effects as identified in the final EIR to the extent feasible. Those changes or alterations are as discussed in this Exhibit B, in the main body of the Resolution and in other Exhibits appended hereto.