



Via Email

June 15, 2015

Beth Ehsan
Project Planner
County of San Diego
Planning and Development Services
5510 Overland Ave. Suite 110
San Diego, CA 92123

Re: Comments Regarding the Draft Environmental Impact Report for the Valiano Project

Dear Ms. Ehsan:

On behalf of the Natural Resources Defense Council (“NRDC”) and our tens of thousands of members who live and work in Southern California, we submit the following comments on the Draft Environmental Impact Report (“DEIR”) for the proposed Valiano Specific Plan Project (“Project”).

We have several concerns regarding the proposed Project and the DEIR. The primary area of concern is the Project’s inconsistency with the San Diego County General Plan and more specifically the Elfin Forest-Harmony Grove Community Plan (“Community Plan”). These plans were developed with rural aesthetic, agricultural landscape, and the sensitive and endangered habitats of the Elfin Forest-Harmony Grove area in mind. The 238-acre Project threatens the rural characteristic and sensitive habitat found in these areas by undermining the goals, planning, and hard work that went into the Community Plan. Furthermore, the DEIR fails to adequately assess the General Plan Density Alternative. Such failures are the result of an imprecise assessment of the feasibility of open space and agricultural easements in the lower density alternative. Each of these concerns is explained in more detail below.

I. The Project is Inconsistent with the San Diego County General Plan and Elfin Forest-Harmony Grove Community Plan

The proposed Project is inconsistent with the rural and environmental preservation goals of both the San Diego County General Plan and the Community Plan. Under California law, a general plan functions as a “constitution for all future developments” and development decisions should be consistent with that general plan. (*Endangered Habitats League Inc. v. County of Orange*, (2005) 131 Cal.App.4th 777, 782.) Although perfect conformity is not required, a proposed project should be compatible with the objectives and policies of the general plan. (*Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. Of Sup’rs*,

NATURAL RESOURCES DEFENSE COUNCIL

1314 2ND STREET | SANTA MONICA, CA | 90401 | T 310.434.2300 | F 310.434.2399 | NRDC.ORG

P-1 This comment is an introduction to comments that follow. No further response is required.

P-2 The commenter argues that the Project is inconsistent with the goals of the General Plan and the Community Plan. The County disagrees. The Project is compatible with the objectives and policies of the General Plan, and does not obstruct their attainment. Likewise, the Project does not conflict with any General Plan policy that is fundamental, mandatory, and clear. See EIR Sections 1.6 and 3.1.4 for discussion of policy consistency. Refer to Topical Response: General Plan Amendment and Subarea Boundary Adjustment CEQA Analysis and Response G-7.

P-1

P-2

COMMENTS

RESPONSES

NRDC Comments re Valiano Project DEIR
June 15, 2015
Page 2 of 4

P-2
cont.

(1998) 62 Cal.App.4th 1332, 1336.) Indeed, a project is consistent with a general plan if it furthers the objectives and policies of that plan and does not obstruct their attainment. (*Corona – Norco Unified School Dist. v. City of Corona*, (1993) 17 Cal.App.4th 985, 994.) Put differently, a project is inconsistent if it conflicts with a general plan policy that is fundamental, mandatory, and clear. (*Endangered Habitats League Inc. v. County of Orange, supra*, 131 Cal.App.4th at 782.) Furthermore, the nature of the policy and the nature of the inconsistency are critical factors to consider. (*Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. Of Sup'rs, supra*, 62 Cal.App.4th at 1341.)

P-3

The proposed Project contains elements that are inconsistent with the specific policies and goals of both the San Diego County General Plan and the Community Plan. The Community Plan, which operates as a subpart to the San Diego County General Plan, includes set policies meant to achieve specific goals. These goals include: preservation of the rural unincorporated communities of both Harmony Grove and Elfin Forest; the continued preservation of the area’s sensitive and endangered habitats; preservation of agricultural resources that enhance the environment and contribute to the rural community vision; preservation of existing wildlife corridors; and creating open space preserves of coastal live oak, oak woodland chaparral, native grasslands, and coastal sage scrub.

P-4a

It is our understanding that the Community Plan and its corresponding goals were the result of numerous hours of planning, cooperation and hard work from members of the community. Developing the Community Plan took over two years of grass roots efforts. According to local residents, the Community Plan is a result of comments and cooperation of more than 60 individuals from a community of 400 homes. Additionally, even before creating the Community Plan, community members evaluated varying density patterns during County-led workshops as part of the General Plan Update process. During these workshops, community members were asked to accommodate for their “fair share” of expected County-wide population growth. From these workshops, the Elfin Forest-Harmony Grove and Eden Valley communities determined that the focal point of their efforts, as well as the basis for the Community Plan, would be the preservation of open space through locating all of the increased density required within the footprint of one high density Village. According to the General Plan’s Community Development Model, density feathers out to low density development outside the Village Limit Line, hence preserving valuable agricultural and biological open space in the valley.

P-4b

Unfortunately, in disregard of such a concerted effort, the Valiano Specific Plan proposed project aims to change the dynamic of a rural community by providing an exception for a high density subdivision with minimal open space preserved. The planned change from low to high density is inconsistent with the goal of preserving the rural nature of the community. Additionally, such large scale residential development is likely to counteract the goals and policies of preserving agricultural areas, sensitive habitats, wildlife corridors, and open spaces that currently exist. In its current form, the proposed Project does not do enough to preserve open space or consider sensitive habitats and species contained within the area. Instead, it attempts to change the existing nature of the community to squeeze in a new development in a location that was evaluated and rejected for higher density during the General Plan Update process, completed in 2011.

P-3

The comment lists several goals of the EFHGCP and argues the Project is inconsistent. The Proposed Project would be consistent with the goals listed. Regarding preservation of the rural nature of the communities, see Refer to Topical Response: General Plan Amendment and Subarea Boundary Adjustment CEQA Analysis and Responses G-6, G-7, I-7 and I-8. As detailed in Subchapter 2.4, significant impacts to biological resources would be mitigated to a less than significant level; in addition, the Project would include a biological open space easement and an oak tree protection easement. Regarding agricultural resources, see Responses I-69a and K-20 through K-24 for information on the 35.4-acre agricultural easement.

P-4a

The comment describes the General Plan Update process in the local area. The County appreciates the time that was spent by community members during the General Plan Update process. See Topical Response: General Plan Amendment and Subarea Boundary Adjustment CEQA Analysis and Response G-6 for the definition of village versus semi-rural density. See Responses I-3 and I-4 for information on the Community Development Model.

P-4b

The commenter argues that the proposed density is inconsistent with the rural nature of the community and does not preserve enough open space. The Project preserves many rural character elements, as discussed in Comments I-7 and I-8. Regarding density and open space, one of the key concepts of the General Plan is the de-coupling of density and lot size. The General Plan sought to locate higher density in the most appropriate areas, but it also promotes clustering in order to increase open space preservation even as density increases. Thus it is not the density but the specific design of the Project that determines its biological impacts. It should be noted that if the site was developed per the existing General Plan designation and the minimum lot sizes set by the existing Zoning,

P-4b
cont.

biological impacts would be greater, as stated in Section 4.3.2 of the EIR:
Impacts to biological resources associated with the General Plan Density Alternative would be greater than those associated with the Proposed Project. As stated previously, although this alternative would result in approximately 65 percent fewer residential pads to be graded than the Proposed Project, as shown on Figure 4-1, the entire Project site would be divided into residential lots (with the exception of one lot for the WTWRF). With the exception of the areas protected under the RPO, future homeowners would be able to remove vegetation on their properties. Therefore, the entire Project site, with the exception of the RPO-protected areas, should be conservatively considered impacted. The General Plan Density Alternative would likely result in significant effects to raptor foraging habitat and grasshopper sparrow habitat, as well as impacts to on-site sensitive habitats. Similar to the Proposed Project, all identified biological impacts under this alternative would be reduced below a level of significance through mitigation measures such as appropriate habitat preservation and/or creation. Nonetheless, impacts to biological resources would be greater than impacts under the Proposed Project.

The fact that the County considered and rejected higher density at this site in 2011 does not preclude the County from re-considering and reaching a different conclusion in light of the more detailed analysis included in the Project-specific EIR.

COMMENTS

RESPONSES

NRDC Comments re Valiano Project DEIR
June 15, 2015
Page 3 of 4

P-4b
cont.

As noted above, a proposed project should remain consistent with the existing general plan for a community. Currently, this Project undermines the goals and policies of the Community Plan, as well as the public trust of the hard working community members who developed it.

II. The DEIR Must Fully Analyze the General Plan Density Alternative to Allow Comparisons and Informed Selection

The current draft omits relevant information about the General Plan Density Alternative. For this alternative, the DEIR should provide more information on why the developer believes open space and agricultural easements are not feasible, especially in light of a plan that calls for lower density. How would decreasing density yield less open space than a higher density plan? Such reasoning is not clear in the DEIR.

Because of this lack of clarity, the DEIR is inadequate. A major function of a draft environmental impact report is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official. (*Laurel Heights Improvement Ass'n v. Regents of the University of California*, (1988) 47 Cal.3d 376, 400.) In order to thoroughly assess alternatives, the draft environmental impact report must contain sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with a proposed project. (*Sierra Club v. City of Orange*, (2008) 163 Cal.App.4th 523, 546.)

P-5

In regards to the DEIR, ambiguities exist that bar a meaningful analysis of the General Plan Density Alternative. The DEIR shows a discrepancy in open space and feasibility of agricultural easements in the proposed Project compared with the General Plan Density Alternative. According to the DEIR, the alternative would reduce biological open space from 32 acres to 15 acres and would not provide for agricultural easements. (*DEIR Project Alternatives*, 4-9, 4-10.) Although lower density could require larger lot sizes, the DEIR does not explain why this would mean the Alternative could not still retain open space or agricultural easements that are offered in the proposed project. As stated above, the DEIR must contain sufficient information to allow meaningful evaluation. Merely stating biological open space would be reduced (*Id.* at 4-9) without explaining why this reduction is necessary is insufficient. Likewise, failing to explain why agricultural easements are not feasible in a general plan compliant alternative is also insufficient. This is especially relevant given that, had the DEIR fully analyzed a General Plan Density Alternative including an agricultural easement on two-acre lots on the Prime Soils portion of the Project, the impact to onsite agriculture resources would have been significantly reduced, and likely removed the necessity for offsite mitigation.

The DEIR should be reworked to provide an explanation for why open space and agricultural easements are not feasible under the General Plan Density Alternative.

P-5

The commenter asks why the General Plan alternative would yield less open space than the Project. As stated in Response P-4b, there is no set relationship between density and open space. The EIR states that the amount of *biological* open space would be reduced, while the commenter appears to be referring to open space as a general term for undeveloped area. The clustered design of the Proposed Project would allow for larger biological open space compared to the larger lots that would take up most of the site area in the General Plan Density Alternative (as shown in Figure 4-1). As stated in Section 4.3.2, homeowners in the General Plan Density Alternative would be able to remove vegetation from their properties and open space on residential lots in the General Plan Density Alternative would be conservatively considered impacted. Therefore, this acreage is not included as biological open space. A separate agricultural easement is not included in the General Plan Density alternative because that area of the site would be divided into lots, each of which could include or not include agriculture at the owners' discretion. A project design focused on maintaining large lot sizes would not preserve the large open space areas that can be preserved in a clustered design.

The comment states that the DEIR is inadequate. Contrary to the commenter's assertion, the EIR thoroughly assesses a reasonable range of alternatives, with sufficient information about each alternative, as seen in Chapter 4 of the EIR.

The quoted acreage of biological open space from the DEIR has been updated in the EIR to 31.2 acres. This would not change the aforementioned conclusions.

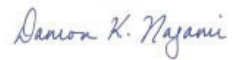
For additional information regarding the General Plan Density Alternative and related agricultural concerns/opportunities, see Responses I-32, I-42, I-43 and I-69d.

NRDC Comments re Valiano Project DEIR
June 15, 2015
Page 4 of 4

III. Conclusion

Thank you for the opportunity to provide comments on this draft environmental impact report and proposed Project. If you have any questions, please feel free to contact me at (310) 434-2300 or dnagami@nrdc.org.

Very truly yours,



Damon Nagami
Senior Attorney
Director, Southern California Ecosystems Project