

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 06/04/2026

TIME: 4:00 PM

DEPT: C-63

JUDICIAL OFFICER: KATHERINE A. BACAL

CLERK: Valerie Secaur

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: N/A

CASE NO: **25CU036645C** CASE INIT.DATE: 07/11/2025

CASE TITLE: **Preserve Wild Santee vs City of Santee**

CASE CATEGORY: Civil CASE TYPE: (U)Writ of Mandate: Writ of Mandamus - Other

HEARING TYPE: Ex Parte

MOVING PARTY:

The Court having taken this matter under submission on 5/11/2026, now rules as follows:

RULING ON SUBMITTED MATTER

Petitioners' petition for writ of mandate and complaint is **GRANTED in part** and **DENIED in part**.

Discussion

Petitioners Center for Biological Diversity, Preserve Wild Santee, California Chaparral Institute, and Endangered Habitats League filed a petition for writ of mandate and complaint for declaratory and injunctive relief alleging four causes of action: (1) Violation of CEQA - Failure to Evaluate New Information and Changed Circumstances; (2) Violation of State Planning and Zoning Law - Density Bonus Law; (3) Violation of State Planning and Zoning Law - Inconsistency with General Plan; and (4) Violation of Subdivision Map Act - Inconsistency with General Plan. ROA # 3. Respondents City of Santee and City of Santee City Council (collectively, "City") and Real Party in Interest HomeFed Fanita Rancho, LLC ("HomeFed") answered and oppose the petition. ROA # 19, 20.

After oral argument was held and after the matter was submitted, HomeFed filed a letter. ROA # 31. The Court provided petitioners an opportunity to file a response to the letter (ROA # 32), which they did (ROA # 35), and the matter was retaken under submission. Having reviewed and considered all briefing in conjunction with the administrative record and the arguments made at the hearing, the Court now issues this ruling.

CEQA (1st Cause of Action)

Petitioners argue City's approval of the project violates CEQA because it "overlooks new information that emerged from the 2025 Eaton and Palisades Fires (the 'LA Fires'), which arose under similar conditions

to those on the Project site.” Opening Brief (“OB”) at pp.29-30. They argue the City should have considered “significant new information” as to wildfire risks of bringing hundreds of senior citizens on site. *Id.* at pp.31-32. Petitioners argue City cannot merely rely on project features (which the Recirculated Environmental Impact Report (“REIR”) states renders the project so different from the LA Fires that new information need not be considered) to avoid assessing this significant new information. *Id.* at pp.33-34.

City and HomeFed argue the wildfire claims are barred by *res judicata*. Joint Opposition (“Oppo.”) at pp.15-16. They also argue substantial evidence shows the City properly found the LA Fires did not constitute “significant new information” that would require recirculation of the REIR or require additional review. *Id.* at pp.16-19.

In a CEQA proceeding, judicial review is limited to whether the agency committed a prejudicial abuse of discretion. Pub. Res. Code § 21168; CCP § 1094.5(b); *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 512. An abuse of discretion occurs if the agency failed to proceed in the manner required by CEQA or if its determinations are not supported by substantial evidence in the administrative record. Pub. Res. Code § 21168.5. The existence of significant new information requiring revision and recirculation of the EIR is governed by the substantial evidence standard of review. *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1135. The party who challenges an agency’s decision to certify the EIR as correct has the burden to establish otherwise. *Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 195. In reviewing for substantial evidence, the court’s task is not to weigh conflicting evidence or set aside an agency’s approval on the ground that a different conclusion would have been equally or more reasonable. *Id.* at 195.

In *Preserve Wild Santee v. City of Santee* (referred to by the parties as *Fanita IV*), San Diego Superior Court Case No. 37-2022-41478, the petitioners challenged the wildfire evacuation analysis, and the Court concluded petitioners did not show a CEQA violation based on the new wildfire analysis and impacts. Case No. 22-41478 (ROA # 175, 186). The question here is whether petitioners’ claims constitute “significant new information,” such that they would not be barred.

A lead agency is required to recirculate an EIR “when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification.” 14 CCR (“Guidelines”) § 15088.5(a). “[T]he term ‘information’ can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not ‘significant’ unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement.” *Id.*

Here, petitioners’ arguments as to the wildfires map (showing “Very High Fire Hazard Severity Zone”) and fast-moving fires are not persuasive as constituting significant new information. Substantial evidence in the record shows that the REIR already took into consideration these factors or explained based on substantial evidence why it did not constitute significant new information. Oppo. at pp.17-18, citing AR 1009-1012, 1415. The project area was already previously designated as a Very High Fire Hazard Severity Zone. Petitioners’ arguments that the updated maps show areas directly adjacent to it have also recently been designated as such also does not constitute significant new information. Additionally, the record contains explanation as to why the fast-moving nature of the LA Fires would differ from here because those projects were built out using much older standards and materials. Thus, what remains to be evaluated is petitioners’ claims that significant new information became available

concerning the senior residents' evacuation plans. OB at pp.32-33; Oppo. at pp.18-20; Reply at pp.21, 23.

Substantial evidence supports the City and HomeFed's position regarding petitioners' claims as to the emergency alert system for the evacuation plans. The alerts for the project do not rely on the wireless emergency alert system alone; they include a layered approach so that backups are in place. The alerts include, in addition to wireless alert system, the Reverse 911, television, radio, social media, and in the field law enforcement and fire personnel. AR 1416. The layered backup approach thus addresses petitioners' concerns as to possible failures of the wireless emergency alert system. Substantial evidence also supports City and HomeFed's position as to evacuation logistics regarding seniors. Those with physical limitations and inadequate transportation will be identified because residents will be provided information ahead of time for how to notify the County Office of Emergency Services and Health and Human Services of special needs, so that accommodations for their transportation, notification, and other special needs will be met. AR 1417.

Petitioners also claim that significant new information from the LA Fires was acquired concerning inadequate healthcare services regarding immediate health risks to older evacuees from smoke inhalation issues. AR 1071. At the hearing, the Court posed the question of whether the information regarding inadequate healthcare services during the LA Fires and the immediate health risks to older evacuees from smoke inhalation require reopening the wildfire analysis. ROA # 27. Petitioners argue revision and recirculation of the EIR is required because significant new information has been shown concerning the significant evacuation impacts on seniors. They argue the REIR did not assess the new information and appendix U (the Wildfire Safety Memorandum) relies on project features, which does not address the identified problems. Petitioners argue the wildfires evacuation plan is inadequate, as they do not provide adequate mitigation to address the heightened risks to residents as to lack of healthcare services and smoke exposure. ROA # 35, citing AR 7936-50 & AR 7785-99 (articles re: challenges faced and lack of supplies from evacuating nursing homes, nursing centers, assisted living facilities, and homes with disabled/special needs persons during the LA Fires), AR 7553 (article re: elderly man died in LA Fires after refusing to evacuate); AR 7493-7526 (article re: seniors who decided not to evacuate during the LA Fires); AR 10697-10718 (2023 Journal of Environmental Research & Public Health review on impacts, risks and interventions on wildfires and older adults; findings heavily focus on impacts of smoke exposure and air quality and common problems with evacuation).

City and HomeFed argue the REIR studied the effects of smoke on special needs populations and smoke inhalation. AR 3375, AR 3383, AR 3414 and AR 2291. They also argue the fire protection and evacuation plan focuses on the elderly population in Appendix U. AR 1009-1012 (explaining that age-restricted housing for older adults was not new to the proposed project, as the prior projects approved included active adult senior housing). City and HomeFed argue it is speculative to require recirculation of the EIR due to purported inadequate healthcare services.

HomeFed also cited in its post-hearing letter to the wildland fire evacuation plan's portion on evacuation of special populations, and the wildfire safety memorandum. ROA # 31, citing AR 3760-3761, AR 1417 (explaining the Fanita conditions are a "fire hardened community and the fire-hardened evacuation routes into the urbanized areas of Santee" and "[r]egarding smoke-related health issues, wildfires occurring in and around Fanita Ranch would be short duration as the fuels burned and the fire was driven around the project, further downwind. Residents would be evacuated via the multiple evacuation

routes or in a short-notice wildfire event where residents were sheltered on-site, they would be instructed to remain indoors with windows closed”).

Substantial evidence shows the challenges identified by the petitioners when evacuating seniors were studied and adequately addressed. AR 1416-1417 (explaining that the older adults who refused to evacuate in other fires were in homes/structures were subject to wildfire vulnerability and likely did not receive ongoing education about wildfire and evacuation. Whereas here, “Fanita’s 55+ (and entire population) will receive ongoing educational outreach and fire readiness and will have the benefit of a large ignition resistant landscape and structures” of a master planned community.) The special populations evacuation plan provides that accommodations for their notification, transportation or other special requirements can be provided during an emergency evacuation. AR 3760-3671. The REIR also addressed concerns about smoke inhalation that would include methods to minimize smoke intrusion into buildings for any areas where residents would be sheltering, which are designated far from the active wildfire fronts, and where the distance and winds would result in dispersion and cooling. AR 2291-2292. Pollutant concentrations were also assessed in a comprehensive impact analysis that concluded a less than significant impact based on considerations of, among other things, construction, topography and winds, ignition-resistant structures, buffering with fuel modification zones, and protection features that would lower wildfire ignition risks. AR 3375-3387, 3414-3415. The record shows the plan’s approach to proactively address the challenges of evacuating seniors and to proactively be prepared to provide accommodations for those who have special requirements such as individuals with heightened concerns as to smoke exposure. AR 1417. Again, in reviewing for substantial evidence, the Court’s task is not to weigh conflicting evidence or set aside an agency’s approval on the ground that a different conclusion would have been equally or more reasonable. Accordingly, petitioners have not shown significant new information concerning the senior residents’ evacuation plans that would require revision and recirculation of the EIR.

Petitioners’ first cause of action for violation of the CEQA is denied.

Density Bonus Law (2nd Cause of Action)

Petitioners argue the City’s approval of the project violates the density bonus law based on several theories. OB at pp.20-22, 26-28; Reply at pp.6-8. City and HomeFed argue petitioners failed to exhaust their administrative remedies as to the vast majority of those theories. Oppo. at pp.21-22,24, 26, 28, 30.

“The Planning and Zoning Law limits issues that may be raised in a proceeding to attack a public agency’s finding or determination to those that were previously raised in a public hearing or in written correspondence delivered to the agency, unless the issue could not have been raised through the exercise of reasonable diligence or the agency prevented the issue from being raised. The purpose of the rule of exhaustion of administrative remedies is to provide an administrative agency with the opportunity to decide matters in its area of expertise prior to judicial review. Exhaustion of administrative remedies is said to be a jurisdictional prerequisite to judicial action challenging a planning decision.” *Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 831, internal marks and citations omitted. “The essence of the exhaustion doctrine is the public agency’s opportunity to receive and respond to articulated factual issues and legal theories *before* its actions are subjected to judicial review.” *Park Area Neighbors v. Town of Fairfax* (1994) 29 Cal.App.4th 1442, 1447 (concluding that appellants failed to present nearly all the issues raised in the appeal during administrative proceedings, except for one aspect of the traffic study).

Here, having reviewed and considered the parties' briefing, citations to the administrative record, and arguments made at the hearing, the Court concludes petitioners did not exhaust their administrative remedies as to the majority of the issues raised. Petitioners did, however, meet their burden to show they exhausted administrative remedies on the issues of whether the 445 active adult age-restricted units qualify for the density bonus waiver and whether the project's active adult community fits the definition of senior citizen housing development. AR 7437, AR 8039. Accordingly, these issues are evaluated below.

Petitioners argue the standard of review as to the issues is *de novo*. OB at pp.15-16, citing *inter alia* *United Neighborhoods for Los Angeles v. City of Los Angeles* (2023) 93 Cal.App.5th 1074, 1095-96. City and HomeFed argue review is limited to whether the agency proceeded without, or in excess of, jurisdiction, failed to proceed in the manner required by law, or committed a prejudicial abuse of discretion. Oppo. at p.21, citing *inter alia*, CCP § 1094.5(b) and *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 768. The Court reviews the issue of statutory interpretation (here, the meaning of the provisions in the density bonus law) *de novo*, and evaluates the City's actions under an abuse of discretion standard of review.

Petitioners argue the active adult community in the project does not qualify the project for a density bonus. City and HomeFed argue the active adult community falls within the definition of "senior citizen housing development" to qualify the project for a density bonus.

Civil Code section 51.3(b)(4) defines "senior citizen housing development" as a "residential development developed, substantially rehabilitated, or substantially renovated for, senior citizens that has at least 35 dwelling units." Civ. Code § 51.3(b)(4). This section is "essential to establish and preserve specially designed accessible housing for senior citizens. There are senior citizens who need special living environments and services, and find that there is an inadequate supply of this type of housing in the state." *Id.* § 51.3(a); *Huntington Landmark Adult Community Assn. v. Ross* (1989) 213 Cal.App.3d 1012, 1018 (holding trial court's determination, that the facility is within the definition of senior citizen housing development, is supported by evidence where the evidence showed the size of individual units "are small, one-story in height, and require no yard work suggest that they are designed with senior citizens in mind; that is, people who have raised their children, do not need extra space for extended family, and do not wish to expend hours in home and garden care necessitated by the traditional single-family residence. In addition, evidence that the units are grouped around extensive communal recreational and educational facilities suggests a population with more time on its hands than the traditional family unit devoted to work outside and inside the home, child rearing and other domestic pursuits").

Here, City and HomeFed argue they committed 445 units to senior citizens, which far exceeds the 35-unit number under section 51.3. Oppo. at p.31, citing *Friends of Lagoon Valley, supra*, 154 Cal.App.4th at 832 (developer agreed to provide a senior citizen housing development of 100 units and thus were entitled a density bonus). They also argue no further additional requirements are needed to qualify under this bonus. City and HomeFed also argue that senior housing development does not need to include any design requirements. They argue the *Huntington* court upheld a senior housing designation despite the absence of a 55-and-over age restriction. Oppo. at p.31.

City and HomeFed's arguments are not persuasive. *Friends of Lagoon*, the case on which they relied, did not address the question of whether senior housing developments require special features. And contrary to City and HomeFed's argument, the housing development at issue in *Huntington* did have an

age restriction in their CC&Rs, which, per Civil Code section 51.3(g), increased the age restriction to 55. *Huntington, supra*, 213 Cal.App.3d at pp.1014-1015; see also Reply at p.13.

Also instructive as to the analysis of whether senior housing developments require special features is *Bliler v. Covenant Control Com.* (1988) 205 Cal.App.3d 18, 27. In assessing whether a property qualified as a senior citizen housing development under section 51.3, the appellate court noted the following standard: “[Housing p]lans should include more and wider walkways with fewer stairs, an interior and exterior designed to permit easy social contact, provision for common rooms, short distances between buildings, easy refuse collection, light maintenance and well-lighted walkways and halls....” *Id.*, citing *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 721, 742, footnote 10. *Bliler* supports petitioners’ arguments that senior housing units should be planned and made with senior needs in mind, and not simply designated as senior units.

Here, City and HomeFed have not shown that any of the purported senior citizen housing development was created with plans in mind to address senior citizens’ needs for special living environments and services. Thus, petitioners’ arguments are well-taken that the 445 “senior units” do not qualify for the density bonus and City and HomeFed may not rely on this as a basis to waive the general plan consistency requirements.

The petition as to the second cause of action for violation of the density bonus law is granted.

Inconsistency with General Plan (3rd and 4th Causes of Action)

Petitioners argue the REIR failed to disclose the project’s inconsistency with the general plan and its guiding principles and thus violated the State Planning and Zoning Law and the Subdivision Map Act. OB at p.29; Reply at p.18. They argue the City failed to disclose the inconsistency and instead wrongfully avoided the general plan amendment requirements by granting density bonus benefits.

City and HomeFed argue they disclosed where the project deviated from certain provisions in the general plan policies and its guiding principles but explained why the project is nonetheless consistent overall – because the project is entitled to density bonus law benefits and certified under the City’s essential housing project. Oppo. at pp.13-14.

Although CEQA requires EIRs to discuss inconsistencies between the proposed project and applicable general plans (*Highway 68 Coalition v. County of Monterey* (2017) 14 Cal.App.5th 883, 894; Guidelines § 15125(d)), “the issue of whether a proposed project is consistent with a county’s general plan is not a CEQA issue,” and so an “agency’s decisions regarding project consistency with a general plan are reviewed by ordinary mandamus.” *Stop Syar Expansion v. County of Napa* (2021) 63 Cal.App.5th 444, 460. The party challenging a city or county’s determination of general plan consistency has the burden to show why the determination was unreasonable. *Id.* at 461.

The City’s 2003 General Plan has Guiding Principles. At issue here are General Principle 3, which requires a mix of house sizes on lot sizes with specific sizes; General Principle 9, requires a golf course or lake; and General Principle 14, which requires a development agreement. OB at pp.11, 18. The REIR states it is entitled to mandatory waivers of General Principles 3 and 9 because it would physically preclude construction of the project and entitled to waiver of General Principle 14 because a development agreement is unnecessary due to the development plan. AR 918-921.

For the reasons stated earlier in this ruling, the City and HomeFed were not lawfully entitled to rely on the density bonus law to obtain waivers. Thus, petitioners have shown the City’s determination as to its

general plan consistency concerning General Principles 3 and 9 was unreasonable and violated the State Planning and Zoning law.

As to Guiding Principle 14, the Court asked the parties at the hearing whether petitioners exhausted the issue. Petitioners state they raised an objection prior to project approval as to the City's general plan consistency finding on the ground that a development agreement was required. City and HomeFed disagree and argue that petitioners did not specifically raise the issue to exhaust it. The record shows petitioners exhausted their administrative remedy as to this issue. AR7437.

Petitioners argue the general plan policy requires the development to include a development agreement. OB at p.19, citing AR 4208. They argue it does not matter that the REIR states the development agreement is not necessary; agencies cannot disregard mandatory general plan requirements, and a development agreement was required here by the plan. OB at p.24, citing *United Neighborhoods for Los Angeles, supra*, 93 Cal.App.5th at 1096-97.

City and HomeFed respond the City properly found the general plan consistent despite no development agreement because the development plan's implementation chapter "achieves the purpose of Guiding Principle 14 by ensuring the timely provision, financing, operation, and maintenance of public facilities in the absence of a formal Development Agreement." Oppo. at p.33, citing AR 1457, 1527. City and HomeFed argue the City properly found the project consistent with Guiding Principle 14 because the City "could not lawfully require a development agreement as a condition of approval" because an agency could not deny approval based on noncompliance with subjective or discretionary standards. Oppo. at pp.33-34, citing Gov. Code, § 65589.5(h)(9), (j)(1); *California Renters Legal Advocacy & Education Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820, 831, 835, 840.

"Because a general plan balance[s] a range of competing interests[,] [i]t follows that it is nearly, if not absolutely, impossible for a project to be in perfect conformity with each and every policy set forth in the applicable plan. An agency's weighing of such interests will be reversed only if it is based on evidence from which no reasonable person could have reached the same conclusion, and the party challenging the consistency finding has the burden to show why that determination is unreasonable. These principles only come into play, however, when the agency has in fact considered the applicable policies." *United Neighborhoods for Los Angeles, supra*, 93 Cal.App.5th at 1096, internal marks and citations omitted; *San Francisco Tomorrow v. City and County of San Francisco* (2014) 229 Cal.App.4th 498, 514, 517-518 ("It is enough that the proposed project will be compatible with the objectives, policies, general land uses and programs specified in the applicable plan").

"Once a general plan is in place, it is the province of elected city officials to examine the specifics of a proposed project to determine whether it would be 'in harmony' with the policies stated in the plan. It is, emphatically, *not* the role of the courts to micromanage these development decisions. Our function is simply to decide whether the city officials considered the applicable policies and the extent to which the proposed project conforms with those policies, whether the city officials made appropriate findings on this issue, and whether those findings are supported by substantial evidence." *San Francisco Tomorrow, supra*, 229 Cal.App.4th at 517-518 (explaining that appellate courts have held that findings of consistency were unsupported by substantial evidence where the project was inconsistent with "very *specific* and mandatory policies of the applicable general plan").

Here, petitioners have not shown that no reasonable person could, based on the evidence, have reached the same conclusion as that of the City here. Substantial evidence shows the City considered the

applicable policy regarding the development agreement, and found the project conformed to those policies based on the development plan's implementation chapter that addressed what would otherwise have been included in a development agreement. AR1457; AR 989. Accordingly, no violation has been shown as to Guiding Principle 14.

The parties' arguments regarding the fourth cause of action for violation of the Subdivision Map Act rise or fall with the third cause of action for violation of the Planning and Zoning Law. OB at p.18; Oppo. at p.35; Reply at p.17. Thus, petitioners' petition on the third and fourth causes of action is granted as to the City's determination on general plan consistency with Guiding Principles 3 and 9.

Conclusion

For the reasons stated, petitioners' petition for writ of mandate and complaint is **GRANTED in part** and **DENIED in part**. The petition is denied as to the first cause of action for violation of CEQA; granted as to the second cause of action for violation of the State Planning and Zoning Law - Density Bonus Law; and granted as to the third and fourth causes of action for violations of the State Planning and Zoning Law and Subdivision Map Act - Inconsistency with General Plan.

Petitioners to prepare the proposed writ in accordance with this ruling.

The Clerk to serve notice of ruling.

Katherine A. Bacal

Judge Katherine A. Bacal