

Deal lets construction resume on large Rancho Penasquitos project – but lawsuit could still complicate housing approvals

A judge had halted work on the 536-unit Junipers development in February, ruling that analysts had ignored the cumulative impacts of two nearby projects

[David Garrick](#) August 17, 2023 at 6:45 PM PDT

SAN DIEGO — Construction can resume on the the 536-unit Junipers housing project in Rancho Peñasquitos now that a lawsuit that halted it has settled — but the case is still expected to complicate and delay future projects across San Diego.

Residents living near the project agreed to settle their lawsuit and let Lennar Homes resume building in exchange for a new wildfire evacuation route, more park space, more trees and some road upgrades to ease traffic congestion.

Lennar was forced in February to halt construction and begin negotiating such concessions after the judge handling the lawsuit nullified an analysis of how the Junipers would affect traffic, noise and wildfire threats.

Superior Court Judge Ronald Frazier said the analysis failed to account for two other nearby developments — the 331-unit Millennium PQ and the 826-unit Trails at Carmel Mountain Ranch — even though city officials knew they were coming.

Attorneys for the city said at the time that Frazier's ruling could potentially "grind development to a halt" in San Diego by making the approval process more complicated and cumbersome.

They said major delays would occur if analysts who have launched such a review, called an environmental impact report, must continually adjust and re-start their work as they become aware of new projects planned nearby.

The settlement prevents a potential legal precedent that could have formally required developers and cities to consider the cumulative environmental impacts of all nearby projects in the approval pipeline.

But Frazier's tentative ruling made clear that it's legally and financially risky for developers and the city to ignore nearby projects when completing a state-mandated environmental analysis of a housing project.

The local chapter of the Building Industry Association, which lobbies for developers, said Thursday that it's disappointing Frazier's ruling may slow down construction of high-density projects during a housing crisis.

The chapter's chief executive, Lori Holt Pfeiler, said the ruling that delayed construction of the Junipers now threatens to delay other projects by requiring analysts to anticipate the size and impact of projects that haven't yet been finalized or approved.

Initial plans for Millennium PQ and the Trails had been submitted when analysts for the city and Lennar launched the EIR for the Junipers in April 2018. But those plans, including how many units each project would include, had not been finalized or approved.

Plans for Millennium PQ were not deemed complete by the city until 14 months after the Junipers EIR was launched. Plans for the Trails were not

deemed complete until 21 months after.

Pfeiler said it's wrong to require analysis of projects when the plans aren't complete.

"You don't fully know," she said, contending the process before Frazier's ruling made more sense. "The community was already protected, because future projects must account for projects that have previously been built."

Frazier disagreed in his February ruling.

"The Millennium PQ and Trails projects were reasonably probable future projects known to the city well before the draft EIR was published," Frazier wrote. "The city attempts to assert it was not obligated to consider these projects because neither of the applications was 'deemed complete' before the project's April 10, 2018 Notice of Preparation was issued. The court is not persuaded."

The group of residents that filed the lawsuit in 2021, the Peñasquitos Northeast Action Group, is hailing the settlement as a major victory for the suburban neighborhood, which is near its border with Carmel Mountain Ranch.

"The agreement highlights the positive impact created through the PQ-NE Action Group's advocacy on behalf of northeast PQ residents, including wildfire evacuation safety, traffic congestion relief and other concerns of the community," the group said in a prepared statement.

The deal requires Lennar to build a roundabout at the intersection of Cuca Street and Peñasquitos Drive, an emergency access road out of northeast Rancho Peñasquitos and an additional residential road to ease congestion.

Lennar must also make a larger share of the park space in the Junipers open

to the public and must plant 93 more mature trees than initially included in the project in order to protect residents from freeway noise and emissions.

The resident group and Lennar declined any comment beyond the prepared statement they jointly released.

A spokesperson for City Attorney Mara Elliott declined to comment beyond acknowledging the settlement.

"This matter has been resolved," said Andrew Sharp. "The city is not a party to the settlement and has nothing further to add."

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