

1.0 LEGAL BASIS AND PROJECT DESCRIPTION

This Supplement to the previously certified Final Environmental Impact Report for the San Luis Ranch Project (State Clearinghouse #2015101083) has been prepared by the City of San Luis Obispo to evaluate the environmental effects of a modification to the previously approved project. This document is interchangeably referred to as a “Supplement”, a “Supplemental EIR”, or by the acronym “SEIR.”

1.1 PURPOSE AND LEGAL AUTHORITY

Basis for CEQA Approach. Section 15163 of the *State CEQA Guidelines* provides the following guidance with respect to the preparation of a Supplement to an EIR for minor changes to an approved project:

(a) *The lead or responsible agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:*

- (1) *Any of the conditions described in Section 15162 would require the preparation of a subsequent EIR, and*
- (2) *Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.*

(b) *The supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised.*

(c) *A supplement to an EIR shall be given the same kind of notice and public review as is given to a draft EIR under Section 15087.*

(d) *A supplement to an EIR may be circulated by itself without recirculating the previous draft or final EIR.*

(e) *When the agency decides whether to approve the project, the decision-making body shall consider the previous EIR as revised by the supplemental EIR. A finding under Section 15091 shall be made for each significant effect shown in the previous EIR as revised.*

Section 15163 of the *CEQA Guidelines* also refers to Section 15162 of the *Guidelines*, which describes the conditions under which a Subsequent EIR would be the appropriate document for actions not considered in a certified Final EIR. Specifically, a Subsequent EIR is appropriate when:

1. *Substantial changes are proposed in the project which will require major revisions of the previous EIR...due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*
2. *Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR...due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or*

3. *New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete...*

Because the changes to the project, project circumstances, and new information contemplated at this time are not considered “substantial”, but instead considered “minor”, the criteria for preparing a Subsequent EIR are not met, and a Supplemental EIR pursuant to Section 15163 is considered appropriate.

Informational Document. In accordance with Section 15121 of the *State CEQA Guidelines*, the purpose of this SEIR is to serve as an informational document that:

...will inform public agency decision-makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.

This SEIR is to serve as an informational document for the public and City of San Luis Obispo decision-makers. The process will culminate with Planning Commission and City Council hearings to consider certification of a Final SEIR as well as the applicant’s requested modifications to the previously-approved project.

1.2 SUMMARY OF PREVIOUSLY-APPROVED PROJECT

As summarized in the certified Final EIR, the San Luis Ranch Project consists of a Specific Plan, General Plan Amendment and Pre-Zone, Development Agreement/Memorandum of Understanding, and Development Plan/Vesting Tentative Tract Map for a 131-acre project site, including annexation of the site into the City of San Luis Obispo. The site is located in unincorporated San Luis Obispo County, generally between Madonna Road and U.S. Highway 101, south of Dalidio Drive, and is identified by assessor’s parcel number (APN) 067-121-022. The project is intended to be consistent with the development parameters described in the City’s General Plan Land Use and Circulation Elements, which were updated in December 2014. The project includes a mixture of residential, commercial, office, and hotel uses, with approximately 53 acres of the site preserved for agriculture and approximately 7.4 acres preserved for open space uses. Phases 1, 2, and 3 of the project would consist of residential development. Phases 4, 5, and 6 would consist of non-residential (commercial and office) development.

The City Council unanimously certified the Final EIR and approved the project with minor modifications on July 18, 2017, pursuant to City Council Resolution No. 10822 (2017 Series). These minor modifications were found to be consistent with the analysis included in the certified Final EIR, and thus covered under that document.

1.3 PROPOSED CHANGES TO THE APPROVED PROJECT

After further investigation the applicant has found that the required fixed sequential phasing of development and timing requirements associated Prado Road Interchange project creates constraints on financing options, which potentially renders the development project infeasible.

In order to address financing constraints, the project applicant proposes to modify the previously approved project by adjusting the phasing plan description such that each of the project phases could overlap, be out of sequence, or be concurrent, depending on market conditions and to adjust project conditions and/or mitigation measures to implement such adjusted phasing plan, including:

- (i) Removing phase numbering from mitigation measures T-1, T-2, & T-3;
- (ii) Removing condition of approval #6 “Project construction and infrastructure shall be completed in the sequential phase order as evaluated in the San Luis Ranch EIR...”; and
- (iii) Revising the mitigation measure monitoring program such that construction of the Prado Road Overpass & Northbound Ramp is not a requirement prior to occupancy of Phase 2 or any other project Phase.

The Prado Overpass & Northbound Ramps project is a joint City and Caltrans effort currently on schedule to begin construction in 2021. The proposed change in the San Luis Ranch project description does not affect the Interchange Schedule or the project’s requirement to dedicate the necessary right-of-way and pay its fair share.

Based on item (i), Mitigation Measures T-1, T-2 and T-3 would now be revised based on an updated analysis, as described in Section 2.4, Transportation.

In addition, the revised project includes an amendment to the Specific Plan to permit the Community Development Director to authorize the developer, in any given year, to also construct 50% of the units allocated to the project in the following year if the Director determines that doing so is necessary to facilitate construction of beneficial public facilities and infrastructure. The purpose of this authorization is to realize the public benefits associated with the project, mitigate known potential impacts resulting from the project, and implement development requirements, including infrastructure requirements, which the City has found to be consistent with, and not a waiver of, the requirements of the City’s Growth Management Ordinance.

These changes would be reflected in the Specific Plan and Development Agreement. No other approved entitlements would be affected. The proposed revision envisions no change to the land use plan or development potential compared to what was approved by the City on July 18, 2017.

However, for the purpose of analyzing a “worst-case scenario” to provide a conservative evaluation of potential environmental impacts, this SEIR assumes that all residential and non-residential growth could occur in the first year following approval of the revised project. Table 1-1 summarizes the difference between the residential growth anticipated in the adopted Specific Plan compared to what could occur in the revised project.

Table 1-1. Residential Growth Comparison

Year	Adopted Specific Plan *	SEIR “Worst-Case” Assumption **
1	196	580
2	86	-
3	175	-
4	123	-
Total	580	580

* Table 7-11 of the adopted Specific Plan, on which this table is based, incorrectly showed 86 units in year 1, and 196 units in year 2. This table corrects that error. Figure 7-7 of the Specific Plan accurately showed intended phasing, which showed single family residential in Phase 1, and medium density residential in Phase 2. Table 2-3 of the adopted Specific Plan accurately shows up to 200 single family residential units in Phase 1, and 100 medium density residential units in Phase 2, which formed the basis of the analysis used in the certified Final EIR analysis. The above correction reflects that intent, and does not affect the analysis in this SEIR, nor would it introduce new impacts or mitigation measures as a result.

** Full buildout in first year used as a “worst-case” basis for analysis in this SEIR. The actual pace of development will depend on market factors.

Specific Plan. The development potential under the San Luis Ranch Specific Plan would remain unchanged from what was approved in July 2017. However, development could now occur more rapidly or in a different order than previously contemplated as described above and irrespective of when the Prado Road Interchange will be completed. The pace of residential and commercial development would still be subject to limitations set forth in the Specific Plan and Development Agreement for the project. The applicant will be required to pay its fair share contribution to the Prado Road Interchange project and the Interchange project will continued to be development by the City and Caltrans with construction anticipated to begin in year 2021.

The portions of the approved Specific Plan that relate to phasing and the timing of development and related improvements will be modified to reflect the changes described above. This modification is considered a Specific Plan Amendment and is being processed as such.

Development Agreement. The Development Agreement was originally conceived to address the project as approved in July 2017. The proposed phasing modifications would now need to be reflected in the following relevant provisions of the Development Agreement before it can be approved:

Section 6.01.2. Phasing Plan. *The conceptual phasing plan for the Project from the adopted Specific Plan is attached to this Agreement as **Exhibit D**.*

Section 6.01.3. *The conceptual phasing plan may be amended by agreement of the Parties to take advantage of new technologies, to respond to changes in the underlying land use assumptions upon which the plan is based, or for such other reasons as the Parties may agree, consistent with the Project EIR or a subsequent environmental review, if required.*

Section 7.02.1. Timing Requirements. b. *Developer shall complete the first phase of development depicted in **Exhibit D** to this Agreement by ____ [DATE TO BE DETERMINED].*

Otherwise, Developer may proceed with the development of any portion of the Project consistent with the Project Approvals, or make any financial commitment associated with any such development when, in Developer's sole and absolute discretion, Developer determines it is in Developer's best financial or other interest to do so. The foregoing sentence shall not, however, limit any obligation of Developer under this Development Agreement with respect to any development activities that Developer chooses to undertake hereunder, nor shall anything herein be interpreted to relieve Developer from compliance with any condition of approval, environmental mitigation compliance measure or other applicable regulatory requirement under Applicable Law.

Exhibit D. [This is the conceptual phasing plan graphic, which will be modified to reflect the updated phasing concept.]

1.4 LEAD, RESPONSIBLE, AND TRUSTEE AGENCIES

The *State CEQA Guidelines* define “lead,” “responsible” and “trustee” agencies. The City of San Luis Obispo is the lead agency for the project because it has the principal responsibility for approving the project. Discretionary approval of the project (including acquisition of the project site) is vested with the San Luis Obispo City Council.

A “responsible agency” refers to public agencies other than the “lead agency” that have discretionary approval over the project. The Local Agency Formation Commission (LAFCO) would be the responsible agency for annexation of the project site to the City. The State Department of Transportation (Caltrans) would be a responsible agency for any improvements on U.S. Highway 101 (U.S. 101). Other responsible agencies include the Airport Land Use Commission, Army Corps of Engineers for review of a Nationwide or Individual permit (dependent upon the acreage of total wetland disturbance), and the Regional Water Quality Control Board (RWQCB) for Section 401 Water Quality Certification and the National Pollutant Discharge Elimination System (NPDES) Storm Water Permit.

A “trustee agency” refers to a state agency having jurisdiction by law over natural resources affected by a project that are held in trust for the people of the State of California. The California Department of Fish and Wildlife (CDFW) has jurisdiction over biological resources, including waters of the State and rare and endangered plant species, which may be affected by project development, and is, therefore, a trustee agency.

1.5 ENVIRONMENTAL REVIEW PROCESS

The environmental impact review process, as required under CEQA, and as it relates to a Supplemental EIR, is outlined below. The steps are presented in sequential order.

- 1. Draft Supplemental Environmental Impact Report.** The Draft SEIR contains only the new information and analysis needed to address proposed changes to the previously-approved project.
- 2. Public Notice and Review.** A lead agency must prepare a Notice of Availability of an SEIR. The Notice must be placed in the County Clerk's office for 30 days (Public Resources Code Section 21092). The lead agency must send a copy of its Notice to anyone requesting it (*State CEQA Guidelines* Section 15087). Additionally, public notice

of DSEIR availability must be given through at least one of the following procedures: (a) publication in a newspaper of general circulation; (b) posting on and off of the project site; or (c) direct mailing to owners and occupants of contiguous properties. The lead agency must consult with and request comments on the Draft SEIR from responsible and trustee agencies, and adjacent cities and counties (Public Resources Code Sections 21104 and 21253). The public review period for the Draft SEIR is 45 days, because it is being sent to the State Clearinghouse for review (Public Resources Code 21091).

3. **Final SEIR.** A Final SEIR must include: (a) the DSEIR; (b) copies of comments received during public review; (c) a list of persons and entities commenting; and (d) responses to comments.
4. **Final SEIR Certification.** Prior to approving the revised project, the lead agency must certify that: (a) the Final SEIR has been completed in compliance with CEQA; (b) the Final SEIR was presented to the decision-making body of the lead agency and that the lead agency considered the information in the Final SEIR; and c) the Final SEIR reflects the lead agency's independent judgment and analysis (*State CEQA Guidelines* Section 15090).
5. **Lead Agency Decision.** A lead agency may: (a) disapprove a project because of its significant environmental effects; (b) require changes to a project to reduce or avoid significant environmental effects; or (c) approve a project despite its significant environmental effects, if the proper findings and statement of overriding considerations are adopted (*State CEQA Guidelines* Sections 15042 and 15043). Note that in this case, if the Lead Agency denies the proposed revised project, the previously approved project would still remain in effect.
6. **Findings/Statement of Overriding Considerations.** For each significant impact of the project identified in the SEIR that has not already been previously identified through the certified July 2017 Final EIR, the lead or responsible agency must find, based on substantial evidence, that either: (a) the project has been changed to avoid or substantially reduce the magnitude of the impact; (b) changes to the project are within another agency's jurisdiction and such changes have or should be adopted; or (c) specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible (*State CEQA Guidelines* Section 15091). If an agency approves a project with unavoidably significant environmental effects, it must prepare a written Statement of Overriding Considerations that set forth the specific social, economic or other reasons supporting the agency's decision.
7. **Mitigation Monitoring/Reporting Program.** When a lead agency makes findings on significant effects identified in a Final SEIR, it must adopt a reporting or monitoring program for mitigation measures that were adopted or made conditions of project approval to mitigate significant effects.
8. **Notice of Determination.** The lead agency must file a Notice of Determination after deciding to approve a project for which an SEIR is prepared (*State CEQA Guidelines* Section 15094). A local agency must file the Notice with the County Clerk. The Notice must be posted for 30 days and sent to anyone previously requesting notice. Posting of the Notice starts a 30-day statute of limitations on CEQA challenges (Public Resources Code Section 21167[c]).