

RESOLUTION NO. PC- ____-2020

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN LUIS OBISPO RECOMMENDING THE CITY COUNCIL ADOPT A MITIGATED NEGATIVE DECLARATION, INTRODUCE AND ADOPT AN ORDINANCE AMENDING TITLE 17 (ZONING REGULATIONS) OF THE MUNICIPAL CODE CONCERNING NON-CONFORMING USES, AND APPROVE THE ANNEXATION OF THE EAST AIRPORT ANNEXATION AREA PROPERTIES (EAST AIRPORT COMMERCE PARK ASSOCIATION, SENN-GLICK) TO THE CITY OF SAN LUIS OBISPO (PL-ANNX-2030-2018, EID-0006-2020)

WHEREAS, the City of San Luis Obispo’s (City) General Plan and Airport Area Specific Plan call for annexation of the area commonly referred to as the East Airport Annexation Area; and

WHEREAS, the City is actively working with the applicants and their consultants on detailing the various improvements and implementation of the financing plans to complete said improvements; and

WHEREAS, a Pre-Annexation Agreement has been prepared that considers existing “Office – Government” uses that have been approved and exist consistent with the San Luis Obispo County Airport Land Use plan, outlines the responsibilities of the applicants for the improvement of public and private infrastructure to serve the annexation area, and a financing plan to fund those improvements and the payment of fair-share traffic impact fees to the City; and

WHEREAS, a “Plan For Services” has been developed that include details on the studies, analysis, scheduling and financing of the consideration of said annexation and the needed public and private infrastructure improvements to be completed as part of any annexation; and

WHEREAS, a duly noticed Public Hearing before the Planning Commission was held on January 22, 2020, to consider testimony and input on the proposed annexation, needed public and private infrastructure improvements, development impact fees and charges to be paid to the City, environmental considerations for the annexation, and review of the timing and implementation of said fees and improvements; and

WHEREAS, environmental analysis of the proposed annexation has been guided by previous work in the form of the Airport Area and Margarita Area Specific Plans Final EIR (2005), FEIR Addendum for the Airport Area and Margarita Area Specific Plans (2015), and the City of SLO General Plan Land Use and Circulation Elements (LUCE) FEIR (2014); and

WHEREAS, an Initial Study of environmental impact was prepared for the proposed annexation, which tiers from the certified Final EIR for the Airport Area and Margarita Area Specific Plans, documents whether there have been changed circumstances since those referenced EIRs were completed, analyzes consistency of the annexation with the General Plan and Airport

Area Specific Plan, and identifies mitigation measures that would be required to mitigate potentially significant impacts resulting from the annexation process and the construction of needed infrastructure (new or rehabilitation) to support City services to the areas; and

WHEREAS, the conclusion of the Initial Study of environmental impact is that by incorporating the needed infrastructure features of the Pre-Annexation Agreement as well as the Plan For Services, in addition to and as a direct result of the analysis of the noted EIRs, and implementing noted mitigation measures, any significant effects of the annexation and provision of infrastructure services to the area would result in a less than significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Luis Obispo as follows:

SECTION 1. CEQA Findings, Mitigation Measures, and Mitigation Monitoring Program. Based upon all the evidence, the Planning Commission recommends that the City Council adopt the following California Environmental Quality Act (CEQA) findings in support of the project:

- a) The proposed project, as conditioned herein, is consistent with the requirements of the certified Airport Area and Margarita Area Specific Plans and Related Facilities Master Plans Final Environmental Impact Report (FEIR) (SCH# 2000051062), and this action incorporates those FEIR mitigation measures as detailed herein.
- b) A supplemental, tiered, initial study has been prepared for the project, which addresses potential environmental impacts resulting from the proposed project, and the Community Development Director has recommended that the results of that additional analysis be incorporated into a Mitigated Negative Declaration (MND) of environmental impacts, and recommends adoption of identified mitigation measures, all of which are incorporated below.
- c) All potentially significant effects were analyzed adequately in the referenced FEIRs and IS/MND, subject to the following mitigation measures being incorporated into the project and the mitigation monitoring program:

Air Quality

AQ-1: Naturally Occurring Asbestos. Naturally Occurring Asbestos (NOA) has been identified as a toxic air contaminant by the California Air Resources Board (ARB). Under the ARB Air Toxics Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations, prior to any grading activities a geologic evaluation shall be conducted to determine if NOA is present within the area that will be disturbed. If NOA is not present, an exemption request must be filed with the District. If NOA is found at the site, the applicant must comply with all requirements outlined in the Asbestos ATCM. This may include development of an Asbestos Dust Mitigation Plan and an Asbestos Health and Safety Program for approval by the APCD. More information on NOA can be found at <http://www.slcleanair.org/business/asbestos.asp>.

AQ-2: Asbestos Material in Demolition. Demolition activities can have potential negative air quality impacts, including issues surrounding proper handling, demolition, and disposal of asbestos containing material (ACM). Asbestos containing materials could be encountered during demolition or remodeling of existing buildings. Asbestos can also be found in utility pipes/pipelines (transite pipes or insulation on pipes). If utility pipelines are scheduled for removal or relocation or a building(s) is proposed to be removed or renovated, various regulatory requirements may apply, including the requirements stipulated in the National Emission Standard for Hazardous Air Pollutants (40CFR61, Subpart M - asbestos NESHAP). These requirements include but are not limited to: 1) notification to the APCD, 2) an asbestos survey conducted by a Certified Asbestos Inspector, and, 3) applicable removal and disposal requirements of identified ACM. More information on Asbestos can be found at <http://www.slcleanair.org/business/asbestos.php>.

AQ-3: Developmental Burning. APCD regulations prohibit developmental burning of vegetative material within San Luis Obispo County.

AQ-4: Permits. Portable equipment and engines 50 horsepower (hp) or greater, used during construction activities will require California statewide portable equipment registration (issued by the ARB) or an Air District permit. The following list is provided as a guide to equipment and operations that may have permitting requirements, but should not be viewed as exclusive: power screens, conveyors, diesel engines, and/or crushers; portable generators and equipment with engines that are 50 hp or greater; internal combustion engines; unconfined abrasive blasting operations; concrete batch plants; rock and pavement crushing; tub grinders; and, trommel screens.

AQ-5: Standard Mitigation Measures for Construction Equipment. The standard mitigation measures for reducing nitrogen oxides (NOx), reactive organic gases (ROG), and diesel particulate matter (DPM) emissions from construction equipment are listed below:

- a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
- b. Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
- c. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State off-Road Regulation;
- d. Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
- e. Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance;
- f. All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5 minute idling limit;
- g. Diesel idling within 1,000 feet of sensitive receptors is not permitted;
- h. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
- i. Electrify equipment when feasible;
- j. Substitute gasoline-powered in place of diesel-powered equipment, where feasible;
- k. Signs that specify no idling areas must be posted and enforced at the site; and,

1. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

AQ-6: Best Available Control Technology (BACT) for Construction Equipment. If the estimated ozone precursor emissions from the actual fleet for a given construction phase are expected to exceed the APCD threshold of significance after the standard mitigation measures are factored into the estimation, then BACT needs to be implemented to further reduce these impacts. The BACT measures can include:

- a. Further reducing emissions by expanding use of Tier 3 and Tier 4 off-road and 2010 on-road compliant engines;
- b. Repowering equipment with the cleanest engines available; and
- c. Installing California Verified Diesel Emission Control Strategies. These strategies are listed at: <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>

AQ-7: Fugitive Dust Mitigation Measures. Projects with grading areas that are less than 4-acres and that are not within 1,000 feet of any sensitive receptor shall implement the following mitigation measures to minimize nuisance impacts and to significantly reduce fugitive dust emissions:

- a. Reduce the amount of the disturbed area where possible;
- b. Use of water trucks or sprinkler systems, in sufficient quantities to prevent airborne dust from leaving the site and from exceeding the APCD's limit of 20% opacity for greater than 3 minutes in any 60-minute period. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible. Please note that during drought conditions, water use may be a concern and the contractor or builder shall consider the use of an APCD-approved dust suppressant where feasible to reduce the amount of water used for dust control (contact the APCD for a list of potential dust suppressants);
- c. All dirt stock-pile areas should be sprayed daily as needed;
- d. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible, and building pads should be laid as soon as possible after grading unless seeding or soil binders are used;
- e. All of these fugitive dust mitigation measures shall be shown on grading and building plans; and
- f. The contractor or builder shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20% opacity, and to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.
- g. Projects with grading areas greater than 4 acres or within 1,000 feet of any sensitive receptor shall implement the measures above, in addition to the following additional mitigation measures to manage fugitive dust emissions such that they do not exceed the APCD's 20% opacity limit (APCD Rule 401) or prompt nuisance violations (APCD Rule 402):
 - 1) Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible, following completion of any soil disturbing activities;

- 2) Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive grass seed and watered until vegetation is established;
- 3) All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;
- 4) Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
- 5) All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with California Vehicle Code (CVC) Section 23114;
- 6) “Track-Out” is defined as sand or soil that adheres to and/or agglomerates on the exterior surfaces of motor vehicles and/or equipment (including tires) that may then fall onto any highway or street as described in CVC Section 23113 and California Water Code 13304. To prevent ‘track out’, designate access points and require all employees, subcontractors, and others to use them. Install and operate a ‘track-out prevention device’ where vehicles enter and exit unpaved roads onto paved streets. The ‘track-out prevention device’ can be any device or combination of devices that are effective at preventing track out, located at the point of intersection of an unpaved area and a paved road. Rumble strips or steel plate devices need periodic cleaning to be effective. If paved roadways accumulate tracked out soils, the track-out prevention device may need to be modified;
- 7) Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers shall be used with reclaimed water where feasible. Roads shall be pre-wetted prior to sweeping when feasible.

Air Quality Monitoring Program: These conditions shall be noted on all project grading and building plans. The applicant will also be required to comply with existing regulations and secure necessary permits from the Air Pollution Control District (APCD) before the onset of grading or demolition activities including, but not limited to additional dust control measures, and evaluation for Naturally Occurring and Material Containing Asbestos. The applicant shall present evidence of a plan for complying with these requirements prior to issuance of a grading or building permit from the City. The applicant shall provide the City with the name and telephone number of the person responsible for ensuring compliance with these requirements. The Building Inspector and Community Development and Public Works Inspectors shall conduct field monitoring.

Biological Resources

BR-1 Prior to installation of the recycled water main on the Broad Street bridge, the project proponent shall prepare and implement a Biological Mitigation Plan that identifies construction-related staging and maintenance areas and includes construction best management practices (BMPs) to avoid or minimize impacts to biological resources, including all measures needed to protect riparian woodland and avoid accidental discharge of fuels and/or materials into the creek. Such BMPs shall include (but not be limited to) the following:

- a. Prior to construction activities associated with the installation of a recycled water line on the Broad Street bridge, the project proponent shall retain a qualified biologist to ensure implementation of required biological mitigation measures.
- b. The Plan shall include the use of debris netting to avoid accidental spill of materials into the creek corridor. The debris netting shall be installed prior to installation of the recycled water

- line on the bridge and shall not be removed until the installation of the recycled water line is complete.
- c. Prior to construction activities, the project area shall be clearly flagged or fenced so that the contractor is aware of the limits of allowable site access, which shall not include areas within the bed or bank of the creek.
 - d. Prior to the commencement of construction activities, the qualified biologist shall prepare and deliver a worker orientation and training program for all construction staff. This program shall include information on the protection of riparian habitat, special-status aquatic species, and avian species. The training shall also include any applicable regulatory policies and provisions regarding species protection and minimization measures to be implemented.
 - e. A biological monitor shall be present during the recycled water line installation on the bridge, and shall have the authority to stop or redirect work as needed to protect biological resources. Prior to initiation of daily construction activities, and periodically during installation of the recycled water line on the bridge, the biological monitor shall survey the creek within 100 feet of the bridge. In the event any special-status species is present, construction activities shall cease until the biological monitor has determined that the special-status species is no longer present within 100 feet of the project site. If nesting birds are present within 500 feet of the project site, no operation of heavy equipment shall occur until the birds have fledged and left the nest.
 - f. Construction shall occur during daylight hours (7:00 AM to 7:00 PM or sunset, whichever is sooner) to avoid impacts to nocturnal and crepuscular (dawn and dusk activity period) species.
 - g. No storage or fueling of equipment shall occur within 100 feet of the edge of riparian vegetation. Pallets or secondary containment areas for chemicals, drums, or bagged materials shall be provided. Should material spills occur, materials and/or contaminants shall be cleaned from the Project site and recycled or disposed of to the satisfaction of the Regional Water Quality Control Board (RWQCB).
 - h. All trash and construction debris shall be picked up and properly disposed at the end of each day.

Cultural Resources and Tribal Cultural Resources

CR-1: Unanticipated cultural resource discovery. In the event archaeological, historic, or paleontological resources are unearthed or discovered during any construction activities, the following standards apply:

- a. Construction activities shall cease, and the Community Development Director shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law, and in consultation with local Native American tribal organizations.
- b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Community Development Director so that proper disposition may be accomplished.

Cultural Resources and Tribal Cultural Resources Monitoring Program: Requirements for

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cultural resource mitigation, in the event of unforeseen encounter of materials during the potential relocation of the wastewater treatment facility, shall be clearly noted on all plans for project grading and construction. Compliance will be verified by the Community Development Director.

SECTION 2. Action and Findings. The Planning Commission hereby recommends the City Council

1) introduce and adopt an Ordinance amending Title 17 (Zoning Regulations) of the Municipal Code concerning “Non-Conforming Uses” pursuant to the Pre-Annexation Agreement for the East Airport Annexation by amending Municipal Code Section 17.94.020 as follows:

Addition of Subsection D.

D. For uses located in the East Airport Annexation Area of the Airport Area Specific Plan, “Office-Government” will not be subject to the provisions of Section 17.94.020.B.1.”

2) approve the filing of an application for annexation of the East Airport Annexation Area and direct the City’s Community Development Director to process the application with San Luis Obispo Local Agency Formation Commission (LAFCO); and

3) authorize the City Manager to execute any documents in a form approved by the City Attorney related to the annexation of the subject lands to the City of San Luis Obispo, based on the following findings:

Findings:

1. The proposed amendment to Title 17 concerning non-conforming uses is consistent with State law and will not significantly alter the character of the City or cause significant health, safety or welfare concerns, since the uses are in conformance with the San Luis Obispo County Airport Land Use Plan and the General Plan;
2. The project area is identified in the Airport Area Specific Plan as a future annexation area. The proposed annexation is consistent with the Airport Area Specific Plan, which was determined to be consistent with the San Luis Obispo County Airport Land Use Plan.
3. The proposed annexation is consistent with the General Plan, including Policies 1.13.3 (Annexation Purpose and Timing) and 1.13.5 (Annexation in Airport Area) because the proposed project satisfies all the prerequisites identified under 1.13.5 and pre-zoning was established upon adoption of the Airport Area Specific Plan, which is a prerequisite for allowing development on the site under the City’s General Plan.
4. The East Airport Annexation area is within the City’s Sphere of Influence as defined by LAFCO, which is an area designated for eventual annexation, provided that City services can be provided, and that annexation is otherwise consistent with LAFCO policies.
5. The Pre-Annexation Agreement and Plan For Services provides a framework for providing the necessary City services to adequately serve the annexation area.

Resolution No. (2020 Series)

Upon motion of _____, seconded by _____,
and on the following roll call vote:

AYES:

NOES:

ABSENT:

The foregoing resolution was adopted this _____ day of _____ 2020.

Tyler Corey, Secretary
Planning Commission