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Addendum to Final EIR No. 2011111016

2016 Affordable Housing Ordinance

County of San Benito

July 2016

## **PREVIOUS ENVIRONMENTAL DOCUMENTATION**

A Final Environmental Impact Report (FEIR) for the San Benito County 2035 General Plan Update (2035 GPU) was prepared by the County of San Benito in accordance with the California Environmental Quality Act (CEQA). The San Benito County Board of Supervisors certified the FEIR and adopted in July 2015.

Specifically, a program-level environmental impact report (FEIR) was prepared for General Plan Amendment (GPA) 09-42 (the 2035 GPU), pursuant to CEQA Guidelines Section 15161, focusing on the changes in the environment that would result from its implementation as required under CEQA. The FEIR examined all environmental impacts of the project as compared to the existing environment in the vicinity of the project from both a local and regional perspective. On July 21, 2015, the Board of Supervisors, at a public hearing, considered the FEIR, along with the recommended mitigation measures, the mitigation monitoring and reporting program, the statement of overriding considerations, and all findings required by CEQA. The public hearing resulted in the Board of Supervisors' adoption of Resolution 2015-58, certifying the FEIR, adopting findings required by CEQA (including, among others, a Statement of Overriding Considerations), and adopting a mitigation monitoring and reporting program.

Among other things, the 2035 GPU contemplates a significant amount of residential development that is anticipated to occur during the planning horizon in order to address the County's housing needs for all economic segments and in particular, to satisfy the County's regional housing needs in accordance with State housing laws. To help ensure that a portion of this planned growth is available to households of moderate, low and very low incomes, the 2035 GPU includes Program HOU-2-10, which requires the County to consider developing and adopting an affordable housing ordinance that would require development to financially contribute to the local supply of affordable housing. The FEIR analyzed the environmental consequences of implementing the 2035 GPU, including the planned growth described therein as well as the various programs and policies (including, without limitation, Program HOU-2-10) set forth in the 2035 GPU that are designed to guide that planned growth.

Separate from the 2035 General Plan Update process, to comply with State housing laws, the County also prepared and ultimately adopted an updated Housing Element for the planning cycle of 2014-2023 along with completing the requisite CEQA review in connection therewith. The Housing Element also contemplates the County's consideration of an affordable housing ordinance to facilitate the provision of affordable housing. In addition to Program HOU-2-10, Goal HOU-1 of the Housing Element states that the County shall stimulate the private sector's involvement and participation and investigate the use of Federal and State programs to help promote the preservation and availability of affordable housing. Furthermore, the following Housing Element plans and policies apply:

### **HOU-1A**

The County shall ensure that housing is affordable to extremely low, very low, low and moderate income families and members of the local workforce (e.g. teachers, fire and police, farm workers). Affordable housing units shall be granted priority for development.

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#### HOU-1B.

The County shall annually assess the potential options for local, state, and federal funding for affordable housing programs for low-income families and some moderate and above moderate income families. The County shall annually review its eligibility for various federal and state programs that will provide rehabilitation assistance. The County shall submit applications for programs for which the County is eligible, as appropriate.

#### HOU-1C.

The County shall annually review and expand ongoing housing and related programs that are currently in place within the County.

#### HOU-1-10. Affordable Housing Development Priority

To encourage local housing to be affordable to extremely low, very low, low and moderate income families and members of the local workforce, the County shall grant affordable housing units priority for development. This program will Help ensure that housing is available and affordable to extremely low, very low, low and moderate-income families and members of the local workforce (e.g. teachers, fire and police, farm workers).

HOU-2A. The County shall encourage and assist the construction of a variety of housing types with varying densities and prices, for both sales and rental that are affordable to all income groups, particularly very low income and special needs groups.

#### HOU-2B.

The County shall continue to approve developments that provide housing for all income groups where consistent with the County Housing Element.

Prior to approval of subsequent actions under the 2035 GPU that constitute a “project” under CEQA, the County is required to determine whether the environmental effects of such actions are within the scope of the project covered by the FEIR, and whether additional environmental analysis is required. If the agency finds that none of the triggers set forth in Section 15162 of the CEQA Guidelines has occurred, then no further environmental review shall be required and the County may document these conclusions in an addendum pursuant to CEQA Guidelines Section 15164(e).

#### **BACKGROUND: TRIGGERS FOR FURTHER ENVIRONMENTAL REVIEW**

In an effort to provide a degree of finality, CEQA includes a strong presumption against requiring any further environmental review once an EIR has been prepared and certified for a project. Specifically, once an EIR has been completed, the lead agency may not require preparation of a subsequent or supplemental EIR unless one of the three triggering conditions described below exists.

Section 15162 of the State CEQA Guidelines states:

*(a) When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines,*

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on the basis of substantial evidence in light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration 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 or negative declaration 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 or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines Section 15164 states, in relevant part: "The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred." Further, although not required under the law, a legal agency may prepare an addendum to an EIR to evaluate changes to a project, changes in circumstances, or new information, and to document the agency's determination that a subsequent or supplemental EIR is not required. See § Section 15164(e).

#### **ADDENDUM PURSUANT TO SECTION 15164(E)**

As discussed above, Program HOU-2-10 of the 2035 GPU requires the County to consider developing and adopting an ordinance to require that development contribute to the local supply of affordable housing. Accordingly, the County has prepared a proposed Affordable Housing Ordinance that contains the following main elements:

- Requiring developers to provide 15% of their total residential development be income restricted and dedicated to moderate, low, and very low income households,

- Requiring the equivalent of 20% affordable housing if the housing is proposed off-site,
- Proposing an in-lieu fee program for projects that are required to provide affordable housing but are not able to due to zoning, infrastructure, or other constraints.

This proposed action merely implements a specific Program in the 2035 GPU, which was previously analyzed as part of the FEIR process. As noted above, the proposed Ordinance provides a mechanism by which the County can require developers of market rate residential projects to contribute funding (in the form of payment of a fee, construction/rehabilitation of off-site units or dedication of land) to help ensure that a percentage of the total units that would otherwise be built pursuant to an individual development application are affordable to moderate, low and very low income households. The Ordinance does not, in and of itself, authorize development of any specific project. Rather, each individual development application that would be subject to the Ordinance will be required to comply with CEQA, including the appropriate level of environmental review as mandated under state law.

For these reasons, the County of San Benito has determined that none of the three triggers under Section 15162 has occurred in connection with the County's consideration of the Affordable Housing Ordinance. Further, the County has determined it is appropriate to document this conclusion in this Addendum pursuant to Section 15164(e).

## **FINDINGS**

Pursuant to Section 15162 and 15164(e) of the CEQA Guidelines, the County of San Benito has determined, on the basis of substantial evidence in the light of the whole record, that:

(a) The Affordable Housing Ordinance does not propose substantial changes to the General Plan which would require major revisions to the FEIR due to new or substantially more severe significant environmental effects than previously analyzed in the FEIR;

(b) There have been no substantial changes in circumstances under which the Affordable Housing Ordinance will be undertaken that will require major revisions to the FEIR due to new or substantially more severe significant environmental effects than previously analyzed in the FEIR; and

(c) No new information of substantial importance as described in subsection (a)(3) of Section 15164 has been revealed that would require major revisions to the FEIR or its conclusions.

### ***Evidence:***

*Program HOU-2-10 states that the County shall consider developing and adopting an ordinance to require that development contribute to the local supply of affordable housing. This policy was previously analyzed by the County through the CEQA process in the FEIR. No changes to the 2035 GPU are required, nor are any changes to the FEIR necessary due to previously unevaluated significant*

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*environmental effects that may occur as a result of the Affordable Housing Ordinance. There have been no substantial changes that were not previously analyzed, and no new information of substantial importance has been discovered. The purpose of the Affordable Housing Ordinance is to require developers to contribute financially to affordable housing as a part of a proposed residential project. It does not increase the amount of housing constructed, or the amount of development contemplated in the General Plan. As described more fully above and therein, the Ordinance merely places affordability and design restrictions on a percentage of housing proposed within a development. All individual development proposals that will be subject to the Ordinance will be analyzed as necessary under CEQA with the appropriate CEQA documentation prepared in connection therewith on a case-by-case basis.*

In accordance with CEQA Guidelines Section 15164(e), this Addendum to the previously certified FEIR is appropriate to document the County's conclusions that no further environmental review has been triggered in connection with its consideration of the Affordable Housing Ordinance

