

RESOLUTION NO. 03-231

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES,
CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT
FOR THE 2003 GENERAL PLAN UPDATE

WHEREAS, the City of El Paso de Robles has prepared a comprehensive update to the General Plan, in accordance with Article 5 (Authority for and Scope of General Plans) and Article 6 (Preparation, Adoption, and Amendment of the General Plan) of the Planning and Zoning Law of the California Government Code; and

WHEREAS, this comprehensive update to the General Plan will hereafter be referred to as the “2003 General Plan Update”; and

WHEREAS, the 2003 General Plan Update includes the Land Use, Circulation, Housing, Open Space, Conservation, Parks and Recreation, Safety and Noise Elements; and

WHEREAS, the adoption of the 2003 General Plan Update constitutes a “project” as defined by the California Environmental Quality Act (CEQA) Statutes and Guidelines; and

WHEREAS, in its capacity as lead agency, the City has prepared and processed an Environmental Impact Report (EIR) reviewing and evaluating the probable environmental effects associated with adoption and implementation of the 2003 General Plan Update, including four (4) different alternative land use plans (maximum, moderate, minimum, and no additional development beyond that anticipated in the existing General Plan); and

WHEREAS, these alternative land use plans anticipate that the City could grow from the current General Plan projection (residential build-out) of 35,300 residents to a maximum residential build-out potential of 45,500 residents by the year 2025, and a proportionate increase in commercial and industrial development; and

WHEREAS, the “proposed project” in the context of the EIR is the alternative with the maximum potential impacts (the largest geographic area and population scenario), which was selected as the alternative for study purposes only; and

WHEREAS, this maximum growth alternative covers a geographic area of approximately 12,509 acres and provides for a total build-out of up to 16,843 residential dwelling units, 7,027,000 square feet of commercial development, and 3,636,000 square feet of industrial development; and

WHEREAS, the City has consulted with responsible and trustee agencies and other concerned organizations and individuals before issuance of the Notice of Preparation of an Environmental Impact Report and prior to publication of the Draft and Final EIR, including but not limited to: a Planning Festival, a Community Survey, Study Sessions, and Workshops on the General Plan Update; and

WHEREAS, a Draft EIR on the 2003 General Plan Update was circulated on August 7, 2003, for a period of forty-five (45) days concluding September 22, 2003, to all responsible and trustee agencies and other interested agencies, organizations, and individuals; and

WHEREAS, copies of the Draft EIR on the 2003 General Plan Update were also available throughout the forty-five day (45) review/comment period referenced above for public inspection and review at City Hall, at the public library, and on the City’s website; and

WHEREAS, a total of 19 letters were received during the 45-day review/comment period, providing comments on the content of the Draft EIR; and

WHEREAS, at its August 26, 2003 meeting, the Planning Commission conducted a duly noticed public workshop on the Draft EIR and took testimony from six (6) persons on the 2003 General Plan Update and accompanying EIR; and

WHEREAS, at its September 18, 2003 meeting, the Planning Commission and City Council conducted a duly noticed joint public workshop and took testimony from eight (8) persons on the 2003 General Plan Update and accompanying EIR; and

WHEREAS, throughout the General Plan Update process, the City held over 12 public workshops on the Update and its environmental review; and

WHEREAS, in response to the written and oral comments received, a Final EIR was prepared and released for public review/comment on November 12, 2003; and

WHEREAS, as a result of input from the public and the General Plan Ad Hoc Committee, the Final EIR included comments, responses, clarifications and modifications/errata to the Draft EIR and the proposed 2003 General Plan Update; and

WHEREAS, the August 2003 Draft EIR and its Appendices together with the Comments, Responses and Revisions Report and all documents referenced therein, collectively comprise the Final EIR for the 2003 General Plan Update; and

WHEREAS, any changes made to the text of the Draft EIR correcting information, data or intent, other than minor typographical corrections or minor working changes, are noted in the Final EIR as changes to the Draft EIR; and

WHEREAS, none of the above-referenced changes to the Draft EIR were substantive in nature or involved significant new information; rather, they merely clarified, amplified, or insignificantly modified the EIR; and

WHEREAS, based on the November 25, 2003 public hearing, testimony received, the information and analysis presented in the Final EIR, and the proposed 2003 General Plan Update (Public Hearing Draft) presented and discussed at said public hearing, the Planning Commission:

- A. Determined that no new information was provided, nor were any new questions raised that would significantly change the basis for the City Council's review/consideration of taking final action on both the Final EIR and the proposed 2003 General Plan Update at its duly noticed public hearing on December 16, 2003; and
- B. Recommended to the City Council on a 4-0-0-3 vote that the Council certify the August 2003 Draft EIR and its Appendices together with the Comments, Responses and Revisions Report and all documents referenced therein, for the 2003 General Plan Update as being adequate, objective, and in full compliance with CEQA.

WHEREAS, on a 3-1-0-3 vote, the Planning Commission recommended to the Council that the 2003 General Plan Update be approved with a population of approximately 38,000 residents and no residential annexation or expansion; and

WHEREAS, the Planning Commission held a duly noticed special meeting on December 16, 2003, providing an opportunity for the Commission to obtain four (4) affirmative votes to forward a recommendation that represents a quorum of the seven-member Commission to the Council and accepting further public comment; and

WHEREAS, on a 4-1-0-2 vote taken at its December 16, 2003 meeting, the Planning Commission recommended to the Council that the 2003 General Plan Update be approved with a population of approximately 38,000 residents and no residential annexation or expansion; and

WHEREAS, at its public hearing on December 16, 2003, the City Council reviewed, considered, and discussed the information and analysis contained in the August 2003 Draft EIR and its Appendices together with the Comments, Response and Revisions Report and all documents referenced therein (hereinafter "Final EIR"), the oral and written public testimony received on the Final EIR (including the two [2] comment letters received on December 16, 2003; one from Caltrans and the other from Environment in the Public Interest), the minutes of the Planning Commission's November 25, 2003 public hearing on the Final EIR and DRAFT 2003 General Plan update; and the oral report of the Planning Commission's December 16, 2003 recommendation on DRAFT 2003 General Plan update; and

WHEREAS, upon completion of its review and consideration of the information and analysis presented, as well as the further oral and written public testimony provided together with the two (2) comment letters received on December 16, 2003 after closure of the comment period and the responses thereto provided by the City's consultants (which are attached hereto and incorporated herein as Exhibit "A"), the City Council found and determined that the testimony received during the public hearings did not raise any new environmental issues or environmental concerns not previously addressed in the EIR or not adequately responded to by the City's consultant, staff or legal counsel in the Final EIR and/or during the public hearings; and

WHEREAS, the City Council is required to adopt certain findings and determinations for the potential environmental consequences of the 2003 General Plan Update before taking any final action to approve the Update; and

WHEREAS, the first of the findings to be made by the City Council involves certification of the Final EIR; which findings are the focus of this Resolution; and

WHEREAS, the other findings and determinations to be made by the City Council before taking final action in deciding whether or how to carry out the 2003 General Plan Update are the focus of a separate Resolution concerning the Update (which is to include, but not be limited to, any necessary statements of overriding considerations for any remaining significant environmental effects that are deemed to be "unavoidable").

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the City Council of the City of El Paso de Robles that the Council does hereby certify as follows:

1. That the Final EIR for the 2003 General Plan Update has been prepared, processed, and completed in compliance with CEQA, the State CEQA Guidelines, and the City's Rules and Procedures for the Implementation of CEQA.
2. That the Final EIR was presented to the City Council and that the Council reviewed, considered, and discussed the information, analysis, and findings contained in the Final EIR, the public testimony received, and the Planning Commission's recommendation as to certification of the Final EIR prior to approving the Project.
3. That the Final EIR reflects the City Council's independent judgment and analysis.
4. That the Final EIR for the General Plan Update, a copy of which is on the file with the City Clerk of the City of Paso Robles and dated November 2003, shall hereby be regarded as certified as to its conformance to, and compliance with CEQA, the State CEQA Guidelines, and the City's Rules and Procedures for the Implementation of CEQA.
5. That the City Clerk shall be directed to file a Notice of Determination with the County Clerk for the County of San Luis Obispo and the State Office of Planning and Research.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 16th day of December 2003 by the following vote:

AYES: Finigan, Heggarty, Nemeth, Picanco and Mecham
NOES: None
ABSTAIN: None
ABSENT: None

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

EXHIBIT "A"
FOR
RESOLUTION 03-0321



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DEC 16 2003
CITY OF PASO ROBLES

EPI-Center, 1013 Monterey Street, Suite 207 San Luis Obispo, CA 93401
Phone: 805-781-9932 • Fax: 805-781-9384

December 16, 2003

City of Paso Robles
Frank Mecham, Mayor
1000 Spring Street
Paso Robles, CA 93446

VIA FACSIMILE: 805-237-3904

**Subject: General Plan Update Program: Final Environmental Impact Report and Draft
General Plan Elements / Public Comment**

Mayor Mecham and Honorable Councilmembers,

I will be unable to attend this evening's Public Hearing on the *General Plan Update Program: Final Environmental Impact Report and Draft General Plan Elements* (Agenda Item 1), however, I wish to submit the following comment.

Environment in the Public Interest (EPI) is a 501(c)(3) corporation organized for the purpose of ensuring that the public has a voice with Government officials charged with responsibilities for land use planning and environmental protection. The primary mission of EPI is to advocate the public's interest in preserving habitat and biodiversity in California. EPI and its supporters are further interested in improving quality of life through land use planning and environmental awareness in the City of Paso Robles.

EPI, in collaboration with the local organization, Paso Watch supports the adoption of Staff's recommendation "a" approving the Planning Commission recommendation with a buildout target of 38,000 residents in the year 2025.

Our comments and observations regarding the FEIR and General Plan Update Alternatives include, but are not limited to the following:

Exhibit A Attachment
To Resolution No. 03-231
To Ordinance No. _____
Page 1 of 9

Content of FEIR

EPI has previously commented on the Draft EIR and Staff has provided a response in the FEIR. However, the FEIR and subsequent response fails to provide substantial support that those significant environmental impacts, especially secondary and cumulative impacts will actually be mitigated. The FEIR fails to provide a clear explanation of how proposed policies, goals, will actually mitigate anticipated impacts to traffic/circulation, air quality, water quality, water quantity, conversion of agricultural soils, biological resources, and public services (see CEQA Guidelines 15126, 15126(a), 15126(e), and 15128). Therefore, the identified mitigation lacks specific and quantifiable measures to allow effective monitoring of their implementation (see *Sundstrom v. County of Mendocino* 1998).

As a specific example, EPI believes the FEIR incorrectly identifies impact to San Joaquin kit fox as less than significant after mitigation. The FEIR inappropriately defers study and mitigation to future projects (*Stanislaus Natural Heritage Project, Sierra Club v. County of Stanislaus* (1996) 48 Cal.App.4th 182). The City’s General Plan Update project area contains an essential corridor for San Joaquin kit foxes moving between the population at Camp Roberts and the Carizzo Plain. The projected growth “will contribute to habitat loss and or fragmentation, barriers to dispersal movements, and other factors adversely affecting listed species’ recovery.” (Diane Noda, USFWS, Email of 02/25/03 to Bob Lata). To date, no successful conservation method has been demonstrated to be successful in conserving this species. The FEIR assumption that proposed mitigation will render impacts “less than significant” is unsupported by evidence in the record.

EPI believes a similar deficiency exists in relation to potential significant impacts to giant kangaroo rat (*Dipodomys ingens*), as well as longhorn shrimp (*Branchinecta longientenna*) and vernal pool fairy shrimp (*Branchinecta lynchi*).

Therefore, we urge your Council to give direction that the current FEIR be returned to give the consultant the opportunity to rectify the deficiencies. At a minimum, we request that your Council edit Resolution No. 03-___ Certifying the Final EIR to reflect a maximum buildout of 38,000 residents by the year 2025, consistent with the Planning Commission recommendation of November 25.

General Plan Update

The General Plan is an expression of the community’s development goals and serves as the basis for rational decisions regarding the City’s long-term vision for physical development. With that in mind, EPI would like to request that your Council consider the following editions to Resolution No 03- ___ adopting the 2003 Comprehensive Update to the General Plan:

1. EPI requests that your Council direct editions to the GP Adopting Resolution to reflect a maximum buildout of 38,000 residents by the year 2025, consistent with the Planning Commission recommendation of November 25.
2. EPI requests that your Council direct editions to the GP Adopting Resolution to

reflect the Planning Commission's intent regarding residential annexations, consistent with the recommendation of November 25.

3. Until the US Fish and Wildlife Service approves an area wide Habitat Conservation Plan for the San Joaquin Kit Fox, including the companion Implementing Agreement, the City cannot guarantee that "take" of this species will be avoided by applicants otherwise in compliance with the General Plan. EPI requests that your Council recommends the inclusion of language in the General Plan restricting any development in San Joaquin Kit Fox habitat and/or corridor areas under the City's jurisdiction until an HCP and IA are approved.

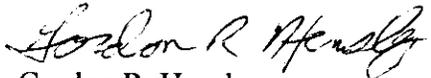
Statement of Overriding Considerations

EPI believes the Statement of Overriding Considerations is deficient as presented in Staff's report. The Statement is unsupported by substantial evidence in the record and presents conclusions without reference to the facts presented in the full record [see PR Code Section 2102.1 and 21081, *Village Laguna, Inc. v Board of Supervisors*, 134 Cal.App. 3d 1022 (1982), and *Sierra Club v County of Contra Costa*, 10 Cal.App. 4th 1212 (1992)].

We request that your Council eliminate the Statement of Overriding Considerations from tonight's approval.

In conclusion, EPI in collaboration with Paso Watch urges the adoption of Staff's recommendation "a" approving the Planning Commission recommendation with a buildout target of 38,000 residents in the year 2025. Should your Council feel that you cannot approve Staff's recommendation "a", and the editions and changes we have suggested, we request that you delay certification of the FEIR and give your Staff and consultants the opportunity to rectify the deficiencies.

Respectfully Submitted,



Gordon R. Hensley
Executive Director/Senior Ecologist

Oral Responses to December 16, 2003 Letter from Environment in the Public Interest

Provided by John Rickenbach, the City's Consultant for the 2003 General Plan Update

1. Comment: *The FEIR is inadequate and provides unsubstantiated mitigation.*

Response: The conclusions of the Final EIR are substantiated throughout the written record. All goals, policies, and action items contained in the General Plan Update (which provide mitigation and/or direction for mitigation of subsequent projects undertaken in the future pursuant to the General Plan) are referenced in the City Council DRAFT Resolution, as are the facts, findings, and the applicable goals, policies, and action items. This record provides the basis for the conclusion of the significance or non-significance of each impact area. The commentator's statement is not substantiated by evidence.

2. Comment: *The level of mitigation is not specific enough.*

Response: The level of mitigation is commensurate with the level of impact, appropriate for a program level document. The General Plan goal, policies, and action items provide direction that will guide mitigation of project-specific impacts. It would be speculative to include project-specific mitigation for projects that have not yet occurred, and may not occur.

Where appropriate, the General Plan policies are specific. The General Plan goals, policies, and action items and the environmental conclusions reached as to the significance or non-significance for each impact area relies on industry-accepted standards. These standards are reviewed in detail in the Environmental Impact Report.

Further, the Environmental Impact Report describes how the effectiveness of each mitigation measure is quantified based on established industry-standards or is otherwise measured based on a more qualitative analysis.

3. Comment: *The FEIR does not show how impacts to several issues would be mitigated to a less than significant level. In addition, monitoring of the mitigation has not been specified.*

The FEIR acknowledges that several impacts (including traffic, air quality, aesthetics, agricultural soils conversion, noise, and recreation) would not be mitigated to a less than significant level, even though the proposed goals, policies would provide program level mitigation to the maximum extent feasible. The record includes facts, findings, and references (explaining the reasons for determining the potential environmental effects to be significant and unavoidable, significant but mitigated to a less than significant level, and less than significant) and a statement of overriding considerations that are required under the law as part of adopting the General Plan update.

The goals, policies and action items would be implemented by the City as part of the General Plan. The monitoring of their implementation is provided by state law, which requires cities to approve projects and conduct planning actions in accordance with the General Plan.

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To Resolution No. 03-231
To Ordinance No. _____
Date 4 / 9

4. **Comment:** *The commenter supports the Planning Commission recommendation limiting population to a maximum of 38,000.*

Response: It should be noted that many of the unavoidable impacts that would occur under the maximum build out scenario would also occur under the Planning Commission recommendation. Thus, the FEIR findings that support the maximum build out scenario would largely apply to this alternative as well. In this sense, the commenter's support of this alternative is inconsistent with his unsubstantiated recommendation to modify the FEIR findings and conclusions.

5. **Comment:** *Biological issues, including impacts to the San Joaquin Kit Fox, have not been adequately mitigated.*

The General Plan includes the following policy language to guide the mitigation of potential impacts to biological resources that might occur under future projects accommodated under the General Plan:

POLICY C-3B: *Sensitive Habitat. Incorporate habitats into project design, as feasible, including: oak woodlands, native grasslands, wetlands, and riparian areas.*

Action Item 1. *As part of the environmental review of new development projects:*

- *Biological studies/surveys will be prepared when appropriate to assess habitat value.*
- *Alternatives to habitat removal will be explored; and*
- *Input will be sought from other public agencies with expertise in biological resources.*

Action Item 2. *As part of the environmental review of new development projects, the City will require that mitigation for potential impacts to the San Joaquin Kit Fox and its habitat be provided in consultation with the CA Department of Fish and Game and the U.S. Fish and Wildlife Service.*

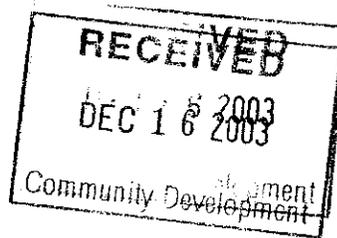
Action Item 3. *Encourage use of native plants.*

The City is participating in ongoing regional efforts to address cumulative impacts to the San Joaquin Kit Fox, and is implementing the established mitigation measures to avoid significant effects, which measures have been set forth by the California Department of Fish and Game and United States Department of Fish and Wildlife. The City supports efforts by these and other agencies to pursue regional efforts to mitigate for identified habitat, as appropriate. The FEIR analysis was developed in consultation with these agencies, based on available information. Future projects that are developed under the General Plan would need to respond to the regulatory environment that exists at the time of the consideration of these projects.

Exhibit A Attachment
To Resolution No. 03-231
To Ordinance No. _____
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<http://www.dot.gov/dist05>



December 12, 2003

SLO - 101/46 Var, Var
 City of El Paso De
 Robles Final
 Environmental Impact
 Report for the General
 Plan Update (Response
 to Responses)

SCH # 2003011123

Mr. Robert Lata, Community Development Director
 City of El Paso De Robles
 1000 Spring Street
 Paso Robles, CA. 93416

Dear Mr. Lata:

The California Department of Transportation (Department) Development Review Staff has reviewed the above referenced document. As a result, the following comments were generated.

General Comments

California Environmental Quality Act (CEQA) Guidelines (Page 5, 2003) Section 21002.1 (a) states that; "The purpose of an environmental impact report is to identify the significant effects on the environment of a project (in this case, the General Plan Update), and to indicate the manner in which those significant effects can be mitigated or avoided."

Also stated in CEQA Guidelines (Page 6, 2003), Section 21003.1(a), "Comments from the public and public agencies on the environmental effects of a project (General Plan Update) shall be made to lead agencies as soon as possible in the review of environmental documents, including, but limited to draft environmental impact reports and negative declarations, in order to allow the lead agencies to identify, at the earliest possible time in the environmental review process, potential significant effects of a project, alternatives and mitigation measures which would substantially reduce the effects."

Furthermore, in the CEQA Guidelines (Page 6, 2003) subsection 21003.1(b), "Information relevant to the significant effects of a project, alternatives, and mitigation measures which substantially reduce the effects shall be made available as soon as possible by the lead agency, other public agencies, and interested persons and organizations."

Response Specific Comments

1. Regarding the above referenced intent of CEQA concerning early disclosure of project impacts and the Lead Agencies response to 1X, 1AA, 1GG and 1II in the Final EIR, the Department contends that, the intersection Level of Service (LOS) analysis, as applied to existing conditions in the Phase I analysis, should be applied to assess projected conditions as well. The LOS analysis that is applied to assess the Projected Traffic Operations in the DEIR traffic study only evaluates the roadway links between the intersections, not the actual intersections.

On interrupted flow facilities (roadway with stop or signal controlled intersections), the system is "stressed" the most at the nodes/intersections. Proper analysis and LOS assessment of interrupted flow facilities must include analysis of intersections. With the exception of Route 101 and parts of Route 46, all streets and roadways within the city of Paso Robles are interrupted flow facilities.

This link analysis without the intersection analysis misrepresents the actual operating conditions on Route 46 and other roadways within the city. Since the link analysis does not take into account competing side street movements at the intersections, it does not provide a good indication of the actual operating conditions. Generally, a link analysis on interrupted flow facilities will always show better LOS than the intersection analysis. Link analysis presents a partial picture of the roadway operations, but the picture is not complete or appropriate unless it is presented in concert with the intersection analysis LOS outputs.

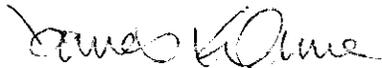
2. Regarding Response 1HH and 1PP, If the weekend peak period impacts are not recognized and assessed as part of the General Plan process then the City must recognize that specific project mitigation may require improvements greater in scope than those envisioned in the General Plan, which can cause conflicts and problems as individual development projects are considered.
3. Response to Responses 1F, 1J, 1KK and 1II, The Department reiterates that the traffic analysis outputs shown in this important planning document misrepresent existing conditions.

Mr. Lata
December 12, 2003
Page 3

4. Finally, responding to Response 1P, the City's General Plan Update does not offer appropriate traffic mitigation strategies (for the State transportation system) mandated by CEQA Guidelines, Section 21003.1(a), that is, to identify mitigation measures that would substantially reduce the effects on the State transportation system allowed by the added traffic planned for in this General Plan Update.

Thank you for including the Department in review of this New Project Referral. If you have any questions, please contact me at 549-3683.

Sincerely,



James Kilmer
District 5
Development Review

c: File, D. Murray, R. Krumholz, S. Eades, R. DeCarli - SLOCOG

Oral Responses to December 12, 2003 Letter from Caltrans (Received December 16, 2003)

As Provided by:

- Martin R. Inouye, the City's Sub-consultant for the Traffic and Circulation components of the Environmental Impact Report and 2003 General Plan Update; and
- John Rickenbach, the City's Consultants for 2003 General Plan Update

1. Comment: Response Specific Comments 1 – 3

Response: The responses to these comments have been provided in the Final EIR. No new information or analysis is required.

2. Comment: Response Specific Comment 4

Response. The statements provided are factually incorrect. The Final EIR does identify the mitigation measures and collaborative efforts required to substantially reduce the effects on the State's transportation system.

Attest: A _____
By Resolution No. 03-231
To Ordinance No. _____
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