

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 2022-213

**A RESOLUTION OF THE CITY OF SAN LEANDRO CITY COUNCIL
CERTIFYING THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT
FOR THE 2023-2031 HOUSING ELEMENT AND GENERAL PLAN UPDATE AND
MISCELLANEOUS AMENDMENTS TO THE ZONING MAP AND ZONING
CODE, AND MAKING ALL REQUIRED FINDINGS IN COMPLIANCE
WITH CEQA**

WHEREAS, California Government Code Section 65300 *et seq.* requires every city and county in California to adopt a General Plan for its long-range development, and further, to periodically update that plan to reflect current conditions and issues; and

WHEREAS; in 2016, the City Council adopted the 2035 San Leandro General Plan (“General Plan”) covering the 20 year period from 2015 through 2035; and

WHEREAS, California Government Code Section 65302(c) mandates that each City shall include a Housing Element in its General Plan, and that the Housing Element be updated regularly on a schedule set forth in the law to reflect current conditions and legal requirements; and

WHEREAS, the City Council adopted the 2015-2023 Housing Element Update of the San Leandro General Plan on January 20, 2015; and

WHEREAS, State Housing Element Law (Article 10.6 of Government Code) requires that the City Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the City of San Leandro’s regional housing need allocation (RHNA) of 3,855 housing units, comprised of 862 very-low income units, 495 low-income units, 696 moderate-income units, and 1,802 above moderate-income units; and

WHEREAS, California Government Code Section 65302 (h) mandates that the City shall include an Environmental Justice Element in its General Plan, that identifies disadvantaged communities within the City and identify goals, objectives and policies to reduce the unique or compounded health risks in disadvantaged communities, promote civil engagement in the public decision making process, and prioritize improvements and programs that address the needs of disadvantaged communities within the City of San Leandro; and

WHEREAS, the City initiated a process to develop the 2023-2031 Housing Element and the Environmental Justice Element, as well as amendments to the Environmental Hazards Element of the General Plan (collectively, the “Project”); and

WHEREAS, on June 16, 2016, the City Council adopted a resolution certifying an environmental impact report for the 2035 General Plan Update (SCH # 2001092001) (the “General Plan EIR”); and

WHEREAS, the General Plan EIR identified potentially significant environmental impacts and related mitigation measures, which the City adopted together with mitigation findings and a Mitigation Monitoring Program, which mitigation measures and monitoring program continue to apply to development in the City; and

WHEREAS, the General Plan EIR is available for review on the City's website or in the Community Development Department and is incorporated herein by reference. The General Plan EIR examined the direct and indirect effects, cumulative impacts, broad policy alternatives, and areawide mitigation measures for the development contemplated by the 2035 General Plan; and

WHEREAS, CEQA Guidelines Section 15163 provides that a lead agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if any of the conditions described in CEQA Guidelines Section 15162 would require the preparation of a subsequent EIR and only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation; and

WHEREAS CEQA Guidelines 15162 describes the conditions under which a supplemental EIR would be an appropriate document for actions not considered in the Final EIR. A supplemental EIR is appropriate when:

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 the project proponents decline to adopt the mitigation measure or alternative.

WHEREAS, the City determined that a supplemental EIR to the General Plan EIR would be prepared, and distributed a Notice of Preparation (NOP) for a 30-day agency and public review period starting on January 14, 2022. The City held a Scoping Meeting on January 19, 2022; and

WHEREAS, based on the Project description and responses to the NOP, the City prepared a draft Supplemental EIR to the General Plan EIR dated September 2022 (the “Draft SEIR”) which reflected the independent judgment of the City as to the potential environmental effects of the Project; and

WHEREAS, the Draft SEIR is attached as Exhibit A and incorporated herein by reference. The City circulated the Draft SEIR for a 45-day day public review period, from September 16, 2022 to October 31, 2022. The Draft EIR was distributed to local, regional, and State agencies. The public was advised of its availability in accordance with applicable law. The Draft SEIR was available for review on the City’s website and at City Hall; and

WHEREAS, the City received three comment letters from State, regional, and local agencies during the public review period. In accordance with CEQA, the City prepared written responses to all the comments received during the public review period, both oral and written; and

WHEREAS, the City prepared a Final SEIR dated November 2022, attached as Exhibit B and incorporated herein by reference. The Final SEIR included an annotated copy of each comment letter identifying specific comments, responses to each specific comment, and clarifications and minor corrections to information presented in the Draft SEIR. The responses to comments provide the City’s good faith, reasoned analysis of the environmental issues raised by the comments; and

WHEREAS, the City also prepared an errata clarifying the scope of the Project studied by the SEIR. The revised project description illustrates that there are no significant changes to the degree of environmental impact already presented in the Draft SEIR; and

WHEREAS, information was generated in the course of preparing written responses for the Final SEIR. The City carefully reviewed both the comments and the written responses to assess whether they constituted significant new information that would require recirculation of the Draft DEIR under the standards in CEQA Guidelines section 15088.5. After its review, the City determined that the Final SEIR, including the comments, clarifications and minor corrections to the Draft SEIR, do not constitute significant new information requiring recirculation of the Draft SEIR; and

WHEREAS, a staff report, dated November 17, 2022 and incorporated herein by reference, described and analyzed the Project and the related Draft and Final SEIRs for the Planning Commission; and

WHEREAS, the Planning Commission reviewed the staff report, and the Draft and Final SEIRs at a noticed public hearing on November 17, 2022 at which time all interested parties had the opportunity to be heard; and

WHEREAS, the Planning Commission voted 5-0 to recommend that the City Council certify the Draft and Final SEIRs at a noticed public hearing on November 17, 2022 and adopted a resolution recommending that the City Council certify the Supplemental Environmental Impact Report for 2023-2031 Housing Element and General Plan update and adopt a mitigation monitoring and reporting program, in compliance with the requirements of CEQA; and

WHEREAS, the Draft and Final SEIRs reflect the City's independent judgment and analysis on the potential for environmental impacts and constitute the Environmental Impact Report for the Project; and

WHEREAS, the SEIR identified several potentially significant supplemental impacts that will be reduced to a less than significant level with specified mitigation measures. Approval of the Project by the City Council will therefore require adoption of findings on impacts and mitigations and a Mitigation Monitoring and Reporting Program, attached as Exhibit C and incorporated herein; and

WHEREAS, the complete Housing Element and General Plan Supplemental EIR (the "SEIR") consists of the Draft SEIR and the Final SEIR together. The Draft and Final SEIRs are available for review in the Community Development Department at City Hall during normal business hours. The location and custodian of the EIR and other documents that constitute the record of proceedings for the Project is the City of San Leandro Community Development Department, 835 East 14th Street, San Leandro, CA 94577; and

WHEREAS, a staff report, dated December 5, 2022 and incorporated herein by reference, described and analyzed the Project and the related Draft and Final SEIRs for the City Council; and

WHEREAS, the City Council reviewed the staff report, and the Draft and Final SEIRs at a noticed public hearing on November 5, 2022 at which time all interested parties had the opportunity to be heard.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF SAN LEANDRO RESOLVES THAT:

- A. The foregoing recitals are true and correct and made a part of this resolution.
- B. The City Council has reviewed and considered the information contained in the SEIR, including the written and oral comments received on the Draft EIR and written responses to the comments, prior to making a recommendation on the Project.
- C. The SEIR reflects the City's independent judgment and analysis on the potential environmental impacts of the Project, and provides information to the decision-makers and the public on the environmental consequences of approving the Project.
- D. The SEIR adequately describes the Project, its significant environmental impacts, mitigation measures, and a reasonable range of alternatives to the Project.

BE IT FURTHER RESOLVED by the City Council of the City of San Leandro that:

- A. The SEIR is certified as complete, adequate, and in compliance with CEQA and the CEQA Guidelines.
- B. The Mitigation Monitoring and Reporting Program, attached as Exhibit C and incorporated herein, is hereby adopted.
- C. The SEIR did not identify any new significant and unavoidable environmental impacts, or any previously examined significant and unavoidable effects that will be substantially more severe than shown in the General Plan EIR.

Introduced by Councilmember Aguilar and passed and adopted this 5th day of December, 2022 by the following vote:

Members of the Council:

AYES: Councilmembers Aguilar, Azevedo, Ballew, Cox, Lopez, Simon (6)

NOES: None (0)

ABSENT: Mayor Cutter (1)

ATTEST: Kelly B. Clancy
Kelly B. Clancy, Acting City Clerk