

Chapter 0 Preface

This chapter describes why portions of the Final Revised Environmental Impact Report (REIR) for the Fanita Ranch Project (proposed project) are being revised and recirculated under the California Environmental Quality Act (CEQA), provides an overview of the content and scope of the Second Recirculated Sections of the Final REIR (Second Recirculated REIR), and summarizes the public comment period after the Second Recirculated REIR has been made available for public and agency review.

0.1 Summary

In September 2020, the City of Santee’s (City’s) City Council certified the Final REIR for the proposed project as compliant with CEQA. The Final REIR was prepared to analyze the potential significant environmental impacts resulting from the construction and operation of the proposed project. A lawsuit was filed challenging the adequacy of the Final REIR.

In March 2022, the San Diego County Superior Court (Hon. Katherine A. Bacal, presiding) issued a ruling identifying deficiencies in the Final REIR related to evacuation in the event of a wildfire. In March 2022, the trial court entered judgment and a writ of mandate (order) directing the City to set aside certification of the Final REIR and the project approvals for the proposed project. The matter was thereby remanded to the City to correct the deficient portions of the Final REIR.

Recirculated Sections were prepared in June 2022 to correct the deficiencies identified in the trial court’s 2022 ruling, judgment, and writ. The Recirculated Sections included new or replaced Chapter 0, Preface, and Section 4.18, Wildfire, in their entirety. The Recirculated Sections also included strikeout/underline changes to Chapter 3, Project Description, and Section 4.10, Land Use and Planning, because the proposed project no longer requested legislative approvals, including a General Plan Amendment, Specific Plan, Rezone, or Development Agreement, but instead requested adjudicatory approval of a Development Plan, Vesting Tentative Map, Development Review Permit, and Conditional Use Permits. On September 14, 2022, the City Council held a public hearing and voted unanimously to certify the Final Recirculated REIR and approve the proposed project.

Another lawsuit was filed challenging the adequacy of the Final Recirculated REIR. In September 2024, the San Diego County Superior Court (Hon. Katherine A. Bacal, presiding) issued a ruling identifying deficiencies in the Final Recirculated REIR related to Santee General Plan inconsistency. No other deficiencies in the Final Recirculated REIR were identified. The matter was remanded to the City to correct the deficient portions of the Final Recirculated REIR. The ruling, judgment, and writ are attached hereto as Appendix S.

This Second Recirculated REIR has been prepared to correct the deficiencies identified in the trial court’s 2024 ruling, judgment, and writ. Pursuant to CEQA, if revisions to an EIR are limited to chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified (CEQA Guidelines, Section 15088.5[c]). Therefore, this Second Recirculated REIR includes this Chapter 0, Preface, and strikeout/underline changes to Section 4.10, Land Use and Planning, because only portions thereof have been modified.

Those portions of the Final Recirculated REIR, inclusive of the Final REIR, that were not found deficient will not be recirculated. Pursuant to CEQA Guidelines, Section 15088.5(f)(2), the City will not seek or entertain any further comments on those portions of the Final Recirculated REIR.

The City will prepare written responses to comments received on the Second Recirculated REIR. Thereafter, the City will complete the Final Second Recirculated REIR, consisting of the Second Recirculated REIR, public comments, written responses to comments, and any revisions identified. The City Council will then review the Final Second Recirculated REIR, along with the portions of the Final Recirculated REIR that were not subject to revision, consider the information presented therein before acting on the proposed project, and determine if the Final Second Recirculated REIR, as modified, is adequate, complete, in compliance with CEQA, and reflects the City Council’s independent judgment and analysis.

The Second Recirculated REIR has been prepared to address the CEQA deficiency identified in the trial court’s ruling. Specifically, the court found that the Final Recirculated REIR failed to adequately disclose the proposed project’s inconsistency with the Santee General Plan, which violations were intertwined with the bases for finding inconsistencies with the Santee General Plan (Appendix S [Ruling pp. 5–8]):

- “According to respondents, the project is consistent with the general plan because it was certified as an essential housing project, and so the City was not required to analyze and disclose any claimed inconsistencies” (Appendix S [Ruling p. 5]). The City did not “clearly explain where and how” the City’s Essential Housing Program fits in the land use hierarchy (Appendix S [Ruling pp. 7–8]).
- Under the Housing Accountability Act (California Government Code, Section 65589.5), “concluding a particular basis for a project is not inconsistent with the general plan does not necessarily mean that a project is therefore consistent with a general plan” (Appendix S [Ruling pp. 7–8]).
- “[N]either the Density Bonus Law, including section 65915(n), nor the Housing Accountability Act are mentioned in the City’s findings of fact and statement of overriding considerations” and “relying on these bases after the findings of fact were made justifying approval the project are thus unpersuasive” (Appendix S [Ruling p. 8]).
- “The City’s most recent housing element acknowledged that it removed the prior density bonus program ordinance” to comply with state law. Therefore, the City’s

argument that “the ordinance no. 592 is essentially the local ordinance version of the density bonus law that gave it express statutory authority to proceed with its essential housing program based on Government Code section 65915(n)” was “unconvincing” (Appendix S [Ruling p. 8]).

The Second Recirculated REIR responds to the deficiencies in the following manner:

Revisions to Section 4.10, Land Use and Planning

The City has revised the regulatory framework and analysis sections of Section 4.10, Land Use and Planning (Sections 4.10.2 and 4.10.5.2). A summary of these revisions is provided below.

Section 4.10.2, Regulatory Framework

This section describing the existing regulatory framework has first been revised to include state housing laws relevant to the proposed project’s consistency with the Santee General Plan, including the Density Bonus Law (DBL) (California Government Code, Section 65915), the Housing Accountability Act (California Government Code, Section 65589.5), and the Housing Crisis Act of 2019 (Senate Bill 330).

This section has also been revised to better describe the Santee General Plan’s consideration and guidance for development of the Fanita Ranch property. Further, a discussion of Section 13.26.010 of the City’s Zoning Ordinance, which implements the minimum requirements to comply with the DBL in the City, has been added.

Finally, revisions have been made to the discussion of the City’s Essential Housing Program, Urgency Ordinance No. 592. The revisions address amendments to the program adopted in light of the court’s decision. These amendments clarify the City’s authority for adopting the program, including that the program has been adopted in accordance with subdivisions (n) and (r) of the DBL, which empower the City to adopt an ordinance to grant concessions, waivers, and density bonuses for housing projects that exceed or may not meet the strict requirements of the DBL. That is, the Essential Housing Program is not the City’s ordinance that specifies how minimum compliance with the DBL will be achieved (California Government Code, Section 65915 [a][1]) but is an authorized expansion of density bonus benefits to promote the efficient development of housing (California Government Code, Section 65915[n], [r]; see also, subdivision [s]).

Section 4.10.5.2, Project Impacts and Mitigation Measures, Threshold 2: Conflict with Land Use Plans, Policies, or Regulations

This section analyzes the proposed project’s potential to “cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.” The revisions more explicitly detail the relevant Santee General Plan policies and guidance, Planned Development designation, and “Guiding Principles”

framework for the project site. Limitations established in the Housing Accountability Act regarding “subjective” standards are also addressed.

The discussion of project consistencies and inconsistencies with the Guiding Principles for the project site has been revised to more explicitly identify each principle, whether it was “adopted for the purpose of avoiding or mitigating an environmental effect,” and to evaluate whether the project would result in a significant environmental impact due to a conflict with the “land use plan, policy, or regulation.” As detailed in Section 4.10.5.2, while the proposed project does not meet the exact requirements of Guiding Principles 3 (lot size), 9 (golf course or recreational facility), and 14(e) (development agreement), the proposed project would not result in significant environmental impacts due to any conflicts with the Guiding Principles specifically adopted to avoid or mitigate environmental effects per the CEQA threshold.

Additionally, revisions in the Second Recirculated REIR demonstrate that the proposed project does not conflict with these Guiding Principles because it is entitled to waivers of development standards under the DBL and the City’s Essential Housing Program.

Density Bonus Law Revisions

The Second Recirculated REIR explains that the proposed project does not require a legislative act, such as a General Plan Amendment, Specific Plan, or Rezoning should the City find it is entitled to mandatory waivers and under the DBL (California Government Code, Section 65915, et. seq.) for the provision of a senior citizen housing development, as defined by statute (California Government Code, Section 65915[b][1][C] and [e][1]). As stated by the California Department of Housing and Community Development, “For the purposes of the S[tate] DBL, any hierarchy between planning documents is flattened.”¹

The proposed project would provide approximately 445 age-restricted residential units in a variety of building types with densities ranging from five to 25 residential units per acre, far surpassing the 35 units needed to qualify the whole project for the density bonus and waiver benefits of the DBL (California Government Code, Section 65915[b][1][C], [e][1]).

If the City finds that the proposed project qualifies for benefits under the DBL, the revisions in Section 4.10 explain that the City must waive any development standard that will have the effect of physically precluding the project’s construction at the densities and with the amenities proposed. (California Government Code, Section 65915[e][1], [o][2]). The proposed project is entitled to mandatory waivers of the lot size standard in the Guiding Principles because it would physically preclude construction of the proposed project’s 2,949 to 3,008 units, including the 445 age-restricted senior units, as designed and with the amenities proposed. Waivers are similarly

¹ Letter to City of Los Angeles, City of Los Angeles Density Bonus Law Implementation – Letter of Technical Assistance (July 31, 2024). <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/los-angeles-hau399-ta-qcondition-073124.pdf>.

appropriate for the few minor variations from Guiding Principle 9, discussed above. The DBL is to be “interpreted liberally in favor of producing the maximum number of total housing units,” supporting the application of waivers here (California Government Code, Section 65915[r]).

The granting of density bonus benefits “shall not require, or be interpreted, in and of itself, to require a General Plan Amendment, local coastal plan amendment, zoning change, or other discretionary approval” (California Government Code, Sections 65915(f)(5), (j)(1).) Further, “waived zoning standards are not ‘applicable’” to determine “consistency with applicable general plan designations and policies and applicable zoning designations and regulations” (Wollmer v. City of Berkeley [2011] 193 Cal.App.4th 1329, 1349; see also, California Government Code, Sections 65589.5[j][3], 65905.5[c][1]). (“The receipt of a density bonus, incentive, concession, waiver, or reduction of development standards pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.”) Thus, with mandatory waivers and/or incentives, the proposed project is consistent with the Santee General Plan and other applicable ordinances.

Essential Housing Program

As with the revisions to the Regulatory Framework section discussed above, revisions have been made in the analysis section to address amendments to the City’s Essential Housing Program adopted in light of the court’s decision. These amendments clarify the City’s authority to adopt the program and its relationship to the DBL. The revisions clarify that projects certified under the program are entitled to an appropriate density bonus, incentives, and/or waivers to develop at the density and with the amenities proposed to eliminate any inconsistency with zoning regulations or development standards. Projects are thereby established to be consistent with the Santee General Plan and do not require a General Plan Amendment or other legislative act for approval. Refer to the discussion above.

Table 4.10-1, Project Consistency with Relevant City of Santee Goals, Objectives, and Policies

Table 4.10-1 has been revised to address those policies adopted by Measure N—Objective 12.0 and Policies 12.1 through 12.4. The Second Recirculated REIR explains why each policy is inapplicable and negated because the proposed project does not require a General Plan Amendment through the use of DBL waivers, incentives, and/or Essential Housing Program certification, described above, and that Senate Bill 330’s limits on growth control measures preempt the requirement during the statewide housing crisis.

In sum, the Second Recirculated REIR more thoroughly discusses the Santee General Plan, discloses potential inconsistencies with the Guiding Principles, discusses the consistency with the policies adopted by Measure N, and details several separate and distinct bases for determining that there would be no significant environmental impact related to conflict with the Santee General Plan policies or regulations that were adopted to avoid or mitigate an environmental effect.

Chapter 3, Project Description, of the previously certified Final Recirculated REIR correctly describes both the physical features of the proposed project and discretionary approvals requested from the City to include EIR certification and approval of a Development Plan, Vesting Tentative Map, Development Review Permit, and Conditional Use Permits. Thus, the remainder of the Final Recirculated REIR accordingly remains unchanged.

Appendices S and T

Appendices S and T have been included in the Second Recirculated REIR. Appendix S consists of the trial court’s ruling, judgment, and writ, and Appendix T consists of a memorandum providing additional legal support and analysis for the discussion in Section 4.10, Land Use and Planning.

Table 0-1 provides a brief overview of the Second Recirculated Sections of the Final REIR and their rationale for inclusion in the recirculation.

Table 0-1. Second Recirculated Sections of the Final REIR

Second Recirculated Sections	Rationale for Inclusion in Second Recirculation
New Sections	
Chapter 0, Preface	This preface is included in the second recirculation to provide the public with information concerning the trial court’s ruling and Second Recirculated REIR modifications to correct deficiencies identified in the trial court’s ruling. This preface is a new section of the Second Recirculated Sections that has not been previously released for public review.
Revised Sections	
Section 4.10, Land Use and Planning Portions of Sections 4.10.2 and 4.10.5.2 Only	These sections describe the existing regulatory framework and evaluate whether the proposed project would conflict with land use plans, policies, and regulations adopted for the purpose of mitigating or avoiding an environmental effect. The revisions in these sections add a discussion of state housing laws and clarify the proposed project’s consistency with Santee General Plan policies, regulations, and Guiding Principles; the proposed project’s entitlement to benefits under the DBL; and its entitlement to waivers/incentives under the City of Santee’s Essential Housing Program, Urgency Ordinance No. 592, as amended. The revisions explain that no legislative action, including any General Plan Amendment, can be required for the proposed project to proceed in light of state housing laws. Table 4.10-1 has been updated to address consistency with Measure N policies.
New Appendices	
Appendix S	This appendix consists of the latest ruling, judgment, and writ.
Appendix T	This appendix provides additional background, legal support, and analysis for the discussion in Section 4.10, Land Use and Planning.

Notes: DBL = Density Bonus Law

Only the above-outlined revised information is contained in the Second Recirculated Sections. All other sections of the Final Recirculated REIR and technical studies remain valid and are not being recirculated for public comment.

0.2 Public Review of Second Recirculated Sections of the Final REIR for Fanita Ranch

The Second Recirculated Sections of the Final Recirculated REIR are available for public review and comment. The City requests that reviewers limit all public comments to the recirculated documents described in Table 0-1. The 45-day public review period is from February 24, 2025, to April 10, 2025. All comments received on the Second Recirculated Sections will be responded to and incorporated into a responses to comments document, which the City will evaluate before a public hearing to consider certification of the Second Recirculated Sections, along with other Final Recirculated REIR sections. The Second Recirculated Sections will be available to review electronically on the City's website at <https://www.cityofsanteeca.gov> during the 45-day public comment period.

Upon request, the Second Recirculated Sections will be available for review during regular business hours for the duration of the 45-day public review period at the following City Hall locations:

- City of Santee of Planning and Building Department
- City of Santee Clerk's Office
- Santee Branch of the San Diego County Library

Written and electronic comments addressing the Second Recirculated Sections can be mailed or emailed to the following:

Sandi Sawa, AICP Director of Planning & Building
Subject: Second Recirculated Sections of the Final Revised EIR for Fanita Ranch
Department of Development Services
City Hall, Building 4
10601 Magnolia Avenue
Santee, California 92071
Telephone: (619) 258-4100, extension 167
Email: ssawa@cityofsanteeca.gov

Written and electronic comments addressing the Second Recirculated Sections must be received by 5:00 p.m. (Pacific) on Thursday, April 10, 2025. The City's servers have limitations on receiving large files (maximum 10 MB). To ensure your comments are considered, it is recommended that you confirm timely receipt of any large file submissions. The City can provide a link, upon request, if the file(s) is larger than 10 MB. Comments not received by the City may not be considered.

For additional information, please contact Sandi Sawa at (619) 258-4100, extension 167, or ssawa@cityofsanteca.gov.

0.3 Concurrent Preparation of the Administrative Record

In compliance with California Public Resources Code, Section 21167.6.2:

THIS DOCUMENT IS SUBJECT TO SECTION 21167.6.2 OF THE PUBLIC RESOURCES CODE, WHICH REQUIRES THE RECORD OF PROCEEDINGS FOR THIS PROJECT TO BE PREPARED CONCURRENTLY WITH THE ADMINISTRATIVE PROCESS; DOCUMENTS PREPARED BY, OR SUBMITTED TO, THE LEAD AGENCY TO BE POSTED ON THE LEAD AGENCY'S INTERNET WEB SITE; AND THE LEAD AGENCY TO ENCOURAGE WRITTEN COMMENTS ON THE PROJECT TO BE SUBMITTED TO THE LEAD AGENCY IN A READILY ACCESSIBLE ELECTRONIC FORMAT.

The record of proceedings can be accessed at <https://www.cityofsanteca.gov>.