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September 27, 2023

Planning Commission
County of San Luis Obispo
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Transmitted via e-mail c/o Airlin Singewald, Planning Manager, asingewald@co.slo.ca.us

Re: Dana Reserve Specific Plan, Final Environmental Impact Report, SCH No. 2021060558

Dear members of the County of San Luis Obispo Planning Commission:

The [California Oaks](#) program of [California Wildlife Foundation](#) works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing plant and wildlife habitat, and sustaining cultural values. This letter contains comments by California Wildlife Foundation/California Oaks (CWF/CO) regarding deficiencies of the Final Environmental Impact Report for the proposed Dana Reserve Specific Plan. It follows our letters of July 27, 2022 and July 15, 2021.

CWF/CO reviewed the Final Environmental Impact Report (FEIR) and Staff Report and concluded that the project's impacts on oaks and the wildlife and plant communities they support are inconsistent with county policies despite the adjustments to the proposed project to destroy 858 fewer trees. Further, the proposed mitigation is inadequate, as discussed below. CWF/CO's July 27, 2022 comment letter raised deficiencies in the Draft Environmental Impact Report's (DEIR) analysis of Greenhouse Gas (GHG) impacts of proposed oak tree and other vegetation removal and these deficiencies are not addressed in the FEIR. CWF's analysis also indicates that the proposed project does not comply with the provisions of Senate Bill (SB) 330 and does not align with San Luis Obispo's affordable housing goals. Lastly, this letter points out mischaracterizations in the FEIR of statements made in the July 27, 2022 CWF/CO letter.

Impacts of the proposed project on native oak woodlands and oak-forested lands and the sensitive communities they support are inconsistent with County of San Luis Obispo policies, are not adequately mitigated, and will damage San Luis Obispo County's imperiled biodiversity. A key consideration for those determining whether to advance the Dana Reserve proposal is that impacts to oak habitat were determined to be significant and unavoidable. An important element of this consideration is that these impacts will also extend to the imperiled (included federally and state endangered, threatened, and/or candidate) plant and wildlife species that the oak habitat supports, resulting in degradation that will diminish the county's biodiversity.

The project's inconsistency with county plans, ordinances, policies, and design guidance is another important and related consideration. CWF/CO's July 2022 letter pointed out many of

these inconsistencies (e.g., the following Biological Resources policies of the General Plan: 3.1 Native tree protection, 3.2 Protection of native trees in new development, 3.3 Oak woodland protection, 1.2 Limit development impacts, and 2.6 Development impacts to listed species as well as the Inland Land Use Ordinance, section 4. of the South County Area Plan, and Countywide Design Guidelines), challenging the DEIR's characterization of the proposed project's "potential inconsistency." The FEIR's explanation of the "potentially inconsistent" designation is not compelling:

The term "potential" is used in the DEIR's policy consistency analysis because ultimately, it is a function of the local decision-making body (San Luis Obispo County Board of Supervisors) to make a determination regarding the project's consistency with applicable plans and policies. Therefore, the EIR preparers completed a consistency analysis of the proposed project, but only identified preliminary consistency findings (e.g., potentially consistent or potentially inconsistent).

Those who are deliberating about whether to advance the project should be presented with a clear analysis that points to the project's inconsistencies with county policies. It is a disservice to those charged with deciding on the project to frame it in a manner that obfuscates its inconsistencies and thus potentially makes the project subject to litigation.

The inadequacy of the project's mitigation plan in addressing these impacts is another important factor in the decision of whether to advance the project. The Center for Biological Diversity, a member of [California Oaks Coalition](#), succinctly stated, in their comment letter dated August 29, 2023, that the proposed mitigation at Dana Ridge relies on oak habitat that does not support any of the special status species that would be negatively impacted if the project were to advance:

...the most significant mitigation measure proposed in the FEIR—BIO/mm-18.4—is completely inappropriate. BIO/mm-18.4 requires off-site preservation of oak woodlands at a 2:1 ratio and identifies the proposed mitigation site as the Dana Ridge Ranch (FEIR a 4.4-95). Yet the oak woodlands and forest present at Dana Ridge Ranch are ecologically distinct from those present in the Project Area, and Dana Ridge Ranch does not support *any* of the special status species present in the Project Area (FEIR a 4.4-85). The FEIR's proposed mitigation BIO/mm-18.4 is inappropriate and insufficient.

The July 27, 2022 CWF/CO comment letter addressed this deficiency. The FEIR characterized the CWF/CO statement (denoted as comment 2) that the lands proposed to be preserved at Dana Ridge are of lower biological value to be inaccurate. This conclusion is not supportable and obscures the record for those charged with deciding whether the project should be advanced. The FEIR discussion about comment 2 speaks about Dana Ridge's unique biological attributes, however the Project Area's unique habitat matrices are what are at stake.

Part of the FEIR's discussion in response to comment 2 noted this deficiency after disputing the accuracy of CWF/CO's assessment of the biological value of the Dana Ridge site:

Impacts to on-site oak woodland alone could potentially be mitigated to less than significant within the County, and impacts to the on-site degraded Burton Mesa chaparral alone could potentially be mitigated to less than significant within the County. However, the areas in which the two interact in the same way they do at the Dana Reserve are very limited; therefore, no feasible mitigation was available to reduce this combined impact and, thus, no such mitigation is being proposed. Impacts were identified as significant and unavoidable.

The August 28, 2023, letter from California Native Plant Society, a member of California Oaks Coalition, addresses the proposed project's impacts on habitat where Burton Mesa and oaks co-occur underscores the weight of the decision in front of the county:

... This habitat cannot be replaced. And because this project is inconsistent with so many County plans and policies, the Board DOES have the authority to disapprove it or at least reduce its density to avoid such a terrible unprecedented loss of County resources. The proposed project as envisioned will impact the largest remaining tract of continuous oak woodland and Burton Mesa Chaparral left on the Mesa and in the County of San Luis Obispo.

The proposal to plant coast live oak trees as part of the landscaping for the project is also an inadequate measure in that it will fail to mitigate for the lost plant and wildlife habitat.

Greenhouse Gas impacts of emissions associated with the proposed project's tree removals are not analyzed. As stated in the July 27, 2022 CWF/CO letter, the GHG Emissions chapter (4-8) of the environmental documentation fails to analyze or propose to mitigate for the impacts of proposed tree removals. The response to this comment referenced the FEIR's Master Response 3, presumably the section below:

Carbon Sequestration

The California Emissions Estimator Model (CalEEMod) was used to calculate potential GHG impacts in the EIR. CalEEMod includes default settings to account for potential GHG impacts associated with vegetation removal, including those related to the loss of GHG reductions associated with carbon sequestration. Subsequent to circulation of the Draft EIR, and in coordination with the SLOAPCD, air quality and GHG emissions modeling was modified to address minor changes in model inputs, updated SLOAPCD guidance, and other refinements in statewide guidance regarding the evaluation of GHG impacts in CEQA documents. The updated model outputs and analysis have been added to Appendix D. The updated modeling resulted in a lower (more stringent) GHG efficiency significance threshold (2.9 MTCO₂e/year) compared to the one utilized in the Draft EIR (3.4 MTCO₂e/year). The updated modeling also more specifically identifies GHG emissions associated with the amortized loss of sequestration emissions based on the anticipated loss of approximately 266.5 acres of vegetation, including 21.7 acres of coast live oak forest, 75.3 acres of coast live oak woodland, 35.0 acres of Burton Mesa chaparral, 125.0 acres of

California perennial grassland, 3.2 acres of annual brome grassland, 5.1 acres of Mediterranean California naturalized perennial grassland on-site, as well as off-site impacts to approximately 0.05 acres of scrub land and 0.81 acres of grassland.

With these changes, the revised modeling confirmed and verified the conclusions in the Draft EIR related to the project's potential effects related to GHG impacts. As indicated in updated Tables 4.8-5 and 4.8-6 in the EIR and Appendix D, even when measured against the reduced GHG efficiency significance threshold of 2.9 MTCO_{2e}/year, and specifically accounting for an amortized loss of sequestration emissions of 394.9 MTCO_{2e}/year, the project would still result in emissions within the acceptable threshold for GHG emissions with implementation of identified mitigation. Therefore, potential impacts were verified to be less than significant with mitigation and no further changes to the EIR analysis are required.

It is CWF/CO's understanding that the underlined section of the above quoted text refers to loss of sequestration rather than the emissions associated with the removal of oaks and other vegetation. The environmental analysis is incomplete until this impact is calculated and, if determined to be significant, mitigated.

The project's contributions to California's affordable housing crisis do not meet the standards of Government Code, § 65589.5, amended through the passage of Senate Bill 330, nor do they advance affordable housing construction rates set by the County of San Luis Obispo. The Staff Report prepared for the August 2023 Planning Commission hearing indicates that the proposed project will have up to 1,318 residential units, with 104 of these deed-restricted for very-low and low income households and 192 units considered to be affordable for moderate income households.

The project does not appear to be in compliance with Government Code Section 65589.5, which was amended with the passage of Senate Bill 330 (Skinner, 2019). The Staff Report speaks on pages 4 and 5 about how provisions of SB 330 impact the vesting and streamlining provisions of the Dana Reserve application, yet CWF/CO's understanding is that these provisions should not be applied to the project. The quoted text below is from page 10 of a September 2020 memorandum prepared by the California Department of Housing and Community Development Division of Housing Policy Development Memorandum for Planning Directors and Interested Parties, Housing Accountability Act Technical Assistance Advisory (Government Code Section 65589.5), which is enclosed for reference:

Housing for Very Low, Low-, or Moderate-Income Households
Government Code, § 65589.5, subdivision (h)(3).

In order to qualify as a housing development affordable to lower- or moderate-income households, the project must meet one of two criteria:

- At least 20 percent of the total units shall be sold or rented to lower income households. Lower-income households are those persons and families whose

income does not exceed that specified by Health and Safety Code, § 50079.5, 80 percent of area median income.

- 100 percent of the units shall be sold or rented to persons and families of moderate income, or persons and families of middle income. Moderate-income households are those whose incomes are 80 percent to 120 percent of area median income. (Health and Safety Code, § 50093.) Middle-income households are those persons and families whose income does not exceed 150 percent of area median income (Gov. Code, § 65008 subd. (c).)

The proposed project's 104 housing units available to very-low (30-50% of median) and low (50-80% of median) income households represent 8% of the proposed projects units, so the proposed project does not qualify under the first bullet. An additional 383 units in the proposed project are for what the proposed project calls "workforce" households (defined as 120 percent-160 percent of median income, so not fully aligned with the "middle-income" threshold noted in the second bullet above). Adding in the 192 moderate income and 383 "workforce" units results in 52% of the units being affordable for very low-"workplace" income households, which does not reach the 100% threshold of the second bullet.

The FEIR is also deficient in stating that the proposed project is consistent with the County of San Luis Obispo's affordable housing goals. The 296 units proposed to be constructed for very-low to moderate income households would result in 22.46% of units that are considered affordable to households that meet these income thresholds. However, the Staff Report indicates the county's 2020-2028 Housing Element notes that 58% of new housing units constructed must be affordable to very-low to moderate income households. Thus, unless proposed project were to make an additional 468 units affordable to very-low to moderate income households (36% of the units), the project is deficient in meeting the County of San Luis Obispo's affordable housing goals for very-low to moderate income households, and does nothing to address housing challenges for acutely or extremely-low income households. This deficiency is not reflected in the FEIR. Chapter 5, Alternatives Analysis, describes the project objectives on page 2, which include:

5. To provide a diversity of housing types and opportunities for home ownership and rental, including affordable homes consistent with the goals and policies of the Housing Element of the *County of San Luis Obispo General Plan*, the County of San Luis Obispo (County) Inclusionary Housing Ordinance, and regional housing needs.

The FEIR should clearly state that the proposed project is inconsistent with the county's metric for affordable housing construction and thus does not advance objective 5. Instead, Section 4.14 of the FEIR speaks about the proposed project's *potential consistency* with many County of San Luis Obispo housing policies if Accessory Dwelling Units are built, or if housing built in later phases of the project is affordable. The project is not, in its current iteration, consistent with county affordable housing goals.


The FEIR mischaracterizes CWF/CO comments in the July 2022 letter regarding the DEIR: There are three instances—in the responses to comments 2, 7, and 17—in which

CWF/CO's comment was misconstrued as speaking to the "merits" of the project. For example, the response to comment 7 states: "The comment speaks to the merits of the project but does not raise specific questions about the adequacy of the environmental analysis." No sections of the letter spoke about the merits of the project, rather the letter argued that the project is ill-conceived and should not be advanced. Comment 7 addressed eight special-status plans, four special-status birds, and sensitive reptiles supported by coast live oak forest that will be impacted or permanently lost if the project is advanced.

The proposed Dana Reserve project runs counter to County of San Luis Obispo environmental protection and affordable housing goals and should not be advanced. Further, its GHG analysis fails to assess or mitigate the impacts of oak removals.

Thank you for your consideration of our comments.

Sincerely,



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Encls. California Department of Housing and Community Development Division of Housing Policy Development September 15, 2020 Memorandum for Planning Directors and Interested Parties, Housing Accountability Act Technical Assistance Advisory (Government Code Section 65589.5)