
I. INTRODUCTION

A. INTRODUCTION

The subject of this Draft Subsequent Environmental Impact Report (“SEIR” or “Draft SEIR”) is the proposed Upper Road Land Division Project (“proposed project”). The lead agency for this project is the Town of Ross, located at 31 Sir Francis Drake Boulevard, Ross, California, 94957. The applicant for the proposed project is Berg Holdings, 2330 Marinship Way, Suite 301, Sausalito, California 94965.

Because the proposed project will require approval of certain discretionary actions by the Town of Ross (“Town”), the proposed project is subject to the California Environmental Quality Act (CEQA). The Town of Ross Planning Department administers the process by which environmental documents for private projects are prepared and reviewed. On the basis of these procedures, it was determined that the proposed project may have a significant effect on the environment, and that an EIR should be prepared.

B. PURPOSE OF THE SEIR

The Town of Ross has commissioned this Draft SEIR for the proposed project for the following purposes:

- To satisfy CEQA requirements.
- To inform the general public; the local community; and responsible, trustee, and state and federal agencies of the nature of the proposed project, its potentially significant environmental effects, feasible mitigation measures to mitigate those effects, and its reasonable and feasible alternatives.
- To enable the Town to consider the environmental consequences of approving the proposed project.
- For consideration by responsible agencies in issuing permits and approvals for the proposed project.

As described in CEQA and the CEQA Guidelines, public agencies are charged with the duty to avoid or substantially lessen significant environmental impacts, where feasible. In discharging this duty, a public agency has an obligation to balance the project’s significant impacts on the environment with other conditions, including economic, social, technological, legal and other benefits. This Draft SEIR is an informational document, the purpose of which is to identify any potentially significant impacts of the proposed project on the environment and to indicate the manner in which those significant impacts can be avoided or significantly lessened; to identify any significant and unavoidable adverse impacts that cannot be mitigated; and to identify reasonable and feasible alternatives to the proposed project that would eliminate any significant adverse environmental impacts or reduce the impacts to a less-than-significant level.

The lead agency is required to consider the information in the SEIR, along with any other relevant information, in making its decision on the proposed project. Although the SEIR does not determine the ultimate decision that will be made regarding implementation of the project, CEQA requires the Town of Ross to consider the information in the SEIR and make findings regarding each significant effect in the SEIR.

This Draft SEIR was prepared in accordance with Section 15151 of the CEQA Guidelines which defines the standards for EIR adequacy:

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR would summarize the main points of disagreement among the experts. The courts have looked not for perfection; but for adequacy, completeness, and a good faith effort at full disclosure.

In addition to Section 15151, the Draft SEIR was prepared in accordance with Section 15162 of the CEQA Guidelines which states:

(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the 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 the project proponents decline to adopt the mitigation measure or alternative.

C. PROPOSED PROJECT

Property owners have proposed to subdivide the project site for over twenty years. An application for a five-lot subdivision (named the Monte Bello project) was submitted to the Town of Ross and an EIR was certified for that project in 1991. However, that project was denied by the Town Council. A subsequent, revised plan for a five-unit subdivision was submitted and was also denied by the Town in 1995.

A new application was submitted for a three-lot subdivision in 2000 and accepted as complete in 2002. An Initial Study on that project was completed in May 2002 and a Draft SEIR of the 2002 plan was initiated. Before the 2002 Draft SEIR was published the applicant decided to revise the plan to respond to some of the issues identified in the environmental review. The revised site plans were completed in January 2004 and a revised Initial Study was prepared in February 2004. In April 2004, the applicant decided to again revise the project plans to balance the cut and fill volumes of soil excavation on the project site and to include a water tank and associated roadway. In December 2006, a Draft SEIR was circulated for public review and comment; however, the applicant withdrew the project prior to completion of the Final SEIR.

In January, 2012, the applicant submitted a new application with a modified project for a three-lot subdivision. The new project has removed the previously-proposed water tank and associated roadway and grading, and also balances grading on-site. In addition, proposed project grading has decreased compared to previous designs. Total cut and fill has been reduced by 62.5% from 61,500 cubic yards (CY) in the prior design to 23,100 CY in the current proposed project. Most of the reduction in grading would be a result of lessening the road grade over steep terrain at the project site entrance as well as the elimination of a previously-proposed water tank and associated access road.

As described in detail in Section III (Project Description), the proposed project requests approval of a Vesting Tentative Subdivision Map for three residential sites and approval of Design Review and Hillside Lot Applications for grading, and retaining wall construction and approvals for a common driveway and utilities to serve the site. The proposed Vesting Tentative Subdivision

Map would divide the parcel into three new parcels of 11.89, 11.00, and 13.08 acres each. Driveways would be constructed within each parcel. Although no home designs are proposed currently and the residences would be reviewed by the Town through future development applications, this Draft SEIR analyzes the potential environmental impacts associated with full build-out of the project site. One road would serve the entire site with driveways provided for each new house. The project proposes to balance the amount of cut and fill on the site. Water and sanitary sewer lines are proposed to be installed beneath the new road and driveways. The sewer lines would connect with an existing sewer main beneath Upper Road. The existing Upper Road water main would be enlarged from an adjacent property entrance to the project entrance. A new water main would be required to extend under the new common road with lateral lines serving each of the three residences.

D. SEIR REVIEW PROCESS

Notice of Preparation

In accordance with Section 15082 of the CEQA Guidelines, the Town prepared a Notice of Preparation (NOP) for this Draft SEIR (Appendix A). The NOP was circulated on November 21, 2012, to local, State and Federal agencies, and nearby property owners for a 30-day review period. The NOP provided a general description of the proposed project and a summary of the main regulations and permit conditions applicable to the development and operation of the proposed project. The NOP solicited comments from identified responsible and trustee agencies, as well as interested parties regarding the scope of the Draft SEIR. Comments received in response to the NOP are included in Appendix B.

Environmental Issues to Be Analyzed In the Draft SEIR

Pursuant to Section 15063 of the CEQA Guidelines, an Initial Study was prepared for the proposed project which concluded that the project could result in potentially significant environmental impacts and that an SEIR would be required (Appendix A). The Initial Study also identified which environmental impact topics required detailed analysis in the Draft SEIR. Based upon the conclusions of the Initial Study, the following environmental impact topics are analyzed in detail in the Draft SEIR: Aesthetics, Air Quality (Construction Phase), Biological and Forestry Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise (Construction Phase), Transportation and Traffic, Utilities and Service Systems, and Cultural Resources.

Environmental Review Process

The Draft SEIR will be circulated for review by the public and other interested parties, agencies, and organizations for 45 days. Comments on the adequacy of the Draft SEIR will be accepted during this 45-day period. All comments or questions about the Draft SEIR should be addressed to:

Town of Ross
Planning Department
Attn: Elise Semonian, Senior Planner
(415) 453-1453
31 Sir Francis Drake Boulevard
Ross, CA 94957
esemonian@townofross.org

Final SEIR and Project Approvals

Following the close of the 45-day public and agency comment period, responses to all substantive comments on the Draft SEIR will be prepared for publication in the Final SEIR. The Final SEIR will be prepared as a separate document from the Draft SEIR, and will be considered by the Ross Town Council and certified by the Town Council if the Draft SEIR is determined to comply with CEQA. The Final SEIR will be available for public review prior to the Town of Ross' consideration of certifying the Final SEIR.

Section 15204(a) (Focus of Review) of the CEQA Guidelines helps the public and agencies to focus their review of environmental documents and their comments to lead agencies. Case law has held that the lead agency is not obligated to undertake every suggestion given them, provided that the agency responds to significant environmental issues and makes a good faith effort at disclosure. Section 15204.5(a) of the CEQA Guidelines clarifies this for reviewers by stating:

In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information

requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.

This guideline encourages reviewers to examine the sufficiency of the environmental document, particularly in regard to significant effects, and to suggest specific mitigation measures and project alternatives. Given that an effect is not considered significant in the absence of substantial evidence, subsection (c) advises reviewers that comments should be accompanied by factual support. Section 15204(c) states:

Reviewers should explain the basis for their comments, and, should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

CEQA Findings and Mitigation Monitoring

CEQA and the CEQA Guidelines require lead agencies to “adopt a reporting and mitigation monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment” (CEQA Guidelines Article 7, Sections 15091(d) and 15097). Proposed mitigation measures have been identified in the Draft SEIR, presented in language that will facilitate establishment of a monitoring program. The monitoring program must be designed to ensure compliance during project implementation. The Mitigation Monitoring and Reporting Program (MMRP) for the project will be prepared as part of the Final SEIR.

E. LEVELS OF SIGNIFICANCE

This Draft SEIR uses a variety of terms to describe the levels of significance of adverse impacts identified during the course of the environmental analysis. The following are definitions of terms that may be used in this SEIR:

- **Less-than-significant impact:** Impacts that are adverse, but that do not exceed the specified standards of significance.
- **Significant impact:** Impacts that exceed the defined standards of significance and that can be eliminated or reduced to a less-than-significant level through the implementation of feasible mitigation measures.
- **Significant and unavoidable impact:** Impacts that exceed the defined standards of significance and cannot be eliminated or reduced to a less-than-significant level through the implementation of feasible mitigation measures.

F. ORGANIZATION OF THE DRAFT SEIR

This Draft SEIR is organized into eight sections as follows:

Section I (Introduction): This section provides an introduction and a description of the intended uses of the SEIR and the review and certification process.

Section II (Executive Summary): This section provides a summary of the project description, areas of known controversy, environmental impacts that would result from implementation of the proposed project, proposed mitigation measures, and the level of significance of the impact before and after mitigation.

Section III (Project Description): An overview of the study area's environmental setting is provided including a description of existing and surrounding land uses, and a list of related projects proposed in the project area. This section also includes a complete description of the proposed project including project location, project characteristics, project objectives, required discretionary actions and other agency approvals.

Section IV (Environmental Impact Analysis): The Environmental Impact Analysis section is the primary focus of this Draft SEIR. Each environmental issue contains a discussion of existing conditions for the project area, an assessment and discussion of the significance of impacts associated with the proposed project, proposed mitigation measures, cumulative impacts, and level of impact significance after mitigation. A discussion of impacts found to be less than significant based on the Initial Study is also provided in this section.

Section V (General Impact Categories): This section provides a summary of significant and unavoidable impacts associated with the proposed project and a discussion of the potential growth inducement of the proposed project.

Section VI (Alternatives to the Proposed Project): This section includes an analysis of a reasonable range of alternatives to the proposed project. The range of alternatives selected is based on their ability to feasibly attain most of the basic objectives of the project and that would avoid or substantially lessen any of the significant effects of the project.

Section VII (Preparers of the SEIR and Persons Consulted): This section presents a list of lead agency, City, other agencies and consultant team members that contributed to the preparation of the Draft SEIR. This section also identifies persons consulted during the preparation of the Draft SEIR.

Section VIII (References): All of the sources of information used in the preparation of the Draft SEIR are listed in this section.

This page intentionally left blank.