

**INITIAL STUDY CHECKLIST
HISTORIC TOWN CENTER MASTER PLAN
REPEAL, GENERAL PLAN AMENDMENT,
AND ORDINANCE CHANGE PROJECT
SAN JUAN CAPISTRANO, CA**

Prepared for:

CITY OF SAN JUAN CAPISTRANO
Development Services Department
32400 Paseo Adelanto
San Juan Capistrano, CA 92675

Prepared by:

CHAMBERS GROUP, INC.
5 Hutton Centre Drive, Suite 750
Santa Ana, California 92707
(949) 261-5414

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SECTION 1.0 – PROJECT DESCRIPTION AND ENVIRONMENTAL SETTING

1.1 PROJECT PURPOSE

The purpose of the Historic Town Center Master Plan (HTCMP) Repeal, General Plan Amendment (GPA), and Ordinance Change Project (Project or Proposed Project) is to eliminate inconsistencies between the HTCMP, the Form Based Code (FBC), and the City of San Juan Capistrano's (City's) General Plan and to clarify setbacks, building heights, and allowable Floor Area Ratio (FAR) under particular conditions within the downtown area. This will be achieved through the repeal of the HTCMP, a GPA, and changes to the FBC that was adopted in conjunction with the HTCMP.

1.2 PROJECT BACKGROUND

In 2009, the City's then-Redevelopment Agency initiated an update to the City's 1995 HTCMP. After numerous studies, public workshops, stakeholder meetings and Committee/Commission meetings, a private consulting firm (Studio One Eleven) produced an updated HTCMP document in 2012. The updated 2012 HTCMP affirmed many of the goals and policies of the 1995 HTCMP, such as creation of pedestrian-friendly, vibrant downtown and retention of the downtown's historic character. The updated HTCMP also significantly expanded the Project Area to encompass 150 acres of the City's downtown area. To implement the goals and policies of the 2012 HTCMP, a Historic Town Center Form Based Ordinance (Ordinance) was also produced by the 2012 HTCMP planning effort. The Ordinance implemented the FBC, which was intended to function as the legally binding Zoning Ordinance for the HTCMP.

Implementation of the 2012 HTCMP and FBC was accomplished with the adoption of three Resolutions and one Ordinance approved by City Council on April 3, 2012. While the adopted Resolutions and Ordinance directed that certain changes be made to the City's General Plan and incorporated the FBC into the Zoning Ordinance, the adopted Resolutions and Ordinance did not make certain key amendments to the General Plan that were necessary to implement the 2012 HTCMP. As a result, there are inconsistencies between the adopted 2012 HTCMP, the City's General Plan, and the FBC. For example, while the 2012 HTCMP encourages residential housing in the HTCMP area (up to 239 units) and the adopted FBC contains residential development standards, the General Plan's Land Use Element and Land Use Map were not amended to allow housing in the HTC area. Another example of an inconsistency is that the adopted 2012 HTCMP identifies a possible Floor Area Ratio (FAR) of 0.95 to 1.5 for the HTCMP area, but the General Plan's FAR limit of 0.50:1 that applies to the HTCMP area was not amended. Other contradictions are noted in Section 1.4 Project Description, below.

At its February 9, 2016 meeting, the full Planning Commission recommended that the City Council initiate a General Plan Amendment and an Ordinance Amendment to the FBC to address the various inconsistencies identified by the ad-hoc advisory committee. On March 8, 2016, the Planning Commission Committee recommended that further refinement of height and setback standards for protection of historic structures in the Historic Town Center be included in the GPA and FBC amendments recommended previously. On October 24, 2017, the City Council directed staff to provide a report on the City's HTCMP and identify options to address inconsistencies between the HTCMP and the City's General Plan, including as one alternative the adoption of a Resolution that would rescind the HTCMP. On November 7, 2017, staff provided a presentation that identified inconsistencies with the land use policies and regulations contained in the HTCMP, FBC, and the General Plan. The Project analyzed here resolves the inconsistencies identified in the staff presentation, and includes:

- Repeal of the HTCMP in order to eliminate inconsistencies between that document and the City of San Juan Capistrano General Plan and Zoning Ordinance.
- Adoption of a GPA that would allow FAR of up to 0.75 for the Historic Town Center (HTC) as a whole and allow a FAR of up to 1.5 for buildings that include provisions for public gathering spaces.
- Adoption of an Ordinance Change that would amend the adopted FBC to incorporate the following changes:
 - Remove the possibility of residential land use in the HTC area;
 - Clarify that two-story buildings within the HTC can have a maximum height of 35 feet;
 - Allow three-story hotel buildings in the HTC of up to 45 feet in height;
 - Keep the adopted Park Once Program, and amend the FBC parking standards Table 2B to be consistent with the parking standards detailed in the Park Once Program;
 - Require new construction on properties adjacent to historic buildings identified by the City to require that any portion of a new building to have a setback of one foot from the historic structure for every foot in new building height;
 - Define nonconforming allowances and expansion opportunities, specifically when different frontage types apply.
 - Eliminate the Town Center Edge and Freeway Edge Overlays as identified in the FBC.

1.3 PROJECT LOCATION AND SITE CHARACTERISTICS

1.3.1 Location

The Proposed Project is located within the City of San Juan Capistrano (City) and consists of the Historic Town Center (HTC) area (see Figure 1, Project Vicinity). The City encompasses approximately 14 square miles of land within southern Orange County. Cities bordering San Juan Capistrano include Mission Viejo to the north, Laguna Niguel to the north and west, and Dana Point and San Clemente to the south. The City is bordered by unincorporated County of Orange land to the east. Regional access to the Project Area is provided via the San Diego (I-5) Freeway, a major highway that connects Los Angeles, Orange, and San Diego Counties, Ortega Highway (SR-74) that connects to eastern Riverside County, and by Amtrak and Metrolink passenger rail service to San Diego, Los Angeles and points north.

The Project Area consists of the approximately 150 acres that comprise the Historic Town Center area of downtown San Juan Capistrano. The site is generally bounded by Acjachema Street to the north, the San Diego (I-5) Freeway to the east, existing retail to the south, and Paseo Adelanto to the west (see Figure 2, Project Location Map). Local access to the Project Area is provided via Ortega Highway (SR-74), Del Obispo Street, and Camino Capistrano.

1.3.2 General Plan Designation/Zoning

The existing General Plan designations for the HTCMP Project Area consist of General Commercial, Specific Plan/Precise Plan (Los Rios Precise Plan District), Existing Public Schools, Public & Institutional, and Specialty Park. The existing zoning designations in the HTCMP Project Area consist of General Commercial, Tourist Commercial District, Community Park District, Specific Plan/Precise Plan, and Public & Institutional. (General Plan 1999)

1.3.3 Surrounding Land Uses and Project Setting

The land uses surrounding the Project Area consist of residential communities to the north and west, the I-5 freeway to the east, the retail shopping centers, restaurants, church uses, and a residential neighborhood to the south. Small markets, restaurants, the Junipero Serra School and two churches are located to the north of the Project Area. San Juan Creek is south of the Project boundary and flows in a northeast to southwest direction. On the opposite side of the I-5 freeway, to the east, a variety of land uses are present including churches, a cemetery, retail, office, hotel, self-storage, residential, and golf course uses (General Plan 1999).

1.4 PROJECT DESCRIPTION

The implementation of the Historic Town Center Master Plan introduced land use inconsistencies between that document, the City of San Juan Capistrano General Plan, and the FBC. As such, this Project proposes several actions to remedy these inconsistencies. Specifically, the inconsistencies, and the proposed actions to remedy the same, include the following:

Residential Land Use

The HTCMP encourages residential housing on the Project Area (HTCMP 2012). In addition, the FBC contains residential use standards for uses such as studios and multi-family housing (FBC 2012). However, the General Plan Land Use Element does not allow housing in the HTCMP area (General Plan 1999). Therefore, the Proposed Project would amend the FBC to remove language allowing residential land use and eliminate the HTCMP.

Floor Area Ratio (FAR)

The HTCMP encourages a “village-scaled density” for the Project Area and notes successful village centers have FAR limits between 0.95 and 1.5; however, the General Plan limits the FAR in the HTCMP area to 0.5 (HTCMP 2012, General Plan 1999). Therefore, the Proposed Project would amend the City’s General Plan to allow a FAR of up to 0.75 for the Project Area as a whole and a FAR of up to 1.5 for buildings that include provisions for public gathering spaces.

Building Heights

The FBC limits buildings in the Project Area to two stories with a maximum height of 35 feet (FBC 2012). While there is a specific exception that allows hotel uses to have three stories, there is no specific height limit called out for three-story buildings (FBC 2012). This has created uncertainty as to whether three-story buildings must adhere to the 35-foot height limit called out for two-story buildings. Therefore, the Proposed Project would amend the FBC to clarify that two-story buildings may be up to 35 feet in height and three-story hotel buildings in the Project Area may be up to 45 feet in height.

Parking

The Park Once Program was incorporated into the Land Use Ordinance in 2011 as a method to attract uses to the Historic Town Center and surrounding areas that help create a pedestrian friendly, vibrant downtown (Land Use Ordinance 2011). The program establishes simplified parking requirements for certain retail, commercial, entertainment, and food uses, and allows said uses to satisfy their on-site parking requirement by entering into shared parking agreements with adjoining uses or by simply being

near a City parking facility. The 2012 FBC adopted the Park Once Program but also established more detailed parking requirements and identified the payment of an in lieu fee that would be used toward construction of a downtown parking garage, as an added method to satisfy parking requirements (FBC 2012). The Proposed Project would clarify parking requirements in the Project Area by maintaining the Park Once Program but amending Table 2B in the FBC so that the parking standards would be consistent with the existing Park Once Program.

Setbacks

There is language within the HTCMP that establishes setback requirements between the Esslinger Building and Judge Egan House and any new buildings on adjoining lots (HTCMP 2012, FBC 2012). Since this setback was intended to be a part of the HTCMP and not the FBC, the setback is considered policy and not part of the legally binding Land Use Ordinance. Nonetheless, the policy has created confusion as to how the setback is to be applied. In addition, City staff has identified the following inconsistencies within the FBC relating to setback issue that should also be addressed: 1) Inconsistency between the required yard setbacks; 2) Inconsistency between the minimum 2-foot vertical separation required between a building's ground floor and the adjacent sidewalk and the actual separation distances that exist in the HTCMP area; 3) Inconsistency between the vertical limits identified in Table 2 C (B) and Terrace Frontage Type 3A.5; and 4) Inconsistencies between the FBC development standards and the prevailing development pattern of the commercial properties along the west side of Camino Capistrano near Acjachema Street.

In order to clarify setbacks in the Project Area, the Project proposes that new construction on properties adjacent to historic buildings identified by the City in the Project Area would require any portion of the new building to have a setback from the historic building of one foot for every foot in new building height.

Land Use Designations

The Proposed Project would remove property designations in those areas identified in the FBC as Town Center Edge and Freeway Edge Overlays; these properties will remain designated General Commercial (GC) as shown on the General Plan Land Use Map (General Plan 1999).

Non-conforming Allowances

The Proposed Project would modify the FBC to define and clarify non-conforming allowances and expansion opportunities such as when specific frontage types apply. This would apply to structures that are not in conformance with the FBC due to these structures existing prior to the adoption of that document.

HTCMP Repeal

As mentioned above, the City not only intends to initiate the General Plan Amendment but is also proposing to repeal the HTCMP. Since the HTCMP is a non-binding policy document, the HTCMP may be repealed in part or in whole without impacting any existing or potential businesses in the Project Area.

The repeal of the HTCMP document would clarify allowable land uses in the Project Area as it would leave the General Plan and the FBC as the only policy documents regulating land use in the Project Area. This clarification would be furthered by the proposed language in the accompanying GPA and Zoning

Ordinance clarifying FAR, building heights, parking, and setbacks in the Project Area by way of amendment to the FBC. In addition, repealing the HTCMP would result in maintaining the existing roadway network and eliminate the identified future roadway connections proposed in the HTCMP, including the proposed extensions of Forster Street, Yorba Street, and Avenida Los Amigos.

Table 1: Project Elements

Element	Current HTCMP and FBC Condition	Current General Plan Condition	Proposed Action
Residential used in the HTCMP area	Encourages residential uses and contains residential development standards	Prohibits residential uses	Amend the FBC to remove all residential standards and maintain General Plan’s prohibition of residential uses in HTCMP area
Floor Area Ratio (FAR) limit for HTCMP area	Limits between 0.95 and 1.5 FAR	Limits up to 0.5 FAR	Implement FAR of 0.75, up to 1.5 FAR for buildings that provide public gathering space
Residential Standards in the FBC	Allows for various residential unit types	No residential in HTCMP area	Amend FBC to remove all residential standards
Maximum Building Height in the HTCMP Area	Limits buildings to two stories with maximum height of 35 feet, and allows hotels to have three stories without a specific height limit	N/A	Clarify the FBC to limit the height of two-story buildings to 35 feet and the height of three-story hotel buildings to 45 feet.
Parking Standards	Established more detailed parking requirements and identified the payment of an “in lieu” fee	N/A	Keep Park Once Program and amend FBC parking standards table to be consistent with what is detailed in the Park Once Program.
Setback/Height Restrictions for New Buildings Adjacent to Historic Structures	Establish setback between Esslinger Building and Judge Egan House and new buildings on adjoining lots	N/A	Amend FBC to codify setback requirements for new buildings adjacent to all historic buildings in the HTC, specifically that new construction on properties adjacent to historic buildings would require any portion of the new building to have a setback of one foot for every foot in new building height.
Staff-Identified Clean-up Amendments	N/A	N/A	Amend the FBC to correct the inconsistencies including required yard setbacks, vertical setbacks and limits, development standards, land uses and parking, etc.
Repeal of the HTCMP	HTCMP exists, but is inconsistent with General Plan	N/A	Repeal the HTCMP

Element	Current HTCMP and FBC Condition	Current General Plan Condition	Proposed Action
Nonconforming conditions	N/A	N/A	Establish standards to address existing nonconforming buildings or conditions
Town Center Edge and Freeway Edge Overlays	Identifies Town Center Edge and Freeway Edge Overlays.	General Commercial	Eliminates the Town Center Edge and Freeway Edge Overlays from the FBC.
Roadway Connections	Extends roadways including Forster Street, Yorba Street, and Avenida Los Amigos	N/A	Eliminates these roadway extension plans and maintains existing roadway network.

Figure 1 - Project Vicinity Map

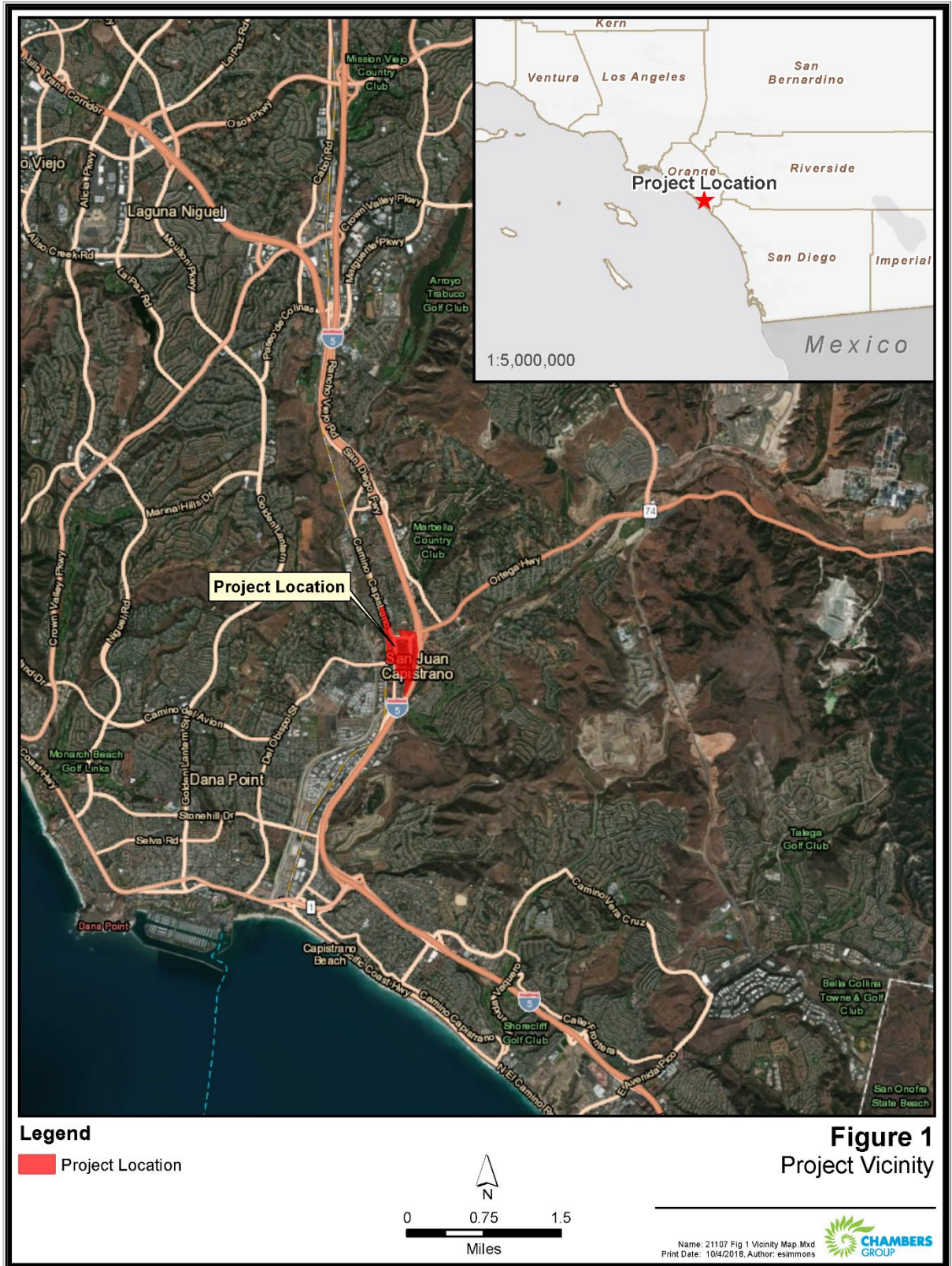


Figure 2 - Project Location Map



1.5 REQUIRED PERMITS AND APPROVALS

As required by the *CEQA Guidelines*, this section provides, to the extent the information is known to the City, the CEQA Lead Agency, a list of the agencies that are expected to use the EIR in their decision making and a list of permits and other approvals required to implement the project.

1.5.1 Lead Agency Approval

The Final EIR must be certified by the City Council as to its adequacy in complying with the requirements of CEQA before the City takes any action on the Proposed Project. The City Council will consider the information contained in the EIR in deciding to approve or deny the HTCMP Repeal, GPA, and Ordinance Change (Proposed Project). The analysis in the EIR is intended to provide environmental review for the whole of the Proposed Project in accordance with CEQA requirements.

1.5.2 Reviewing Agencies and Native American Tribes

Reviewing Agencies include those agencies that do not have discretionary powers, but that may review the EIR for adequacy and accuracy. Potential Reviewing Agencies include the following:

State Agencies

- California Department of Transportation (Caltrans)
- Environmental Protection Agency (Cal EPA)

Regional Agencies

- Southern California Association of Governments (SCAG)
- Regional Water Quality Control Board (RWQCB)
- South Coast Air Quality Management District

Native American Tribes

- Native American Tribes requesting consultation through the provisions of Assembly Bill 52 (AB 52) and Senate Bill 18 (SB 18)

SECTION 2.0 – ENVIRONMENTAL DETERMINATION

2.1 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:


The environmental factors checked below would potentially be affected by this project, involving at least one impact that is a “Potentially Significant Impact,” as indicated by the checklists on the following pages. For each of the potentially affected factors, mitigation measures are recommended that would reduce the impacts to less than significant levels.

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology /Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology /Water Quality | <input checked="" type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input checked="" type="checkbox"/> Transportation / Traffic | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities /Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

2.2 DETERMINATION

On the basis of this initial evaluation:

1. I find that the project **could not** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
2. I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
3. I find the proposed project **may have a significant effect** on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
4. I find that the proposed project **may have a “potentially significant impact” or “potentially significant unless mitigated impact”** on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
5. I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or Negative Declaration pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or Negative Declaration, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



Signature

April 15, 2019
Date

Sergio Klotz
Name

Assistant Development Services Director
Title

SECTION 3.0 – EVALUATION OF ENVIRONMENTAL IMPACTS

1. A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if substantial evidence exists that an effect may be significant. If one or more “Potentially Significant Impact” entries are marked when the determination is made, an EIR is required.
4. “Negative Declaration: Less Than Significant with Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level (mitigation measures from earlier analyses may be cross-referenced).
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a. Earlier Analysis Used. Identify and state where they are available for review.
 - b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c. Mitigation Measures. For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting Information Sources: A source list should be attached, and other sources used, or individuals contacted should be cited in the discussion.

8. The explanation of each issue should identify:
 - a. the significance criteria or threshold, if any, used to evaluate each question; and
 - b. the mitigation measure identified, if any, to reduce the impact to less than significant.

*Note: Instructions may be omitted from final document.

SECTION 4.0 – CHECKLIST OF ENVIRONMENTAL ISSUES

4.1 AESTHETICS

1.	AESTHETICS. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Have a substantial adverse effect on a scenic vista?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b)	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d)	Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.1.1 Environmental Setting

The Project Area is located within a relatively flat area within a valley area of the City, with views of surrounding hillsides to the west and south (Google Earth 2019). The Project Area contains a mix of urban land uses which contribute to the overall visual character. Views from the streetscape are mostly of existing buildings. The Project Area contains several historic buildings including the Mission San Juan Capistrano (Mission) and its surrounding grounds, as well as the Mission Basilica. Other views within the Project Area include views of the Mission entrance from Camino Capistrano and Ortega Highway, and views of the Mission Basilica looking in a northerly direction from Camino Capistrano. Some views of General Plan-designated ridgelines, and natural space hillsides are present to the northwest, west and south of the site (Google Earth 2019). In addition, several prominent trees including heritage trees are located within the Project Area along the streetscapes (Municipal Code Section 9-2.349). Views of the site are mostly from the adjacent street systems, including the I-5 Freeway (I-5) to the east of the Project Area, which is elevated and provides views into the Project Area when traveling northbound. Southbound views from I-5 are blocked by a sound wall, except at the Ortega Highway offramp.

In addition, the following historic streets are in or adjacent to the Project Area:

- El Camino Real, from La Zanja to Forster Street
- Camino Capistrano, from Ortega Highway to Del Obispo Street
- Los Rios Street, from Del Obispo Street to Mission Street
- River Street
- Spring Street, from El Camino Real to Interstate 5

The following historic districts are located adjacent to the Project Area:

- Los Rios District
- Little Hollywood
- Capistrano Union High School site/Stone Field
- Mission Refuse Area

Visual Character

The Project Area contains a variety of land uses including commercial, retail, gas stations, restaurants, retailers, and professional offices (General Plan 1999). The character of the site is rich in history, as further outlined in Section 4.5, Cultural Resources, as a result of early Native American populations as well as the location of the European settlement beginning with the Mission. A number of National Register-designated and locally-designated historic buildings of various styles are located within the Project Area and add to the historic village-like character. These buildings including the Manuel Garcia Adobe, Domingo Yorba Adobe, Judge Richard Egan House, El Adobe Restaurant, and the “streamline modern” Esslinger Building. In addition, the historic streets and districts mentioned above are located adjacent to the Project Area.

Visual Resources

Scenic resources in the City include views of the surrounding hillsides and ridgelines. The main north-south roadways within the City provide view corridors of the hills to the north, west and south, which are General Plan-designated “major ridgelines” (General Plan 1999). The Project Area includes distant views of these hills, including from Ortega Highway, Camino Capistrano, and Del Obispo Street.

Multiple mature ornamental and native trees are present within the Project Area and are visible from the scenic corridors discussed below. There are trees that have a trunk diameter at breast height of 36 inches or greater and are a specimen of the following species: *Schinus mole* (California pepper), *Quercus spp.* (oak), *Cedar spp.* (cedar), *Eucalyptus globulus* (blue gum eucalyptus), *Juglans spp.* (walnut), *Olea europaea* (olive), *Platanus spp.* (sycamore), and *Populus spp.* (cottonwood). These are significant trees under the City of San Juan Capistrano’s Heritage Tree Ordinance (Municipal Code Section 9-2.349).

Scenic Corridors

As indicated in the Community Design Element of the General Plan, scenic corridors include designated arterials contained in the Circulation Element and the railroad corridor that passes through the City (General Plan 1999). Within the Project Area or within its vicinity, Ortega Highway, Del Obispo Street, and Camino Capistrano area designated as scenic corridors. In addition, the I-5 Freeway and the Southern California Regional Rail Authority (SCRRA) railroad are also considered scenic corridors by the City.

Lighting and Glare

The Project Area is highly urbanized. Existing sources of light include street lighting and wall-mounted lighting for safety, parking, and security. Other sources of light include the I-5 Freeway along the eastern

edge of the Project Area. Existing street lighting, nighttime traffic, and residential and non-residential lighting from existing development also exist within and adjacent to the Project Area.

4.1.2 Impact Analysis

a) *Would the project have a substantial adverse effect on a scenic vista?*

Potentially significant impact. A scenic vista is a viewpoint that includes scenery or a landscape that provides aesthetic value for the benefit of the general public. The Proposed Project includes the repeal of the HTCMP, a General Plan Amendment (GPA), and changes to the FBC to reconcile discrepancies between these documents and the adopted General Plan. This Project would allow for taller hotel structures within the Project Area and would allow for an increase in FAR in the Project area, including for facilities that would provide public gathering spaces, as compared to no action. The General Plan has a goal to “prevent incompatible development in areas which should be preserved for scenic, historic, conservation, or public safety purposes” (General Plan 1999). In addition, the Community Design Element identifies scenic corridors in the Project Area including Ortega Highway, Del Obispo Street, Camino Capistrano, and the SCRRA railroad (General Plan 1999).

The Project has the potential to allow three-story hotels up to 45 ft. and an increase in FAR of 0.75 in the Project Area, up to 1.5 for developments that provide a public gathering space. As a result, the scenic corridors described above could be affected by Project implementation. A Project-specific analysis will be performed by a qualified architectural historian to examine potential aesthetic impacts of Project implementation in the Project Area. This topic will be further evaluated in the Environmental Impact Report (EIR) prepared for the Proposed Project.

b) *Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?*

Less than significant impact. Scenic resources are the landscape patterns and features that contribute to the aesthetic distinction of designated highways or corridors (or routes), and hillsides and ridgelines. Eligible scenic highways are located approximately 1.5 miles north (Route 74, Ortega Highway) and 3.1 miles south (Pacific Coast Highway 1) from the Project Area (Caltrans 2018). Ortega Highway is designated as a state Scenic Highway Landscape corridor east of the I-5 freeway, outside of the Project Area (Caltrans 2018). Travelers along this portion of Ortega Highway are not able to view the Project Area (Google Earth 2019). Travelers along Pacific Coast Highway are also not afforded views into the Project Area due to hills and distance.

The proposed repeal of the HTCMP would not affect the character, intensity, or location of existing or future development in the Project Area. Other Project features, including the proposed changes to the FBC that address setbacks, building heights, allowable FAR in particular circumstances, and the elimination of the FBC parking table would also not damage scenic resources. The City’s existing Heritage Tree Ordinance would remain in force, there are no rock outcroppings or state scenic highways in or adjacent to the Project Area (Municipal Code Section 9-2.349). Impacts would be less than significant, and no further study is required.

c) *In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible*

vantage point). If the project is an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Potentially significant impact. As discussed above, the repeal of the HTCMP would not affect the urban nature or overall footprint of future development in the Project Area. Setback clarifications associated with the FBC would apply only to future development adjacent to historic structures and would not change to an extent that the visual character of the Project Area is significantly affected. The proposed increase in allowable FAR, including for buildings considered public gathering space, would also not significantly impact the visual character of the Project Area as this would only apply in a limited number of cases and would not result in a different physical appearance of the affected structures. Parking changes associated with the repeal of the FBC parking standards do not have the potential to affect visual character in the Project Area as it is already highly urbanized.

The proposed clarifications to height limitations for three-story hotels in the Project Area could lead to an increase in the number of structures that are up to 45 feet in height. Therefore, as discussed above, a Project-specific analysis will be performed by a qualified architectural historian to examine potential aesthetic impacts of Project implementation in the Project Area. This topic will be further evaluated in the EIR prepared for the Proposed Project.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Less than significant impact. Illumination standards are regulated by the City in Zoning Ordinance Section 9-3.529. These regulations would remain in effect and would not be affected by Project implementation. The proposed repeal of the HTCMP, associated clarifications to the FBC, and the clarifications in the FBC parking table would not affect any existing language governing light and glare and would not allow future development of a significant nature such that new, substantial sources of light and glare would be permitted in the Project Area. Impacts would be less than significant, and no further study is required.

4.2 AGRICULTURE & FORESTRY RESOURCES

2.	AGRICULTURE & FOREST RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b)	Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

(c)	Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d)	Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e)	Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.2.1 Environmental Setting

The California Department of Conservation, through the Farmland Mapping and Monitoring Program (FMMP) of the Division of Land Resource Protection classifies agricultural lands within the State. The FMMP classifies the HTC Project Area as “Urban and Build-up Land,” which includes land occupied by structures within a building density of at least 1 unit to 1.5 acres, or approximately 6 acres to a 10-acre parcel (FMMP 2016). Examples of this land use type include residential, industrial, commercial, institutional facilities, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, and water control structures.

4.2.2 Impact Analysis

a) *Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?*

No impact. No designated farmlands are located within the Project Area (FMMP 2016). No impacts would occur, and no further study is required.

b) *Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?*

No impact. No areas within the Project Area are zoned for agricultural use and no Williamson Act contract are on any lands within the Project Area (FMMP 2016). In addition, the Proposed Project would not impede the City’s General Plan goals and policies related to agricultural land preservation (General Plan 1999). No impacts would occur, and no further study is required.

c) *Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 122209(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?*

No impact. As discussed above, no farmland or forest land is present in the Project Area (FMMP 2016). No impacts would occur, and no further study is required.

d) *Result in the loss of forest land or conversion of forest land to non-forest use?*

No impact. As discussed above, no farmland or forest land is present in the Project Area (FMMP 2016). No impacts would occur, and no further study is required.

e) *Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?*

No impact. As discussed above, no farmland or forest land is present in the Project Area (FMMP 2016). No impacts would occur, and no further study is required.

4.3 AIR QUALITY

3.	AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(d)	Result in other emissions (such as those leading to odors adversely affecting a substantial number of people?)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.3.1 Environmental Setting

The City’s climate is typical of Southern California, characterized by year-round moderate temperatures and limited precipitation. Winds are the result of the land/sea breeze circulation system, typically manifested as daytime onshore sea breezes with a reversal occurring at night.

Also typical of Southern California are temperature inversions that serve to trap air near the surface thereby inhibiting the dispersal of air pollutants. This serves to put a “lid” on the region, including the City, exacerbating air quality issues in the South Coast Air Basin (Basin). However, the presence of the Santa Ana Mountains to the east of the City as well as its proximity to the Pacific Ocean result in the area having some of the lowest ozone concentrations in Southern California (South Coast Air Quality Management District (SCAQMD) 2019).

4.3.2 Impact Analysis

a) *Would the project conflict with or obstruct implementation of the applicable air quality plan?*

Less than significant impact. The City of San Juan Capistrano is located within the South Coast Air Basin (SCAB), which is governed by the SCAQMD. The South Coast Air Quality Management Plan (AQMP) is the air quality plan applicable to the Potential Project Area. The purpose of the AQMP is to provide direction that brings an area into compliance with federal and state air quality standards. A consistency determination is important in local agency project review by comparing local planning projects to the Air Quality Management Plan (AQMP) in several ways. It fulfills the CEQA goal of fully informing local agency decision makers of the environmental costs of the project under consideration at a stage early enough to ensure that air quality concerns are addressed. Only new or significant amendments to General Plan elements, Specific Plans and significantly unique projects require a consistency review due to the AQMP strategy being based on projections from local General Plans.

Emission forecasts incorporate controls implemented under adopted AQMP rules and projected growth rates for population, industry, and motor vehicle activity. The General Plan's Land Use Element and Land Use Map do not allow residential housing in the HTCMP area, therefore, reducing the amount of new emissions which would not inhibit the SCAQMD from meeting air quality attainment requirements (General Plan 1999). The increase in FAR limit for public gathering spaces associated with the Project would not result in a significant increase in emissions.

Any impacts associated with the change in use at these specific buildings will be analyzed on a project-by-project basis because, at this time, it would be speculative to assume what the proposed increases in existing buildings will be and therefore what, if any, resulting impacts to air quality could occur. In order for any of the existing buildings in the potential Project Area to undergo the increase in FAR or building height, existing structures would be required to undergo all relevant review and permitting CEQA review. The changes to the FBC parking standards do not have the potential to significantly impact air quality in or adjacent to the Project Area. In addition, no specific construction is proposed as part of the Project. Impacts from implementation of the Proposed Project would therefore be less than significant, and no further study is required.

- b) *Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?*

Less than Significant Impact. Future development that could occur in the Project Area upon Project implementation would generally be similar to what is currently allowed, with the exception of an increase in three-story hotel height limits to 45 feet and an increase in allowable FAR, including for buildings that include public gathering space. Although it is possible that future construction and operations of such structures could lead to a temporary increase in identified criteria pollutants, subsequent projects would go an environmental review to determine construction and operational emissions based on those projects' specific characteristics. Because only parts of the Project Area would be eligible for development under circumstances that would increase building height or allowable FAR, and those developments would themselves be subject to environmental review based on their specific design features, impacts upon implementation of this Project would be less than significant. No further study is required.

- c) *Expose sensitive receptors to substantial pollutant concentrations?*

Less than Significant Impact. Sensitive populations (i.e., children, senior citizens and acutely or chronically ill people) are more susceptible to the effects of air pollution than are the general population. Land uses considered sensitive receptors typically include residences, schools, playgrounds, childcare centers, hospitals, convalescent homes, and retirement homes. Because land use in the Project Area upon Project implementation would be of a similar nature to that currently permitted, Project components such as the General Plan Amendment and the FBC would not have significant impacts on sensitive receptors in the Project Area. In addition, the Proposed Project would not specifically permit any of the land uses listed above that could lead to an increase in the number of sensitive receptors in the Project Area. Impacts would be less than significant, and no further study is required.

d) *Result in other emissions (such as those leading to odors adversely affecting a substantial number of people)?*

No Impact. Typical odor sources of concern include wastewater treatment plans, sanitary landfills, transfer stations, composting facilities, petroleum refineries, asphalt batch plants, chemical manufacturing facilities, fiberglass manufacturing facilities, auto body shops, rendering plants, and coffee- roasting facilities. The Proposed Project would not permit the construction of such facilities, and future construction and operations that could occur upon Project implementation would not be of a different nature than uses currently permitted in the Project Area. No impacts would occur, and no further study is required.

4.4 BIOLOGICAL RESOURCES

4.	BIOLOGICAL RESOURCES. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b)	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c)	Have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d)	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.	BIOLOGICAL RESOURCES. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(e)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f)	Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.4.1 Environmental Setting

Local Setting

Orange County NCCP/HCP

The County of Orange, participating agencies and special districts, and participating landowners, worked with the California Department of Fish and Game (CDFG) and United States Fish and Wildlife Service (USFWS) to prepare a coastal sage scrub NCCP/HCP called the Natural Community Conservation Plan and Habitat Conservation Plan, County of Orange Central and Coastal Subregion. This Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) was reviewed and approved by the CDFG and USFWS in 1996. The NCCP/HCP discussed the protection and management of coastal sage scrub habitat and coastal sage scrub-obligate species, and other covered habitats and species, and provided mitigation for anticipated impacts to those habitats and species on a programmatic level. The NCCP/HCP provided information on development areas where impacts to species and habitats receiving regulatory coverage under the NCCP/HCP would be authorized.

The Project Area is within the planning area covered by the NCCP/HCP and is classified as a development area. As such, any significant impacts of the Project to covered habitats, special status species, and wildlife connections for such species would require mitigation.

Special Status Plant and Wildlife Species

Special status plant and animal species are afforded special recognition by federal, State, or local resource conservation agencies, organization, or jurisdictions. Special status species include those listed as threatened, rare, and/or endangered by resource agencies such as USFWS, CDFW, and the California Native Plant Society (CNPS).

Historic Town Center Area

Two creeks, Oso Creek and Trabuco Creek, merge in the Project Area, and Oso Creek then runs within a concrete channel outside the western portion of the Project boundary. In addition, Horno Creek is located within the HTC Project Area, and contains riparian vegetation which supports a variety of bird species and other species that utilize the area.

4.4.2 Impact Analysis

- (a) *Would the project have a substantial adverse effect, either directly or through habitat modification, on any species identified as candidate, sensitive or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

No impact. The only natural features in the Project Area that are protected by laws or regulations with respect to biological resources are Heritage Trees, addressed in Municipal Code Section 9-2.349. The repeal of the HTCMP, clarifications to the FBC, and the changes to the FBC parking table would not affect Heritage Trees as none of these Project features would allow development that would conflict with relevant provisions of the Municipal Code. Clarification of building heights and an increase in allowable FAR for buildings classed as public gathering space do not have the potential to affect biological sensitive species or their habitat. No impacts would occur, and no further study is required.

- (b) *Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

No impact. The Project site is an urbanized area. No identified riparian habitat or other sensitive natural community exists within its footprint (USFWS 2018). No impacts would occur, and no further study is required.

- (c) *Would the project have a substantial adverse effect on state or federally protected wetlands (including but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

No impact. There are no documented wetlands in or adjacent to the Project Area. No impacts would occur (USFWS 2018). No impacts would occur, and no further study is required.

- (d) *Would the project Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

No impact. As discussed above, the Project Area is completely urbanized; no wildlife corridors or nursery sites are present in or adjacent to the Project Area (USFWS 2018). No impacts would occur, and no further study is required.

- (e) *Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

No impact. The proposed repeal of the HTCMP and amendment of the FBC, along with associated actions including an increase of allowable FAR, increased building heights for hotels, setback adjustments, and the changes to the FBC parking table would have no effect on existing policy related to the protection and removal of trees in the Project Area. Municipal Code Section 9-2.349, Heritage Trees, would remain in effect. No impacts would occur, and no further study is required.

(f) *Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservancy Conservation Plan, or other approved local, regional, or state habitat conservation plan?*

No impact. As the repeal of the HTCMP and amendment of the FBC associated with Project implementation primarily serves to repeal a policy document that addressed the form of development, rather than the location of that development, and it was never enforced due to conflicts with the City’s adopted General Plan, FBC, and Zoning Code, no impacts would occur. Future development in the Project footprint would still be guided by the General Plan and Zoning Code, and none of the proposed clarifications to the FBC or the changes to the FBC parking table could potentially affect adopted habitat conservation plans. No impacts would occur, and no further study is required.

4.5 CULTURAL RESOURCES

5.	CULTURAL RESOURCES. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b)	Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4.5.1 Environmental Setting

Human settlement in the Project Area goes back at least 1,300 years with the original inhabitants being indigenous groups of the Encinitas Tradition, Topanga Cultural Pattern. The Spanish arrived in the late 18th century and founded the Mission San Juan Capistrano in 1776 to begin the conversion of the native population to Catholicism. Mexico gained independence from Spain in 1821 and in 1841 San Juan Capistrano became a Mexican pueblo. The area around the mission was then distributed to settlers in the form of land grants. The American period of the area began in 1848 with the Treaty of Guadalupe Hidalgo following the Mexican-American War. At this point, areas of what is now the City of San Juan Capistrano were designated by U.S. courts as public lands. The 20th century saw the area come to be dominated by people of European ancestry; the City was incorporated in 1961 largely due to controversy over control of the school district.

Historical and archaeological resources located in the Project Area were researched via records searches and pedestrian surveys in association with the original HTCMP Draft EIR in 2010 and 2011 (HTCMP EIR 2011). This includes a Sacred Lands File (SLF) search for the Native American Heritage Commission (NAHC). The Draft EIR notes that 128 studies of a similar nature have been undertaken within one mile

of the Project Area. Nearly 100 cultural resources have been found to be located in the Project Area and its vicinity. The City has identified three basic categories into which significant cultural resources are designated: historic buildings, historic districts, and buildings or sites of distinction.

The Project vicinity contains several historic buildings including the Mission San Juan Capistrano and its surrounding grounds, as well as the Mission Basilica. In addition, the following historic streets are located in or adjacent to the Project Area:

- El Camino Real, from La Zanja to Forster Street
- Camino Capistrano, from Ortega Highway to Del Obispo Street
- Los Rios Street, from Del Obispo Street to Mission Street
- River Street
- Spring Street, from El Camino Real to Interstate 5

The following historic districts are located adjacent to the Project Area:

- Los Rios District
- Little Hollywood
- Capistrano Union High School site/Stone Field

4.5.2 Impact Analysis

a) *Would the project cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?*

Potentially significant impact. Historic resources have been documented in the Project Area. The HTCMP and associated FBC were adopted to regulate land uses and building form in the Historic Town Center specifically but, because of inconsistencies between the updated HTCMP and FBC with the City's General Plan and Zoning Ordinance, the HTCMP was never enforced. As a result, the repeal of this non-binding policy document would not in and of itself affect the protection of historic resources in the Project Area. Such resources would continue to be protected under the General Plan and Zoning Ordinance, as well as all applicable federal and state law.

In addition to the repeal of the HTCMP, the Project proposes increasing the allowable FAR of buildings in the Project Area. Residential uses would continue to be prohibited per the General Plan. The allowable heights of two-story buildings and three-story hotels would be clarified to 35 feet and 45 feet, respectively. However, due to the number of historic resources located within the Project Area, and the Proposed Project's revisions to FAR and setbacks and other development controls, there is a potential that the Proposed Project could impact historic resources. Therefore, a Project-specific analysis will be performed by a qualified architectural historian to examine potential historic resource impacts of Project implementation in the Project Area. This topic will be further evaluated in the EIR prepared for the Proposed Project.

b) *Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?*

Less than significant impact. Archaeological resources have been documented in the Project Area. However, no Project actions would affect the footprint of any existing or future development in the Project Area and would actually serve to potentially decrease the footprint of new construction adjacent to existing historical resources. The HTCMP is a non-binding policy document that was never enforced due to conflicts with the City’s General Plan and Zoning Ordinance. Because it was never enforced, its repeal does not represent a departure from existing conditions. As such, no impacts to archaeological resources would occur as a result of the proposed repeal of the HTCMP.

Other Project actions, including an increase in allowable FAR, clarification of two-story building and three-story hotel heights, the amendment of the FBC, and the changes to the FBC parking standards, would not affect the footprints of existing buildings or the form or location of future development. The only exception would be the proposed clarifications to the FBC that new construction must be setback from existing historic structures at least one foot for every foot in new building height. Future activity would continue to be regulated by the General Plan, Zoning Ordinance, and the FBC that would be amended as described above. As no Project feature would increase the allowable footprint of current or future development, impacts would be less than significant. No further study is required.

- c) *Would the project disturb any human remains, including those interred outside of dedicated cemeteries?*

Less than significant impact with mitigation incorporated. Because of the developed nature of the Project Area it is unlikely that human remains would be encountered during excavation associated with future development. The proposed repeal of the HTCMP and amendment of the FBC would not affect the form or nature of future development in the project footprint as the General Plan and Zoning Ordinance would continue to govern the specifics of such development. Adjustments to FAR and hotel heights would not affect human remains, if encountered. The following mitigation measure would ensure that any future potential impacts to human remains encountered in the Project Area would be less than significant.

MM CUL-1 – In the event that human remains are encountered in the Project Area following the implementation of the Proposed Project, excavation would immediately halt, and the Orange County Coroner will be contacted. The Coroner will then contact the appropriate persons or groups whom have the authority to determine treatment or disposing of human remains as provided in Public Resources Ordinance Section 5097.98.

4.6 ENERGY

6.	ENERGY Would the project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

6.	ENERGY Would the project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
(b)	Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.6.1 Environmental Setting

Electrical service to the project site is provided by San Diego Gas and Electric (SDG&E). Electricity is delivered by transmission and distribution lines within and around the HTC area. The Southern California Gas Company (SoCal Gas) delivers natural gas to the Project Area via underground pipeline (HTCMP EIR 2011).

4.6.2 Impact Analysis

a) *Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation?*

No impact. The proposed repeal of the HTCMP and amendment of the FBC and associated changes in FAR, building heights, and setbacks would not affect the energy consumption of either existing or proposed structures. The HTCMP is a policy document that was intended to guide the appearance of new development in the Project Area and does not affect energy consumption. No aspects of the Project propose specific new development, and relevant policies in the General Plan and Zoning Ordinance would remain in effect. No impacts would occur.

b) *Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?*

No impact. The implementation of the HTCMP and FBC did not affect policies or plans for renewable energy usage or energy efficiency. The repeal of these documents and the associated changes in FAR, building heights, and setbacks would therefore not result in conflicts with or obstruction of State or local plans on these topics, nor would the repeal of existing FBC parking standards. No impacts would occur.

4.7 GEOLOGY AND SOILS

7.	GEOLOGY AND SOILS. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury or death involving:				

7.	GEOLOGY AND SOILS. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
	i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b)	Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c)	Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d)	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Ordinance (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e)	Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f)	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.7.1 Environmental Setting

The Project Area is underlain by Pleistocene- to Holocene-aged alluvium and Non-Marine Terrace Deposits, and Older and Younger Alluvial Deposit. Fill is located throughout the Project Area at depths averaging 0-6 feet. Beneath these areas are native Alluvial soils, deposited because of drainage outflow from the major creeks that traverse the Project Area. Beneath the Alluvial soils are Miocene-age bedrock that are a part of the Capistrano Formation (HTCMP EIR 2011).

Seismic risks exist in the Project Area. Ground rupture is not considered a significant hazard since no faults traverse the Project Area, although it is suspected that an as of yet unproven blind thrust fault could be present (General Plan 1999). In addition, the State considers the Project Area to be at high risk of liquefaction in the case of a major seismic event (HTCMP EIR 2011).

4.7.2 Impact Analysis

- i) *Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-*

Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

No impact. The implementation of the Proposed Project does not have the potential to cause potential adverse effects with respect to earthquake faulting. The Project proposes the repeal of a non-binding policy document and clarifications to the FBC. No aspect of these actions could affect development in areas known to be prone to faulting as no faults are known to traverse the Project Area. In addition, CEQA requires an examination of Project impacts on the environment, not the environment's potential to affect a Project. As no future development in the Project Area that could be affected by Project implementation has the potential to exacerbate existing faulting hazards, no impacts would occur. No further study is required.

ii) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?

No impact. As described above, the Proposed Project does not include features that would change the footprint or general nature of development in the Project Area. Any development that would occur following the repeal of the HTCMP, amendment of the FBC, and associated adjustments in allowable FAR, building heights, setbacks, and changes to the FBC parking table would continue to be subject the provisions of the City's General Plan Safety Element, Zoning Ordinance, and the California Building Code (CBC). As a result, the form, location, and nature of future development would not be impacted by Project implementation.

In addition, CEQA requires the analysis of a Project's potential impacts on the environment. Any adverse effects, such as strong seismic ground shaking, that could affect development in the Project Area would be an example of the environment affecting the Project. This is not an adverse impact under CEQA. Therefore, no impacts would occur, and no further study is required.

iii) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction?

No impact. As described above, the Proposed Project does not include features that would change the footprint or the general nature of development in the Project Area. The ability for future development to be located in areas prone to seismic-related ground failure would be unaffected by Project implementation. In addition, any development that would occur following the repeal of the HTCMP, amendment of the FBC, and associated adjustments in allowable FAR, building heights, setbacks, and changes to the FBC parking table would continue to be subject the provisions of the City's General Plan Safety Element, Zoning Ordinance, and the CBC. As a result, adverse effects regarding liquefaction would not occur.

In addition, CEQA requires the analysis of a Project's potential impacts on the environment. Any adverse effects, such as liquefaction, that could affect development in the Project Area would be an example of the environment affecting the Project. This is not an adverse impact under CEQA. Therefore, no impacts would occur, and no further study is required.

iv) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?

No impact. There are no slopes in or adjacent to the Project Area that could cause landslides affecting people or structures as the Project Area itself is generally flat and is separated from hillsides by I-5. In addition, no Project feature would place people or structures in such zones; land use in the Project Area would be governed by the General Plan Land Use Map, Safety Element, Zoning Ordinance, and the CBC. No impacts would occur, and no further study is required.

b) *Would the project result in substantial soil erosion or the loss of topsoil?*

No impact. As discussed above, the repeal of the HTCMP would not significantly affect the form, location, or nature of future development. Other project features, including changes in FAR under specific circumstances, clarification of building heights, setbacks, and the changes to the FBC parking table do not have the potential to affect soil erosion. Any future development in the Project Area would continue to be regulated by the City's General Plan Safety Element, Zoning Ordinance, Municipal Code, the amended FBC, and the CBC. This includes regulations covered under the State's Construction General Permit (CGP), enforced by the preparation of and adherence to Storm Water Pollution Prevention Plans (SWPPPs) that would detail appropriate project-level Best Management Practices (BMPs) designed to minimize erosion. Impacts as result of Project implementation would therefore be less than significant, and no further study is required.

c) *Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?*

No impact. The Proposed Project does not have the potential to affect soils in the Project Area such that future development would be at increased risk of adverse impacts associated with unstable soils. The Project proposes the repeal of a non-binding policy document, clarifications to the FBC including setbacks and allowable FAR, and the changes to the FBC parking table. None of these actions could affect soils in the Project Area. In addition, all relevant provisions of the General Plan Safety Element, Zoning Ordinance, and CBC would remain in effect. In addition, future projects in the Project Area would be required to implement BMPs as detailed in a SWPPP that complies with the State's CGP. No impacts would occur, and no further study is required.

d) *Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Ordinance (1994), creating substantial direct or indirect risks to life or property?*

No impact. As with potential impacts associated with unstable soils, the Project would not affect the location or general nature of future development, including the potential for it to be located on expansive soils. In addition, all relevant provisions of the General Plan Safety Element, Zoning Ordinance, and CBC would remain in effect. In addition, no aspect of the Proposed Project has the potential to create or exacerbate risks from expansive soils. No impacts would occur, and no further study is required.

e) *Would the project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?*

No impact. The adopted HTCMP and FBC do not address sewer or septic connections, and existing City policy requires new development to connect to the sewer system (Municipal Code). No impacts would occur, and no further study is required.

f) *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

Less than significant impact. The Proposed Project does not call for any specific new development; it would serve to clarify the form of future development in terms of setbacks from historic structures, increase in allowable FAR, updates to the FBC parking standards, and height limits on hotels. Future projects would be required to undergo their own project-specific environmental review, including potential mitigation measures that would address the possibility of encountering paleontological resources during excavation or other construction. As a result, impacts on paleontological resources as a result of the implementation of this Project would be less than significant. No further study is required.

4.8 GREENHOUSE GAS EMISSIONS

8.	GREENHOUSE GAS EMISSIONS. Would the project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.8.1 Environmental Setting

Current land use on the Project site consists of retail, commercial/office, civic, religious, educational, and residential sites (Google Earth 2018). The primary source of GHG emissions in the area is motor vehicles. Other emissions include combustion for space and water heating, as well as off-site emissions from the generation of electricity consumed in the Project Area (General Plan 2011).

4.8.2 Impact Analysis

a) *Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*

Less than significant impact. Significant legislative and regulatory activities directly and indirectly affect climate change and greenhouse gas (GHG) emissions in California. The primary climate change legislation in California is Assembly Bill 32 (AB 32), the California Global Warming Solutions Act of 2006. AB 32 focuses on reducing GHG emissions in California, and AB 32 requires that GHGs emitted in California be reduced to 1990 levels by the year 2020.

CARB is the state agency charged with monitoring and regulating sources of emissions of GHGs in California that contribute to global warming in order to reduce emissions of GHGs. The CARB Governing Board approved the 1990 GHG emissions level of 427 million tonnes of CO₂ equivalent (MtCO₂e) on December 6, 2007. Therefore, in 2020, annual emissions in California are required to be at or below 427 MtCO₂e. The CARB Board approved the Climate Change Scoping Plan in December 2008 and the First Update to the Scoping Plan in May 2014 (together, Scoping Plans). The Scoping Plans define a range of programs and activities that will be implemented primarily by state agencies but also include actions by local government agencies. Primary strategies addressed in the Scoping Plans include new industrial and emission control technologies; alternative energy generation technologies; advanced energy conservation in lighting, heating, cooling, and ventilation; reduced-carbon fuels; hybrid and electric vehicles; and other methods of improving vehicle mileage. Local government will have a part in implementing some of these strategies. The Scoping Plans also call for reductions in vehicle-associated GHG emissions through smart growth that will result in reductions in vehicle miles traveled (CARB 2008, 2014).

The SCAQMD proposes that if a project generates GHG emissions below 3,000 MTCO₂e, it could be concluded that the project's GHG contribution is not "cumulatively considerable" and is therefore less than significant under CEQA.

The repeal of the policy documents and adjustments to FAR, hotel building heights, and the prohibition of residential housing that would result from Project implementation but would not alter the character of the site, the nature of land use, or lead to an increase in the intensity of land uses in Project Area. Any impacts associated with the inconsistencies will be analyzed on a project-by-project basis because, at this time, it would be speculative to assume what the proposed increases in existing buildings will be and therefore what, if any, resulting impacts to GHGs would be less than significant. Furthermore, the development of new structures in the Project Area would require discretionary review which would be subject to project-specific CEQA review. The changes to the FBC parking table would not lead to significant impacts as the parking standards detailed in the Zoning Ordinance that applies to the rest of the City would be enforced with regard to parking. Impacts would be less than significant as a result of Project implementation, and no further study is required.

- b) *Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*

Less than significant impact. The Proposed Project would not conflict with any plan, policy, or regulation adopted to reduce emissions of greenhouse gases as land uses that could occur upon Project implementation would be of a similar nature and intensity as those permitted under existing conditions. Changes in FAR and the heights of hotels would not be of a significant enough nature to result in greenhouse gas emissions such that there would be conflicts with existing plans or policies. In addition, future development would be required to undergo CEQA analysis to include greenhouse gas emissions on an individual project basis. No aspect of the Proposed Project would lead to an increase in vehicle trips in the Project Area, which is the primary source of GHG emissions in the Project Area, including proposed changes to the FBC parking standards. Impacts would be less than significant, and no further study is required.

4.9 HAZARDS AND HAZARDOUS MATERIALS

9.	HAZARDS AND HAZARDOUS MATERIALS. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c)	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d)	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Ordinance Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e)	For a project located within an airport land use plan or, where such a plan had not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the Project Area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f)	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g)	Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.9.1 Environmental Setting

A regulatory data base review was conducted in support of the HTCMP Draft EIR. This effort was conducted to identify any underground storage tanks (USTs) associated with service stations, chemical use and/or storage associated with industrial parks, and chemical storage associated with the historic ranching and farming economy of the area. The review uncovered 30 Listed Sites within one mile of the Project Area, and 284 Listed Sites between one and two miles away (HTCMP EIR 2011).

4.9.2 Impact Analysis

a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less than significant impact. The HTCMP does not have specific language governing the transport, use, or disposal of hazardous materials. Such materials have been governed by the goals and policies of the General Plan Safety and Circulation elements, as well as the Zoning Code. As a result, the

repeal of the HTCMP would not impact how hazardous materials are used, transported, or disposed of in the Project Area.

Other aspects of the Proposed Project, including clarifications to the FBC with respect to setbacks adjacent to historic structures, building heights, changes in allowable FAR, and change to the FBC parking table, do not have elements that would impact hazardous materials in the Project Area. Impacts would be less than significant, and no further study is required.

- b) *Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*

No impact. The proposed repeal of the HTCMP itself would not generate impacts with respect to the potential for release of hazardous materials in the Project Area. The HTCMP document does not address this issue directly as it is covered in the relevant portions of the General Plan and Zoning Ordinance. No other Project features associated with clarifications in the FBC would impact existing conditions such that there could be an increase in the risk for release of hazardous materials; these elements clarify specific restrictions on land use only. In addition, all federal, State, and local regulations governing such materials would continue to be enforced. Impacts would be less than significant, and no further study is required.

- c) *Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*

No impact. The proposed repeal of the HTCMP would not affect land uses in the Project Area as they relate to potential hazardous emissions or the handling of hazardous materials. There are no specific structures proposed as part of the Project, and the clarifications to the FBC would not affect hazardous emissions or materials as outlined in State or federal regulations, or the General Plan. Impacts would therefore be less than significant, and no further study is required.

- d) *Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Ordinance Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

No impact. Although hazardous materials sites are in the Project Area, development on these sites has been governed by the General Plan as the tenets of the HTCMP were never enforced. As a result, the repeal of the HTCMP would not change the location or nature of future development in the Project Area. Elements related to the clarifications proposed to the FBC do not have the potential to significantly affect future development as they are related to setbacks, building heights, and allowable FAR. No impacts would occur, and no further study is required.

- e) *For a project located within an airport land use plan or, where such a plan had not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the Project Area?*

No impact. The Project Area is not within an airport land use plan or within two miles of a public or public use airport (Google Earth 2019). No impacts would occur, and no further study is required.

f) *Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

No impact. As described above, the HTCMP was never enforced as it conflicted with the City’s General Plan. As a result, its repeal would not change the nature or location of future development in the Project Area. The setback and building height clarifications proposed for the FBC would not interfere with adopted emergency response plans as they do not affect roadway usage, including any increases in traffic or road closures. Increases in allowable FAR are proposed. The resulting increase in density would not represent a significant change in existing conditions. Because no Project elements would directly lead to road closures or increased traffic, and the changes to the FBC parking table would not impact traffic on Project Area roadways, impacts would be less than significant. No further study is required.

g) *Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?*

No impact. The footprint of development in the Project Area would not significantly change because of Project implementation, and a prohibition on residential land uses in the Project Area would be clarified. In addition, there are no wildlands in or adjacent to the Project Area. Although portions of the City, and areas surrounding the City are designated as “Very High Fire Hazard Severity Zones,” none of these areas are located within or adjacent to the Project Area (Cal Fire 2007, 2011). No impacts would occur, and no further study is required.

4.10 HYDROLOGY AND WATER QUALITY

10.	HYDROLOGY AND WATER QUALITY. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Violate any water quality standards or waste discharge requirements, or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
(i)	Result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(ii)	Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

10.	HYDROLOGY AND WATER QUALITY. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(iii)	Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(iv)	Impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d)	In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e)	Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f)	Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g)	Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h)	Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(i)	Be subject to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.10.1 Environmental Setting

The Project Area is located within the San Juan Creek watershed, which drains approximately 160 square miles. The headwaters of the creek are in the Cleveland National Forest, and it discharges into the Pacific Ocean at Dana Point. Runoff from the Project Area discharges into Trabuco Creek, San Juan Creek, or Horno Creek (HTCMP EIR 2011).

4.10.2 Impact Analysis

a) *Would the project violate any water quality standards or waste discharge requirements, or otherwise substantially degrade surface or ground water quality?*

Less than significant impact. No elements of the Proposed Project would affect surface or ground water quality. The repeal of the HTCMP would primarily serve to rectify existing inconsistencies between that document and the General Plan, particularly with respect to residential land uses in the Project Area. The proposed clarifications to the FBC address setbacks, FAR, and building heights in specific situations. The FBC parking table would be amended to conform to the parking standards detailed in the Park Once Program. None of these elements affect land use in the Project Area in terms of potential impacts to the general nature of development that could affect water quality. Because the form, nature, and location of development would be unaffected, surface and groundwater would also be unaffected. In addition, any new development that would occur after Project implementation would be required to conform to all applicable federal, state, and local regulations with respect to water quality. This includes compliance with National Pollutant

Discharge Elimination System (NPDES) requirements under the Clean Water Act (CWA), including the implementation of BMPs on construction sites as detailed in SWPPPs. Impacts would therefore be less than significant, and no further study is required.

- b) *Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?*

Less than significant impact. No aspect of the Proposed Project would affect the form, location, or nature of development in the Project Area in any way that could result in an increase in impervious surfaces in the Project Area, thereby affecting groundwater recharge. The Proposed Project would make clarifications to allowable land use but would not cause an increase in the footprint of development. New setbacks associated with the Proposed Project with regard to historic structures could lead to a decrease in impermeable surfaces in the Project Area. As a result, groundwater recharge potential would be unaffected by Project implementation. Impacts would be less than significant, and no further study is required.

- c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

- i) Result in substantial erosion or siltation on- or off-site?

Less than significant impact. The Proposed Project does not propose specific development and as a result would not directly lead to the potential for an increase in erosion or siltation associated with construction. Future projects that could occur in the Project Area would have similar erosion-related impacts as future projects that could occur without implementation of the Proposed Project, and would themselves be subject to environmental review, including potential project design features or mitigation associated with stormwater runoff including effects such as erosion or siltation. This could include the implementation of stormwater control measures (BMPs) detailed in SWPPPs. Impacts would be less than significant, and no further study is required.

- ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

Less than significant impact. The Proposed Project does not propose specific development and as a result would not directly lead to the potential for an increase surface runoff as a result of an increase in impermeable surfaces. The Proposed Project would also increase setbacks associated with new development adjacent to historic structures thereby potentially serving to reduce the amount of impermeable surfaces in the Project Area. Future projects that could occur in the Project Area would have similar runoff-related impacts as future projects that could occur without implementation of the Proposed Project, and would themselves be subject to environmental review, including potential project design features or mitigation associated with surface runoff. Impacts would be less than significant, and no further study is required.

- iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

Less than significant impact. As discussed above, the Proposed Project neither proposes specific development nor allows future development of a nature that could affect existing or planned stormwater drainage systems. Specific future development would be required to undergo environmental review that would include an evaluation of potential impacts on stormwater drainage systems. Runoff would be managed by both temporary (construction-related) and permanent BMPs. Impacts would be less than significant, and no further study is required.

iv) Impede or redirect flood flows?

No impact. As discussed above, the Project does not propose specific development and would therefore have no impacts on flood flows in the Project Area or its vicinity. No further study is required.

d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

No impact. The Project Area is not in a flood hazard zone, is far enough inland that it is not at risk from impacts associated with tsunamis, and there are no bodies of water in or adjacent to the Project Area that could produce seiche conditions (General Plan 1999). No impacts would occur, and no further study is required.

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

No impact. As discussed above, Project implementation would not affect the form, nature, or location of future development in the Project Area. As a result, any existing water quality control plan or sustainable groundwater management plan would be unaffected by Project implementation. In addition, all future development would be required to comply with CWA Section 402 NPDES requirements, including the implementation of BMPs as described in a SWPPP for construction sites. No impacts would occur, and no further study is required.

f) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

No impact. The City of San Juan Capistrano General Plan Land Use Map does not permit housing within the Project Area (General Plan 1999). The HTCMP does, and one of the primary drivers of its proposed repeal is to rectify this inconsistency with the General Plan. As a result, no housing would be constructed upon Project implementation. No impacts would occur, and no further study is required.

g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

No impact. As discussed above, implementation of the Proposed Project would not affect the form, nature, or location of future development. Because Project implementation would not affect the location of existing structures when compared to existing conditions, no impacts would occur. No further study is required.

h) *Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of failure of a levee or dam?*

No impact. Because the Proposed Project would not affect the location of future development when compared against existing conditions, its implementation would not affect the risk of flooding as a result the failure of a levee or dam that could impact the Project Area. No impacts would occur, and on further study is required.

i) *Be subject in inundation by seiche, tsunami, or mudflow?*

No impact. As discussed above, the Proposed Project would not affect the location of future development when compared against existing conditions. In addition, there are no bodies of water that could experience seiche conditions in or adjacent to the Project Area. The City is located inland of the Pacific Ocean and is therefore not subject to tsunamis (General Plan 1999). Hills that could be subject to mudflows are separated from the Project Area by both concrete-lined creeks and I-5. No impacts would occur, and no further study is required.

4.11 LAND USE AND PLANNING

11.	LAND USE/PLANNING Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b)	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?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4.11.1 Environmental Setting

The Project Area consists of roughly 150 acres in the historic core of the City of San Juan Capistrano. The site is bordered by residential communities to the north and west, I-5 to the east, and shopping centers, restaurants, and residential communities to the south. San Juan Creek flows northeast to southwest south of the Project Area (Google Earth 2019).

The long-range vision of the City is guided by the San Juan Capistrano General Plan, most recently adopted in 1999. The General Plan consists of 12 elements, the first six of which are required by State law: land use, housing, circulation, safety, conservation and open space, noise, cultural resources, community design, growth management, parks and recreation, public services and utilities, and floodplain management. In addition, the City’s Zoning Ordinance provides guidance for development based on, and consistent with, the land use policies established in the General Plan.

The HTCMP was adopted in 2012, along with the FBC to implement it. This was intended to function as a Master Plan for the Project Area (the Historic Town Center) but was not fully enforceable due to inconsistencies with the adopted General Plan.

4.11.2 Impact Analysis

a) *Would the project physically divide an established community?*

No impact. The Project proposes the repeal of a policy document, clarification of parking standards, and includes clarifications to the FBC which is coterminous with the Project Area. Land use in the Project Area would continue to be governed by the General Plan as the HTCMP was never enforced due to conflicts with the General Plan. No new specific development is proposed, and none would be allowed under the General Plan Land Use Map or Zoning Ordinance that would specifically permit the construction of features such as roadways that could serve to divide the Project Area. Therefore, no impacts would occur. No further study is required.

b) *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?*

Potentially significant impact. The primary goals of the Proposed Project are to repeal the HTCMP and amend the implementing FBC for the specific purpose of removing conflicts with the adopted General Plan and Zoning Ordinance. Because of changes in allowable land uses, including residential, in the Project Area as well as clarifications and updates to the FBC, this topic will be further evaluated in the Project’s EIR.

4.12 MINERAL RESOURCES

12.	MINERAL RESOURCES Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b)	Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.12.1 Environmental Setting

The Project Area is located along the eastern flank of the San Joaquin Hills. It is underlain by Pleistocene- to Holocene-aged alluvium and non-marine terrace deposits, in addition to Older and Younger Alluvial Deposit (HTCMP EIR 2011).

4.12.2 Impact Analysis

a) *Would the project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?*

No impact. The State’s Surface Mining and Reclamation Act (SMARA) classifies mineral lands throughout the State based on geologic factors, without regard to exiting land use and land ownership. There are

four potential classifications, the most critical of which is Mineral Resource Zone-2 (MRZ-2). Areas with this designation are underlain by significant or indicated mineral resources. The Project Area is not located within any known mineral resources area (HTCMP EIR 2011). No impacts would occur, and no further study is required.

b) Would the project result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

No impact. As discussed above, there are no known mineral resources in the Project Area (HTCMP EIR 2011). No impacts would occur, and no further study is required.

4.13 NOISE

13.	NOISE. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the Project Area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.13.1 Environmental Setting

The City’s General Plan Noise Element guides the regulation of noise in the Project Area primarily by providing a compatibility matrix that details various land uses and their relationship to noise levels (General Plan 1999). In addition, the Noise Ordinance applies to noise on one property impacting another property (Noise Ordinance 2000). The Ordinance sets limits on noise levels that can be experienced to reflect the values of the community.

4.13.2 Impact Analysis

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Less than Significant Impact. The Proposed Project does not include specific construction but would permit an increase in FAR for buildings that include provisions for public gathering space, clarify the FBC parking standards, allow an increase in height to 45 feet for three-story hotel buildings, and clarify setbacks from historical structures. However, because the Project Area would remain a developed, urban environment – consistent with existing conditions – and because the project elements described above would not apply to the entirety of the Project Area, impacts with regard to noise levels would be expected to be less than significant. This is in great part because noise generated within the Project Area without implementation of the Proposed Project, and noise generated within the Project Area with implementation of the Proposed Project, are not expected to be substantially different. In addition, future construction that would occur subsequent to Project implementation would be subject to the City’s General Plan Noise Element and Title 9, Land Use Code regulations (General Plan 1999). No further study is required.

b) Generation of excessive groundborne vibration or groundborne noise levels?

Less than Significant Impact. Construction of new development or renovation of existing structures that could occur upon Project implementation would remain subject to the City’s General Plan Noise Element and Title 9, Land Use Code regulations (General Plan 1999). The nature of such development would remain substantially consistent with that which is currently allowed as the HTCMP was never implemented due to conflicts with the City’s General Plan, and in allowable building heights would only occur in parts of the Project Area. Impacts would therefore be less than significant, and no further study is required.

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the Project Area to excessive noise levels?

No Impact. The Project Area is not within the vicinity of a private airstrip or an airport land use plan (Google Earth 2019). No impacts would occur, and no further study is required.

4.14 POPULATION AND HOUSING

14.	POPULATION AND HOUSING. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b)	Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.14.1 Environmental Setting

The population of Orange County surpassed three million people as of the 2010 Census. The City’s population was 34,593 at that time (U.S. Census 2010). The Orange County Council of Governments (OCCOG) has contracted with California State University, Fullerton to update demographic projects for the County every three to four years to incorporate General Plan Amendments and changes in land use policy at the jurisdictional level. According to these projections, the County’s population is expected to exceed 3.5 million people by 2020, with the City of San Juan Capistrano’s population reaching 40,742. Current projections run through 2035, at which time the City’s population is expected to level off at just over 41,000 people (HTCMP EIR 2011).

4.14.2 Impact Analysis

a) *Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

No impact. The proposed repeal of the HTCMP would result in clarifying the General Plan Land Use Map’s prohibition on residential land uses in the Project Area (General Plan 1999). Further clarifications to rectify inconsistencies between the FBC and the Zoning Ordinance would not affect population in the Project Area as the clarifications are related to setbacks, buildings heights, and increases in allowable FAR under non-residential conditions. As a result, population growth would not occur in the Project Area because of Project implementation. In addition, the form and nature of future development in the Project footprint would not change upon repeal of the HTCMP as its provisions were never enforced due to conflicts with the General Plan. Therefore, there would be no direct or indirect impacts on population growth in or around the Project Area. No impacts would occur, and no further study is required.

b) *Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?*

No impact. The proposed repeal of the HTCMP would clarify allowable land uses under the General Plan, specifically through repealing language allowing housing in the Project Area. The proposed clarifications to the FBC would not affect people or housing as they relate to minor land use clarifications with respect to setbacks, buildings heights, allowable FAR for buildings classed as public gathering space, or the changes to the FBC parking table. As a result, no impacts on housing or the displacement of people would occur. No further study is required.

4.15 PUBLIC SERVICES

15.	Public Services. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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(a)	Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:				
	Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.15.1 Environmental Setting

Police services are provided by the Orange County Sheriff’s Department (OCSD), under contract to the City and working from the Aliso Viejo Substation. Area freeways are patrolled by the California Highway Patrol (CHP). Fire protection is provided by the Orange County Fire Authority (OCFA), who maintain one station within City limits (HTCMP EIR 2011).

The Project Area lies within the boundaries of the Capistrano Unified School District (CUSD), the second largest school district in the County. The district operates a total of 36 K-6 schools, two K-8 schools, 10 middle schools, six high schools, two alternative high schools, and two exceptional needs facilities throughout its footprint. Of these, four schools serve the Project Area: San Juan and Kinoshita elementary schools, Marco Foster Middle School, and San Juan Hills High School (HTCMP 2011).

Orange County Public Library (OCPL) provides library services through its San Juan Capistrano branch, located just north of the Project Area. In addition, the City’s Community Services Department oversees parks and athletic fields in the Project Area. This includes the Historic Town Center Park (HTCMP EIR 2011).

4.15.2 Impact Analysis

a) Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection?

No impact. Implementation of the Project would result in the repeal of the HTCMP and amendments to the FBC, neither which affected land use or intensity within the Project Area as both were inconsistent with the City’s General Plan and Zoning Ordinance. Although changes in allowable FAR, building heights, setbacks, and the changes to the FBC parking table would occur under the Proposed Project, these do not represent a significant departure from existing conditions and would therefore not require the provision of new or physically altered governmental facilities related to fire protection. Existing fire protection would remain adequate for the Project Area. No impacts would occur, and no further study is required.

- b) *Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection?*

No impact. Implementation would result in the repeal of the HTCMP and amendment to the FBC, described above, that would affect allowable FAR, building height limits for hotels, changes to the FBC parking table, and setback adjustments to bring certain existing properties into conformance with the City's General Plan and Zoning Ordinance. None of these actions would affect the need for police services as they would not result in a change in land use or intensity of development such that additional police would be needed in and around the Project Area. No impacts would occur, and no further study is required.

- c) *Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for schools?*

No impact. The HTCMP is proposed to be repealed due in large part to the fact that it conflicts with the City's General Plan and Zoning Ordinance, specifically in that it would allow housing in the Project Area. The repeal of this document would therefore clarify that housing would not be an allowable land use in the Project Area. Therefore, the repeal of the HTCMP would not necessitate the need for new or altered governmental facilities. In addition, Project aspects with respect to FAR, setbacks, building heights, and the FBC parking standards have no features that could result in a need for new or altered governmental facilities. No impacts would occur, and no further study is required.

- d) *Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for parks?*

No impact. As described above, the Proposed Project would not increase population in or around the Project Area. As a result, there would not be a need for new or expanded park facilities as a result of Project implementation. No impacts would occur, and no further study is required.

- e) *Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities?*

No impact. Because no growth would occur in or adjacent to the Project Area as a result of Project implementation, as described above, no impacts with regard to public facilities would occur. No further study is required.

4.16 RECREATION

16.	RECREATION. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b)	Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.16.1 Environmental Setting

The City has three classifications of parks as defined in the General Plan: Community, Public Neighborhood, and Private Neighborhood (General Plan 1999). All 23 parks within the City are maintained by the Community Services Department. These range in size from 0.2 acres to the 56-acre San Juan Capistrano Community Center and Sports Park (General Plan 1999). The City also has public recreation trails (HTCMP EIR 2011).

4.16.2 Impact Analysis

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

No impact. As described above, implementation of the Proposed Project would affect neither housing nor population growth in or adjacent to the Project Area. The area is largely built out and future development would not increase density or change land use in the Project Area at a significant level. Parks would be unaffected; no impacts would occur. No further study is required.

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

No impact. The Proposed Project does not include recreational facilities and would not induce population growth. No new facilities would be required, nor would existing facilities need to be expanded as a result of Project implementation. No impacts would occur, and no further study is required.

4.17 TRANSPORTATION/TRAFFIC

17.	TRANSPORTATION/TRAFFIC. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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17.	TRANSPORTATION/TRAFFIC. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Conflict with program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b)	Conflict or be inconsistent with CEQA Guidelines section 15064.3 ¹ or will conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c)	Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d)	Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.17.1 Impact Analysis

- a) Conflict with program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Potentially Significant Impact. The Proposed Project has the potential to impact traffic due to the potential uncertainty regarding traffic impacts related to the clarification of allowable land uses in the Project Area. In addition, the HTCMP proposed new street connections for Forster Street, Yorba Street, and Avenida Los Amigos from Camino Capistrano to portions of Del Obispo and El Camino Real. These would not occur upon repeal of the HTCMP. This topic will be further evaluated in the EIR prepared for the Project.

- b) Conflict or be inconsistent with CEQA Guidelines section 15064.3 or will conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

Potentially Significant Impact. As stated above, Project impacts associated with established plans such as congestion management plans (CMPs) will be further evaluated in a the EIR prepared for the Project.

¹ CEQA Guidelines section 15064.3(c) provides that a lead agency “may elect to be governed by the provisions” of the section immediately; otherwise, the section’s provisions apply July 1, 2020. Here, the City has not elected to be governed by Section 15064.3. Accordingly, an analysis of vehicles miles traveled (VMT) is not necessary to determine whether a proposed project will have a significant transportation impact.

- c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

No Impact. The Proposed Project would not affect existing street design as no aspect of it calls for changes to the existing circulation pattern. In addition, uses of existing transportation infrastructure in the Project Area would be consistent with current conditions. The Proposed Project would eliminate the roadway extensions proposed in the HTCMP including extending Forster Street, Yorba Street, and Avenida Los Amigos to proposed extensions of Del Obispo and El Camino Real. The repeal of the HTCMP would remove these roadway extensions but would not increase hazards in the Project Area. No impacts would occur, and no further study is required.

- d) Result in inadequate emergency access?

Less than Significant Impact. The Proposed Project would not cause significant impacts regarding evacuation routes and emergency access. There are no installations of permanent blockades that would prevent the accessibility of emergency services, and no road construction would occur. The Proposed Project would eliminate the roadway extensions proposed in the HTCMP including extending Forster Street, Yorba Street, and Avenida Los Amigos to proposed extensions of Del Obispo and El Camino Real. The repeal of the HTCMP would remove these roadway extensions but would not result in inadequate emergency access in the Project Area. Impacts would be less than significant, and no further study is required.

4.18 TRIBAL CULTURAL RESOURCES

18.	TRIBAL CULTURAL RESOURCES. Would the project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Ordinance section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
	i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Ordinance section 5020.1(k), or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Ordinance Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Ordinance Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.18.1 Environmental Setting

Human settlement in the Project Area goes back at least 1,300 years with the original inhabitants being indigenous groups of the Encinitas Tradition, Topanga Cultural Pattern (HTCMP EIR 2011). The Spanish arrived in the late 18th century and founded the Mission San Juan Capistrano in 1776 to begin the conversion of the native population to Catholicism (HTCMP EIR 2011). Mexico gained independence from Spain in 1821 and in 1841 San Juan Capistrano became a Mexican pueblo. The area around the mission was then distributed to settlers in the form of land grants. The American period of the area began in 1848 with the Treaty of Guadalupe Hidalgo following the Mexican-American War (HTCMP EIR 2011). At this point, areas of what is now the City of San Juan Capistrano were designated by U.S. courts as public lands. The 20th century saw the area come to be dominated by people of European ancestry; the City was incorporated in 1961 largely due to controversy over control of the school district (General Plan 1999). No Tribal Cultural Resources were located in the Proposed Project site (HTCMP EIR 2011).

4.18.2 Impact Analysis

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Ordinance section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i) *Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Ordinance section 5020.1(k)?*

Less than significant impact. The Proposed Project would clarify discrepancies between the HTCMP, the FBC, and the General Plan. The Project could include new construction on properties adjacent to historic buildings but would not necessarily involve any excavation or exterior demolition. Future projects would require project-level environmental impacts evaluation, including the potential for impacts to historical resources. This Project has no aspects that could disturb native soils and would not affect any listed tribal cultural resources (HTCMP EIR 2011). Impacts would be less than significant.

- ii) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Ordinance Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Ordinance Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?*

Less than significant impact. The Proposed Project is in an urban setting which has been previously disturbed and is currently entirely urbanized. The Project would not disturb any native soils and would not affect any eligible or listed tribal cultural resources. There is no potential of resources being exposed during the Project's development since ground disturbance to any native soils would not occur. The City reached out to interested tribes that had requested AB 52 consultation for future projects as well as required by SB 18 due to the Project including a General Plan Amendment. These tribes included the Torres Martinez Desert Cahuilla Indians, the Soboba Band of Luiseno Indians, and the Juaneno

Band of Mission Indians. None of these tribes requested formal consultation. Impacts would be less than significant.

4.19 UTILITIES AND SERVICE SYSTEMS

16.	UTILITIES/SERVICE SYSTEMS. Would the project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c)	Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d)	Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e)	Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.19.1 Environmental Setting

The City contains water supply and distribution systems that are maintained by the City of San Juan Capistrano Utilities Department with capital facilities managed by the City of San Juan Capistrano Public Works Department. Wastewater Treatment and Collection is also serviced by the Utilities Department for operations and maintenance with Public Works handling capital facilities. In addition, solid waste is collected by Orange County Waste and Recycling (OCWR) (HTCMP EIR 2011).

The City receives approximately 50 percent of its water from the Colorado River and State Water Project via the Metropolitan Water District (MWD) with the other 50 percent coming from local groundwater processed through the Groundwater Recovery Plant (GRP). Imported water is conveyed to the City via the Eastern Transmission Main and the South County Pipeline. The Project Area is part of the 250S Zone, the largest in the City at 1,460 acres (HTCMP EIR 2011).

Wastewater collection and treatment is provided by the City of San Juan Capistrano Public Works Department. There are approximately 120 miles of sewers within the City. This system collects wastewater that is then treated at the South Orange County Wastewater Authority's (SOCWA) Jay B. Latham Regional Treatment Plant. The entirety of the Project Area is served by the City's sewer system (HTCMP EIR 2011).

OCWR serves the City. This agency owns and operates three active landfills and four household hazardous waste collection centers as well as monitors a total of 12 closed landfills. The City contracts with CR&R, a private waste hauler, to collect and dispose of waste in the City. The majority of the City's waste is transported to Prima Deshecha Landfill, roughly three miles northeast of the Project Area (HTCMP EIR 2011).

4.19.2 Impact Analysis

- a) *Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?*

Less than significant impact. The Proposed Project consists of the repeal of the HTCMP owing to that document having inconsistencies with the General Plan. In addition, the FBC would be amended regarding setbacks, building heights, allowable FAR, and changes to the FBC traffic table. No Project features would result in an increase in wastewater as allowable land uses would not change as a result of Project implementation. As such, drainage, electric power, natural gas, or telecommunications facilities would not be impacted. Impacts would be less than significant, and no further study is required.

- b) *Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?*

No impact. As the Project does not propose specific development but would instead serve to clarify land uses and aspects of land use that would not affect the need for additional water, no impacts would occur. No further study is required.

- c) *Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?*

No impact. As discussed above, there are no Project elements that would result in a significant change in land use, land use intensity, or expanded development footprints within or adjacent to the Project Area. As a result, wastewater discharges would not increase as a result of Project implementation. Future development would require evaluation of wastewater treatment needs on a project basis. No impacts would occur, and no further study is required.

- d) *Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?*

No impact. Project implementation would not allow for an increase in development in the Project Area beyond what is already allowed under the City’s adopted General Plan. There would therefore not be an increase in the amount of solid waste generated in the Project Area upon implementation. No impacts would occur, and no further study is required.

e) *Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?*

No impact. As discussed above, there are no elements of the Proposed Project that would lead to an increased intensity of land use such that increases in solid waste generation could occur. Therefore, no impacts would occur. No further study is required.

4.20 WILDFIRE

20.	WILDFIRE. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Substantially Impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c)	Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d)	Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.20.1 Environmental Setting

The Project Area is a developed urban core that is itself completely surrounded by development, including improved creek channels and I-5. There are no forested areas in or adjacent to the Project Area (Google Earth 2019). Although portions of the City, and areas surrounding the City are designated as “Very High Fire Hazard Severity Zones,” none of these areas are located within or adjacent to the Project Area (Cal Fire 2007, 2011).

4.20.2 Impact Analysis

a) *Would the project substantially impair an adopted emergency response plan or emergency evacuation plan?*

Less than significant impact. The Project does not propose specific development, nor would any aspect of its implementation affect an emergency response or evacuation plans. No construction would occur as a result of the Project implementation, including infrastructure that could permanently significantly impact the transportation network. Impacts would be less than significant, and no further study is required.

- b) *Would the project, due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?*

No impact. The Project does not propose development and would not change the regulations governing future development in the Project Area as the HTCMP and FBC were not implemented in their entirety due to conflicts with the City’s General Plan and Zoning Ordinance. In addition, the Project site is already built-out and generally flat. No impacts would occur, and no further study is required.

- c) *Would the project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?*

No impact. As the Proposed Project consists of the repeal of a policy document that would not affect the adopted General Plan or Zoning Ordinance, its implementation would not result in the creation of new infrastructure or changes to existing infrastructure, including elements that could affect fire risk. No impacts would occur, and no further study is required.

- d) *Would the project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability or drainage changes?*

No impact. As the Project does not propose construction of any kind, including infrastructure, and its implementation would not affect the general form of future development, no impacts would occur as a result of its implementation. No further study is required.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

17.	MANDATORY FINDINGS OF SIGNIFICANCE.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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17.	MANDATORY FINDINGS OF SIGNIFICANCE.	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
(a)	Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects?)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.21.1 Impact Analysis

a) *Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*

Less than significant impact. The Proposed Project would include a GPA for the purpose of clarifying existing inconsistencies between the FBC and the City’s General Plan. The inconsistencies primarily center on housing being allowed in the Project Area. The Proposed Project would also clarify building height limits on hotels, increase allowable FAR, and update the FBC parking table to make it consistent with the existing Park Once Program. No aspect of these actions has the potential to affect the quality of the environment with respect to plant or animal communities, endangered or otherwise. Impacts would be less than significant, and no further study is required.

b) *Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects?)*

Less than significant impact. The Proposed Project’s clarification of allowable land uses in the Project Area, as well as clarifications to building standards within that area, would not have cumulative impacts on locations beyond the Project Area. In addition, the type of and intensity of

land uses allowed upon Project implementation would not be significantly different from existing conditions. Impacts would be less than significant, and no further study is required.

- c) *Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

Less than significant impact. The clarifications to allowable land uses in the Project Area would not have substantial adverse impacts on human beings, directly or indirectly. Land use in the Project Area would be clarified but would not be substantially different from existing conditions due to the fact that the HTCMP was not enforced due to conflicts with the General Plan. Changes in building heights for hotels and FAR would not have adverse effects on human beings, nor would updates to the parking standards in the FBC. Impacts would be less than significant, and no further study is required.

SECTION 5.0 – REFERENCES

The following is a list of references used in the preparation of this document.

California Department of Transportation (Caltrans)

2018 Officially Designated State Scenic Highways

CAL FIRE

2007 Fire Hazard Severity Zones in State Responsibility Area.

2011 Very High Fire Hazard Severity Zones in Local Responsibility Areas

California Air Resources Board (CARB)

2008 Climate Change Scoping Plan – “A Framework for Change.” December 2008

California Air Resources Board (CARB)

2014 First Update to the Climate Change Scoping Plan. Accessed February 2016.
http://www.arb.ca.gov/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf

City of San Juan Capistrano (City)

1999a Community Design Element of the General Plan.

1999b Conservation and Open Space Element of the General Plan

1999c Cultural Resources Element of the General Plan

1999d Noise Element of the General Plan

2000 Municipal Code. Accessed online via
<http://sanjuancapistrano.org/Government/Municipal-Code>

2011 Historic Town Center Master Plan General Plan Amendment Rezone Draft
Environmental Impact Report

Farmland Mapping and Monitoring Program (FMMP)

2016 Orange County Important Farmland 2016

Form Based Code (FBC)

2012 City of San Juan Capistrano Form Based Code

General Plan

1999 City of San Juan Capistrano General Plan

Google Earth

2018 Google Earth mapping program

Google Earth

2019 Google Earth mapping program

Historic Town Center Master Plan (HTCMP)

2012 Historic Town Center Master Plan

Historic Town Center Master Plan (HTCMP) Environmental Impact Report (EIR)

2011 City of San Juan Capistrano HTCMP EIR

Land Use Ordinance

2011 City of San Juan Capistrano Land Use Ordinance

United States Fish and Wildlife Service (USFWS)

2018 <https://www.fws.gov/wetlands/data/mapper.html>

-----Original Message-----

From: Ben Siegel
Sent: Monday, May 13, 2019 8:27 AM
To: Sergio Klotz <SKlotz@sanjuancapistrano.org>
Cc: Joel Rojas <JRojas@sanjuancapistrano.org>
Subject: FW: HTC Master Plan

Sergio:

Please see below, and include as comments related to the HTCMP NOP.

Thanks,
Ben

-----Original Message-----

From: Larry Kramer [<mailto:larrykramerccl@gmail.com>]
Sent: Sunday, May 12, 2019 10:42 PM
To: Ben Siegel <BSiegel@sanjuancapistrano.org>
Subject: Re: HTC Master Plan

Thank you Ben.

These are my comments on the document.

I urge repeal of the HTCMP in order to eliminate inconsistencies between the document and the City of San Juan Capistrano General Plan and Zoning Ordinance. The plan, when adopted was meant to be a general guideline and not hard and fast rules. However, the way it has been interrupted and used has caused the city and potential developers large costs and reduced development. This has largely not been based upon the merits of proposed development but on using the HTCMP as a hammer to prevent development. It has caused a chill in construction in downtown. Only a fool would consider any new development while the HTCMP is in place. More importantly this is costing the city money at a time when it is sorely to meet the legitimate needs of the residents.

One argument for retaining it that I have heard is that we paid about \$600,000 for the HTCMP and we therefore should not throw it out. I would counter that it has cost the city much more than that in legal fees and delayed revenue.

The plan has not been used as I thought it was to be when I was on the Council and voted for it; therefore it should go because it is continuing to cause problems.

I am not sure where the possibility of residential land uses not stands but I support that residences be allowed in the area of concern.

> On May 4, 2019, at 11:07 AM, Ben Siegel <BSiegel@sanjuancapistrano.org> wrote:

>

> Hi Larry:

>

> The City recently released the Notice of Preparation (NOP) for the HTCMP Environmental Impact Report. The NOP identifies the scope of the EIR's analysis with regard to the potential effects of changes to these documents. The release of the NOP establishes a 30-day public scoping period from April 15 - May 14. During the scoping period, public agencies, stakeholders, organizations, and individuals can provide input on the NOP.

>

> Copies of the NOP and supporting documents are available on the website:

>

> <http://sanjuancapistrano.org/Departments/Development-Services/Planning-Zoning/Environmental-Documents>

>

> I hope this is helpful.

>

> Thanks,

> Ben

>

> -----Original Message-----

> From: Larry Kramer [<mailto:larrykramercc1@gmail.com>]

> Sent: Friday, May 3, 2019 4:15 PM

> To: Ben Siegel <BSiegel@sanjuancapistrano.org>

> Subject: HTC Master Plan

>

> Hello Ben,

>

> Is there a comment period for fate or changes to HTC Master Plan? It was mentioned at Coffee Chat.

>

> Larry Kramer

> Sent from my iPhone

>

> *****Please note that email correspondence with the City of San Juan Capistrano, along with attachments, may be subject to the California Public Records Act, and therefore may be subject to disclosure unless otherwise exempt.

Subject: FW: Historic Downtown Master Plan Repeal
Date: Wednesday, May 15, 2019 1:45:23 PM

From: Laura Freese [mailto:laura@laurafreese.com]
Sent: Wednesday, May 15, 2019 12:30 PM
To: Sergio Klotz <SKlotz@sanjuancapistrano.org>; David Contreras <DContreras@sanjuancapistrano.org>
Cc: Manny Ruelas <ERuelas@sanjuancapistrano.org>
Subject: Historic Downtown Master Plan Repeal

Rescinding the entire HTCMP, I believe, would be a mistake.

Some history: the HTCMP came about because prior City Councils were making decisions in a piecemeal way. Therefore, the 2008 Council decided to put together a Master Plan **AS A GUIDE** (as had been done in many other OC cities).

The Master Plan was created to include items like FARs, setbacks, beautification of the downtown's open spaces (meaning downtown sidewalks, parking lots, alleyways, roadways etc.) and to help development be more streamlined.

We, the creators of the HTCMP, didn't want this plan to put on a shelf. We wanted it to be workable/flexible that is why it was to be a **GUIDE** only. To keep it off the shelf, also, we wanted active input from all the stakeholders of the downtown, including the residents, the non-profits, the land owners, and interested parties. All entities were welcome and gave their input.

Then it was adopted by the City Council as a GUIDE.

Present day: Yes, I will agree there have been problems. So, it would be wise for the Council members to fix the problems.

One problem has been residential land use in the downtown. The reason for that was because SB32 was just passed when the HTCMP was being designed, which mandated some residential in the downtown. Now it is 2019, so I agree, remove that part. But don't throw the whole plan out!

Another problem has been the setbacks, especially as they pertain to historical buildings. So, let's get it fixed, but do not throw the whole plan out!

Cost: the plan cost the taxpayers about \$600,000. The time element was 4 years of work on the part

of council members, stakeholders, city staff, consultants, etc. The thought of scraping all that work is dreadful. Throwing the whole thing out would be sinful. Fix it, don't toss it.

What will happen if it is rescinded: the downtown will continue to have piecemeal development presented. There will be long fights. Nothing will change. Then in a few years, the City Council will begin to put together another Master Plan for the downtown which will cost the taxpayers over a million dollars. Since there will not be a Redevelopment Agency to fund the cost, as there was in 2008, the money will come out of the General Fund.

Doesn't it make sense to fix the parts that are broken and not throw the baby out with the bath water?

Laura Freese

Laura Freese
949/374-6844

*****Please note that email correspondence with the City of San Juan Capistrano, along with attachments, may be subject to the California Public Records Act, and therefore may be subject to disclosure unless otherwise exempt.

Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law
1900 Main Street, 5th Floor | Irvine, CA 92614-7321
Telephone: 949.553.1313 | Facsimile: 949.553.8354
www.allenmatkins.com

K. Erik Friess
E-mail: rfriess@allenmatkins.com
Direct Dial: 949.851.5478 File Number: 376243-00001/OC1219649

VIA EMAIL/U.S. MAIL

May 15, 2019

San Juan Capistrano City Council Members
Mayor Brian L. Maryott
Mayor Pro Tem Troy Bourne
Council Member Sergio Farias
Council Member Derek Reeve
Council Member John Taylor
City of San Juan Capistrano
32400 Paseo Adelanto
San Juan Capistrano, CA 92675
E-mail: mmorris@sanjuancapistrano.org

Sergio Klotz
Development Services Department
City of San Juan Capistrano
32400 Paseo Adelanto
San Juan Capistrano, CA 92675
E-mail: sklotz@sanjuancapistrano.org

Re: The Griffith Family's (1) objections to the City of San Juan Capistrano's wrongheaded proposal to repeal the City's Historic Town Center Master Plan and (2) comments to the City's April 15, 2019, Notice of Preparation and Initial Study

Dear Mayor, Council Members, and Mr. Klotz:

Stop!

Once again, the City of San Juan Capistrano is launching itself down a destructive and wasteful path because its leaders are buying into a false narrative that there are problem-causing "inconsistencies" between the City's Historic Town Center Master Plan and the City's General Plan. This is wrong.

Please read for yourselves the Historic Town Center Master Plan and the *accompanying* Form-Based Code, which *implements* the Historic Master Plan. And then please read the General Plan amendments that the 2012 City Council enacted *to integrate* the Historic Town Center Master Plan and the General Plan.

You will see that the Historic Master Plan is a carefully thought-out plan that allows development in the City's historic center while protecting the soul of San Juan Capistrano: its historic structures and their settings. And you will see that the City Council's 2012 General Plan amendments make the Historic Master Plan and the General Plan *consistent*. You will also see that

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those 2012 amendments make the Master Plan a *binding*, essential component of the City's General Plan.

The "problems" with the Historic Master Plan arose only because the developers of the property slated for the Urban Village/Hotel Capistrano development wanted to build projects that were taller and more intensive than the Historic Master Plan allows. Those developers tried to exploit some (easily corrected) failures by former City staff to update some text/diagram changes directed by the 2012 General Plan amendments. Specifically, those developers used the lack of updates to spin a false narrative that: (1) there are "inconsistencies" between the Historic Town Center Master Plan and the General Plan; and (2) the Historic Master Plan is a non-binding, "policy" document.

If the City Council gives the City's staff simple directions to update/correct some General Plan text and diagrams to fully implement the 2012 General Plan amendments, any "inconsistencies" will vanish – along with the morass created by the false "inconsistency/non-binding" narrative. Development within the City's historic core can then proceed in an orderly and historically sensitive manner.

In contrast, the "repeal" path the City is starting down will lead to even deeper mud and will impede development indefinitely – particularly development of those projects that are currently in the City's entitlement process.

The Griffith Family's interest in seeing the Historic Town Center Master Plan properly implemented and followed

As you know, this firm represents the Griffith Family and their interests as the owners/restorers of the historic Judge Egan House and the historic Esslinger Building, both of which are listed on the National Register of Historic Places and both of which are specifically protected by the Historic Town Center Master Plan and its accompanying Environmental Impact Report and Mitigation Monitoring Program.

Bill Griffith served on the City's steering committee that helped prepare the Historic Town Center Master Plan, and he and his family have for many years actively participated in efforts to promote and preserve the City's historic character while also promoting vibrant development in the City's historic core. These efforts include their recent restoration of the historic "Little Yellow House" and the years and millions of dollars that they have spent on the development of the Inn at the Mission.

While the Griffith Family has long owned the Esslinger Building, they purchased and restored the Judge Egan House only *after* the City Council adopted the Historic Town Center

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

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Master Plan. And they made this purchase in reliance on the specific protections that the Master Plan creates for the Judge Egan House.

When the City first considered repealing the Historic Master Plan in November 2017, SPM-Fairfield, LLC, the Griffith Family's ownership entity for the Judge Egan House, submitted an objection letter that outlined the many reasons why repealing the Historic Master Plan would be a terrible idea, including because it would make the many previously approved projects in the Historic Town Center area nonconforming uses. (See Enclosure 1 [November 2, 2017, objection letter].) The Griffith Family's prior concerns and objections, which we reassert and incorporate by reference in this letter, are now further confirmed and *multiplied* by the City's assumptions and conclusions outlined in the Initial Study prepared for the threatened "Historic Town Center Master Plan Repeal."

We also point out the obvious: it is *not* a coincidence that the City is targeting the repeal of a plan that has specific protections for historic buildings *owned by the Griffith Family*, the people who stood up to the City when the City allowed violations of the Historic Master Plan.

Background Regarding the Historic Town Center Master Plan

The original, 1995 Historic Master Plan, covering just 10 acres: The City first adopted an Historic Town Center Master Plan in 1995. And the City's General Plan expressly references that Master Plan, explaining that it "contains goals and policies for the downtown area . . . [that] provide direction on how the General Plan should be implemented in the historic downtown center." The General Plan also describes the Master Plan as the "blueprint" for downtown:

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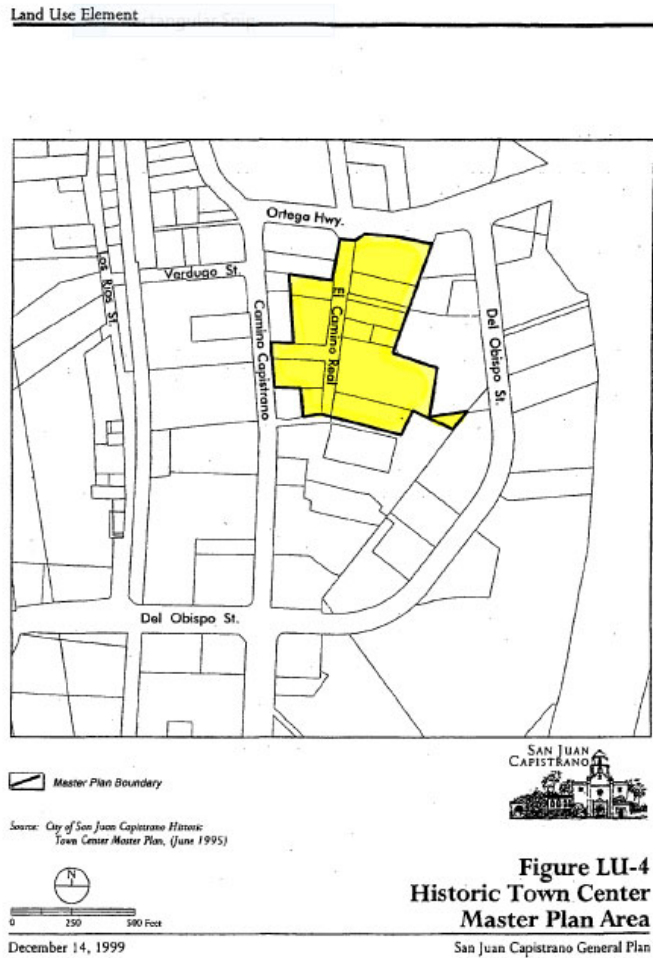
Recapitulation Map



The City has identified the Historic Town Center as an area with important historical and social value worth protecting. Figure LU-4 depicts the area contained within the Historic Town Center Master Plan. The Master Plan establishes a "blueprint" to guide development in the downtown that implements the goals contained in the General Plan. Implementation of a town center revitalization plan will encourage a diversity of commercial and service uses which balance the community's commercial need with those of tourism-based development while maintaining fiscal and economic viability. The City will continue to implement a town center revitalization plan to provide additional housing opportunities and population to support these commercial services and retail sales.

Another area identified within the community for special planning is the historic Los Rios neighborhood. The Los Rios Precise Plan District contains some of the oldest structures in the County and, and the Rios Adobe may be the oldest, continually-inhabited residence in California. Figure LU-5 depicts the location of the Los Rios Precise Plan planning area. The original Los Rios Precise Plan was adopted in 1978, and the City is in the process of revising the Plan. The revised Precise

Importantly, that original, 1995 Historic Master Plan only covered a small, *10-acre* area. The General Plan identifies this 10-acre, historic area in "Figure LU-4":



The new 2012 Historic Master Plan, covering a much larger, 150-acre area: After the City's adoption of its original, 1995 Historic Town Center Master Plan, the City continued a years-long planning effort directed at its historic core, which culminated in the 2012 Historic Town Center Master Plan – a planning effort that cost the City hundreds of thousands of dollars and consumed countless hours from involved community members and City staff. The 2012 Plan's stated purpose is "to define standards and an implementation strategy that will guide" development in the City's historic core.

Importantly, this new Historic Master Plan covers a much larger, *150-acre* area:



In April 2012, the City Council approved a package of four actions *implementing* the Historic Master Plan:

- (1) The Council adopted Resolution No. 12-04-03-01, certifying the "Final Program Environmental Impact Report" for the "Historic Town Center Master Plan, General Plan Amendment and Rezone";
- (2) The Council adopted Resolution No. 12-04-03-02, "Approving General Plan Amendments (GPA) for the Historic Town Center Master Plan";
- (3) The Council adopted Resolution No. 12-04-03-03, "Approving the Historic Town Center Master Plan"; and
- (4) The Council adopted Ordinance No. 993, amending the "Land Use Code to Add Section 9-3.316, Historic Town Center Form-Based Code."

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The full title of the City's resolution amending the General Plan is:

RESOLUTION NO. 12-04-03-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN
CAPISTRANO, CALIFORNIA APPROVING GENERAL PLAN AMEND-
MENTS (GPA) FOR THE HISTORIC TOWN CENTER MASTER PLAN.

This resolution made specific text edits and diagram changes to the General Plan to *incorporate* the Historic Master Plan *into* the General Plan's Land Use and Circulation Elements. For example:

Exhibit "A"
General Plan Amendments (GPA) Related
to Adoption of the Historic Town Center Master Plan

1. **Land Use Element:** Revise the Land Use Element as follows:

- a. Revise the description of the "Historic Town Center Master Plan Area" to read as follows:

~~The Historic Town Center Master Plan was adopted by the City in 1995 to address the specific needs of the downtown area. The Master Plan contains goals and policies for the downtown area based on the opportunities and constraints that were identified during the planning process. These goals and policies provide direction on how the General Plan should be implemented in the historic downtown center. The Historic Town Center Master Plan encompasses a 150-acre planning area including the 31 acre downtown core. With the Historic Town Center Form-Based Code, the Master Plan implements the City's Strategic Business Plan by providing a framework for the redevelopment of the downtown by private landowners and the City. The Master Plan establishes a broad framework for future development, does not specify absolute development capacity, but rather, allows a degree of flexibility in terms of land use mix to accommodate future changes in market conditions.~~

- b. Revise General Plan Land Use Element "Figure LU-4, Historic Town Center" to conform the boundaries to the adopted Historic Town Center Master Plan.

In short, the City *amended* its General Plan to make the Historic Master Plan the "framework for the redevelopment of the downtown by private landowners and the City."

Thus, when the City Council took its April 2012 four-pack of actions, the City *did* enact the Historic Master Plan "through proper legal process," contrary to what has been asserted as part of the false narrative. And thus the Historic Master Plan is a *binding* part of the City's General Plan.

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Unfortunately, due to staff turnover at the time, the actual updates to the text and diagrams made by the City Council's 2012 amendments were not implemented, for example, on the copy of the General Plan posted on the City's website. Thus, for example, the City's website continued to have a copy of the General Plan with the old "Figure LU-4, Historic Town Center" diagram, showing a small, 10-acre area. (Oddly, the version of the General Plan available if one goes to the City's website *today* simply has a blank page for "Figure LU-4.") Likewise, the General Plan's Circulation Element diagram continued to leave off the extension of Forster Street and other transportation improvements called for by the 2012 General Plan amendments.

These shortfalls in updating the diagrams and text directed by the 2012 General Plan amendments are what the developers of Urban Village/Hotel Capistrano developments tried to exploit in order to get a taller and more intensive use built on their property, including by blocking the extension of Forster Street and using that space.

Notably, before this recently generated confusion, the City's staff was absolutely clear that the City *had* properly amended the General Plan to incorporate the Historic Master Plan. For example, in an August 5, 2014, staff report, the City's staff reported to the City Council that, at the time the Historic Master Plan was approved, "the City took several actions including approving City Council Resolution 12-04-03-02, *which amended specific portions of the City's General Plan.*" (Emphasis added.)

Importantly, this 2014 staff report was prepared in connection with a proposal to *further* amend the General Plan to capture *even more* of the Historic Master Plan (specifically the Plan's concept of allowing *residential* development in the Historic Town Center) into the General Plan.

But this *further* amendment to the General Plan was *not* approved by the City Council.

(The 2014 City Council's decision not to *further* amend the General Plan ultimately proved fatal to the City's later approval of the Urban Village development because that development had a residential component [townhouses].)

That the 2014 City Council did not approve this *further* amendment to the General Plan is a source for the claim in the false narrative that the City *never amended* the General Plan to incorporate the Historic Master Plan. From this untrue premise that the City never amended the General Plan, the false narrative then spins out that this means the Historic Town Center Master Plan must be a "non-binding, policy" document. But City Council Resolution No. 12-04-03-02 demonstrates that the Master Plan *is* a *binding* part of the General Plan and that the false narrative is – false.

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Repealing the Historic Town Center Master Plan is an extreme overreaction by the City to superficial differences between the General Plan and Historic Master Plan

Repealing the Historic Town Center Master Plan is a needlessly self-destructive overreaction: a solution in search of a problem.

Specifically, the City's Initial Study prepared in connection with the threatened repeal purports to justify repealing the Historic Master Plan based on two of the Master Plan provisions that seem (with a superficial read) to be a bit different than the General Plan: (1) the Historic Master Plan authorizes residential uses in the Historic Town Center area, but the General Plan does not (since the 2014 City Council chose not to make that *further* amendment), and (2) the Master Plan provides for a floor-area ratio of up to 1.5, but the General Plan provides for only 0.5 FAR.

But these are *not* "inconsistencies." Instead, when the City developed the Historic Master Plan, the City knew all about these differences and addressed them as part of its long-range, future planning:

- *Residential uses.* The Historic Master Plan generally envisioned "a thriving town center with a range of environments – encompassing busy commercial streets . . . welcoming civic parks and plazas, quieter new residential addresses tucked within the downtown." As part of this, the Historic Master Plan considered the potential for "in-town neighborhood[s] . . . mixed with neighborhood-serving retail shops" that could accommodate up to 239 units. And the City was aware that the General Plan's General Commercial land use designation "does not specifically enable residential development." Nevertheless, at that time the City felt that the "potential for residential development needs to be explored further" as residential uses were deemed critical for revitalizing the village center. Moreover, the City found that, even though residential uses were not specifically authorized by the General Commercial designation, the General Plan does have policies which envision residential uses in the Historic Town Center area. Specifically, residential uses were identified as consistent with the following, *existing* General Plan Policies:
 - *Policy 1.3.* "Encourage mixed commercial and *residential use projects in the Mission District downtown area* to conserve land and *provide additional housing opportunities* and population to support commercial services and retail sales." (Emphasis added.)
 - *Policy 6.1.* "Allow for the transition of the oversupply of commercial land use to other economically viable revenue producing land uses" to "enhance or redevelop underperforming commercial centers."

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- *Policy 2.1.* "Encourage the increased use and expansion of public transportation opportunities" by encouraging "new mixed-use development with a strong residential component which would likely result in increased use of rail transportation."
- *Maximum FAR.* In developing the Historic Master Plan, the City was likewise aware that the "General Plan identifies a maximum F.A.R. of 0.50 (average 0.30) for the General Commercial designation which affects" the Historic Town Center area, but the City then understood – as it does currently – that the 0.50 FAR was "below the level of comparable and desirable village centers (i.e., .95 to 1.50)." In adopting the Historic Master Plan, the City found that the plan was "consistent with Circulation Goal 2" to "[p]romote an advanced public transportation network because the Master Plan promotes an intensification within the floor area ratio (FAR) limits of the 1999 General Plan."

As the above shows, the City always knew that there were some differences between the Historic Master Plan and General Plan. This simply meant that, if in the future a City Council wishes to allow residential development or a higher FAR, then that City Council could further amend the General Plan, and the General Plan would still be consistent with the forward-thinking Historic Master Plan.

Profoundly, the City's proposed "repeal" concept actually "catches up" with the Historic Master Plan's proposal to increase FAR. As stated in the "repeal" Initial Study, the City proposes to amend the General Plan to increase the maximum FAR within the Historic Town Center to 1.5 for all "buildings that include provisions for public gathering spaces" and 0.75 for all remaining buildings. Although it is unclear what qualifies as "public gathering spaces," obviously amending the General Plan to allow an increase to 1.5 FAR simply brings the General Plan into alignment with the Historic Master Plan's proposal to increase FAR. Of course, this would just make the General Plan and the Historic Master Plan that much *more consistent*. This is certainly no reason to repeal the Master Plan.

Similarly, because the 2014 City Council chose not to *further* amend the General Plan to allow residential uses, residential uses are *not* allowed in the area covered by the Historic Master Plan. Again, this was a potential the Master Plan recognized. But for the sake of eliminating any confusion, the City Council can simply, for example, issue a formal statement that explicitly affirms that the potential for residential uses suggested by the Historic Town Center Master Plan are *not* available to developers since the 2014 City Council chose not to further amend the General Plan to allow residential uses. "Problem" solved. Thus, again, this is certainly no reason to repeal the Master Plan.

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In contrast, repealing the Historic Master Plan will create real problems. *Big*, real problems.

Repealing the Historic Master Plan will create *actual*, serious inconsistencies within the General Plan and will disrupt previously approved and currently pending projects in the Historic Town Center area

Repealing the Historic Master Plan would punch a "hole" in the General Plan: As noted, the existence of a Historic Town Center Master Plan has been a key component of the City's General Plan since 2002. Thus, repealing the Historic Master Plan will create huge inconsistencies *within* the General Plan.

Because the General Plan integrates the Historic Master Plan and directly imports elements from the Historic Master Plan, repeal of the Historic Master Plan will require an overhaul of the General Plan. Without an overhaul, which is *not* suggested by the City's "repeal" Initial Study, the General Plan will be internally inconsistent. This would be a huge problem for existing and future developments.

Significantly, the "repeal" Initial Study incorrectly states that the street extensions and the "Park Once Program" parking structure designed in the Historic Master Plan are not part of the General Plan itself. This echoes the "myth" that the City Council "never amended the General Plan" to integrate the Master Plan. As discussed above, this is *wrong*.

Further, the street extensions that were added to the General Plan were specifically incorporated as mitigation measures into the certified "Final Program Environmental Impact Report" for the new "Historic Town Center Master Plan, *General Plan Amendment* and Rezone." (Emphasis added.) As such, these elements of the Historic Master Plan, which, again, *were* imported into the General Plan, are mandatory mitigation measures, the deletion of which would require analysis in any EIR. But the "repeal" Initial Study does not identify this.

Importantly, the Form-Based Code is, expressly, the zoning *for implementing* the Historic Master Plan. Without the Master Plan, the Form-Based Code becomes unanchored and applies to nothing.

Repealing the Historic Master Plan would change the game midstream on many of the City's already approved and pending development plans and projects: Because the Historic Master Plan has been an implementing land use plan for the General Plan in the Historic Town Center area since 2012, its repeal will disrupt previously approved developments in the Historic Town Center by making them nonconforming uses, subjecting them to difficulties if they want to alter their properties or operations, as discussed in our November 2017 letter.

San Juan Capistrano City Council Members
Sergio Klotz
May 15, 2019
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An important example of the disruption that a repeal of the Historic Master Plan would cause relates to the City's "Park Once" program. Under this program, the City has allowed many, many restaurants and other businesses to open in the Historic Town Center without having sufficient parking onsite to meet the minimum parking that would otherwise be needed under the City's parking standards. But the City's "Park Once" ordinance (Ordinance no. 980, adopted by the City Council on January 18, 2011) is an action *to implement* the Historic Town Center Master Plan. And the whole "Park Once" program relies on utilizing the parking being preserved and/or added by the Master Plan. If the Master Plan is repealed, then the parking for "Park Once" is eliminated. And all of the businesses that have opened relying on "Park Once" will be in violation of the City's parking standards.

The City has already created problems with the "Park Once" program, for instance, by agreeing to sell the Camino Real Playhouse property, which is a key parking lot under the "Park Once" program. Repealing the Historic Town Center Master Plan will blow up what is left of the "Park Once" program.

In addition to all of the problems that repeal of the Historic Master Plan will create for businesses that have opened in reliance on the Master Plan, it will also dramatically disrupt developments that are in the midst of seeking development approvals from the City.

Development projects in and near the City's Historic Town Center have relied on the Historic Master Plan (and must rely on it, since the General Plan *was* amended to incorporate the Historic Master Plan,) and have relied on the Master Plan's lengthy Environmental Impact Report and mitigation measures, including, for example, its Forster Street extension and other traffic mitigation, to establish the "baseline" for studying the environmental impacts of their projects. And those development projects have relied on the Form-Based Code (which currently applies to properties subject to the Master Plan).

If the City repeals the Historic Master Plan, the traffic studies and CEQA documents for currently pending developments will be nullified, and they will not have clear zoning, since the Form-Based Code is tied to the Master Plan. Repeal will send those developments back to the drawing board. Additionally, the City's repeal of the Historic Master Plan will necessarily make any development approvals that are currently in process extremely vulnerable to being set aside if there is a legal challenge to them.

Conclusion

There are no problem-causing "inconsistencies" between the Historic Town Center Master Plan and General Plan. And the Master Plan is a *binding* part of the City's General Plan, not an inconsequential "policy" document that the City can ignore. Claims to the contrary are merely part

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

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of the false narrative that the Urban Village/Capistrano Hotel developers pushed because they wanted to develop projects that were taller and more intensive than the Master Plan allows.

The Historic Master Plan is an excellent, well-thought-out, and fully vetted plan. The current City Council should embrace and reaffirm the Master Plan. If the City Council instead repeals the Master Plan, this will mean that the current City Council will repeat the mistakes of past City Councils and will cause the City's Historic Town Center to be perpetually mired in planning mud and will bog down all current, in-process developments. Please do not do this.

If the City Council does go down the wrongheaded "repeal" path, the City's EIR and other CEQA documents for that repeal must include complete studies of, and must establish mitigation measures to address, among other things, the serious parking and traffic implications of eliminating the "Park Once" program and of eliminating the Forster Street extension and the many other traffic improvements provided for in the Historic Town Center Master Plan. Additionally, the City will need to ensure that the CEQA studies for all development projects currently under entitlement review by the City are updated to evaluate the implications for those developments of a repeal of the Historic Master Plan. Such updates to the CEQA documents will necessarily have to include enhancements to the development's mitigation measures to address the parking and traffic-circulation problems that will exist without the Master Plan.

Very truly yours,



K. Erik Friess

KEF:al
Enclosure

cc: Maria Morris, City Clerk (via email)

Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law
1900 Main Street, 5th Floor | Irvine, CA 92614-7321
Telephone: 949.553.1313 | Facsimile: 949.553.8354
www.allenmatkins.com

K. Erik Friess
E-mail: rfriess@allenmatkins.com
Direct Dial: 949.851.5478 File Number: 376243-00001/OC1164567.01

VIA ELECTRONIC MAIL

November 2, 2017

Members of the San Juan Capistrano City Council
Mayor Kerry K. Ferguson
Mayor Pro Tem Sergio Farias
Council Member Brian L. Maryott
Council Member Pam Patterson, Esq.
Council Member Derek Reeve
City of San Juan Capistrano
32400 Paseo Adelanto
San Juan Capistrano, California 92675

**Re: Objection by the Owner of the Historic Judge Egan House
to the City's Proposed Repeal of the Historic Town Center
Master Plan**

Dear Mayor, Mayor Pro Tem, and Council Members:

This firm represents SPM-Fairfield LLC, the owner of the historic Judge Egan House, which is listed on the National Register of Historic Places and which is specifically protected by the City of San Juan Capistrano's Historic Town Center Master Plan and its accompanying Environmental Impact Report and Mitigation Monitoring Program. SPM-Fairfield objects to Administrative Development Services Item No. F.1.a. on the City Council's November 7, 2017, agenda, which proposes a repeal of the Historic Master Plan.

Were the City to engage in a careful and considered planning effort associated with the City's historic core, SPM-Fairfield would have no objection. But the City Council is being asked to consider a rushed and poorly planned repeal. The rushed nature of this process is apparent from the City's inability to even include a timely staff report with the City Council's meeting agenda and the City's failure to provide adequate notice to the property owners who will be impacted by the Historic Master Plan's repeal. The rushed repeal is misguided for multiple reasons:

1. It is based on a wrong understanding of prior City Council actions;
2. It is ill-conceived;

Members of the San Juan Capistrano City Council
November 2, 2017

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3. It illegally fails to follow required planning processes, including the California Environmental Quality Act; and
4. It will have dangerous and damaging unintended consequences, including (a) making the numerous recent developments in the City's Historic Town Center non-conforming uses and (b) preventing all future development in the Historic Town Center area until the City corrects the many planning inconsistencies that will result from repealing the Historic Master Plan.

When this matter was first suggested to the City Council on October 17, 2017, it was asserted that the Historic Master Plan "was never actually enacted through the proper legal process, thereby rendering it merely an advisory document." This assertion is *wrong*.

In fact, in April 2012 the City *amended its General Plan* to incorporate the Historic Master Plan into the General Plan. This means that the Master Plan is a crucial, *binding* planning document. It also means that repealing the Historic Master Plan requires *again* amending the General Plan. This, in turn, will create a domino effect of plan inconsistencies for the City's historic core.

No reason exists for the City to rush a repeal of the Historic Master Plan. And the law requires that the City only do so after careful and deliberate study, including through the completion of an Environmental Impact Report. If the City Council is being advised that this is not the case, then SPM-Fairfield strongly suggests that the City Council get an independent legal opinion before proceeding with the repeal.

Notably, if the City Council is being advised that repealing the Historic Master Plan will somehow advantage the City in the litigation SPM-Fairfield has brought concerning the new hotel on the property adjacent to the Judge Egan House, then the City is getting poor advice. In fact, the opposite is true: the City's repeal of the Historic Master Plan would strongly *support* SPM-Fairfield's position that the City's approval of the new hotel – which is based on the Historic Master Plan, its Environmental Impact Report, and its Form-Based Code – was the result of a deeply flawed planning process.

1. Background Regarding the Historic Master Plan.

A. The original, 1995 Historic Master Plan, covering just 10 acres.

The City first adopted an Historic Town Center Master Plan in 1995. And the City's General Plan expressly references that Master Plan, explaining that it "contains goals and policies for the downtown area . . . [that] provide direction on how the General Plan should be implemented in the historic downtown center":

encourage the goals and policies of the General Plan.

The approximate 9.5-acre parcel located at the southeast corner of Valle Road and San Juan Creek Road has been designated as a location for a hotel and convention facility. This facility must be designed and located consistent with Specific Plan 82-09.

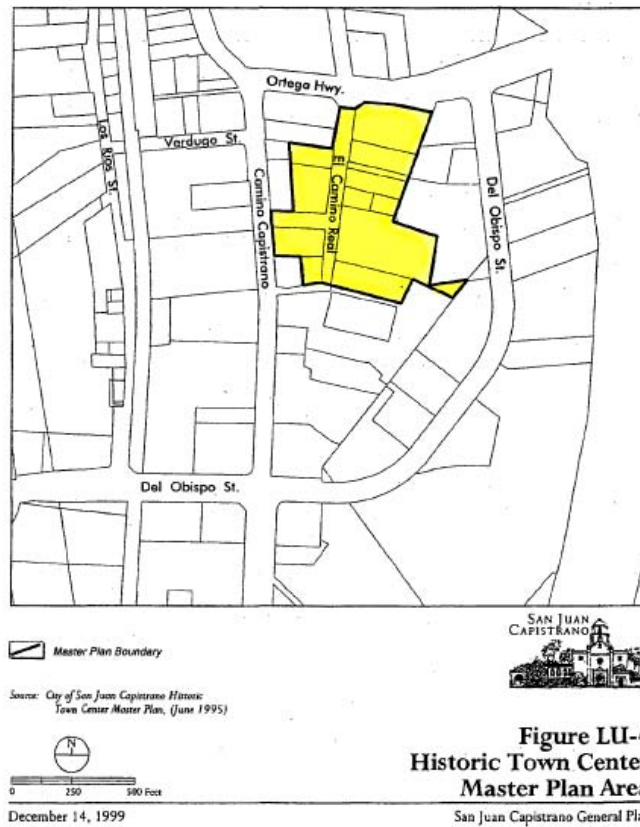
The City has identified the Historic Town Center as an area with important historical and social value worth protecting. Figure LU-4 depicts the area contained within the Historic Town Center Master Plan. The Master Plan establishes a "blueprint" to guide development in the downtown that implements the goals contained in the General Plan. Implementation of a town center revitalization plan will encourage a diversity of commercial and service uses which balance the community's commercial need with those of tourism-based development while maintaining fiscal and economic viability. The City will continue to implement a town center revitalization plan to provide additional housing opportunities and population to support these commercial services and retail sales.



Another area identified within the community for special planning is the historic Los Rios neighborhood. The Los Rios Precise Plan District contains some of the oldest structures in the County and, and the Rios Adobe may be the oldest, continually-inhabited residence in California. Figure LU-5 depicts the location of the Los Rios Precise Plan planning area. The original Los Rios Precise Plan was adopted in 1978, and the City is in the process of revising the Plan. The revised Precise

Importantly, that original, 1995 Historic Master Plan only covered a small, *10-acre* area. The General Plan identifies this 10-acre, historic area in "Figure LU-4":

Land Use Element



B. The new 2012 Historic Master Plan, covering a much larger, 150-acre area.

After the City's adoption of its original, 1995 Historic Town Center Master Plan, the City continued a years-long planning effort directed at its historic core, which culminated in the 2012 Historic Town Center Master Plan – a planning effort that cost the City hundreds of thousands of dollars. The 2012 Plan's stated purpose is "to define standards and an implementation strategy that will guide" development in the City's historic core.

Importantly, this new Historic Master Plan covered a much larger, *150-acre* area:

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In April 2012, San Juan Capistrano's City Council approved a package of four actions implementing the Historic Master Plan:

(1) The Council adopted Resolution No. 12-04-03-01, certifying the "Final Program Environmental Impact Report" for the "Historic Town Center Master Plan, General Plan Amendment and Rezone";

(2) The Council adopted Resolution No. 12-04-03-02, "Approving General Plan Amendments (GPA) for the Historic Town Center Master Plan";

(3) The Council adopted Resolution No. 12-04-03-03, "Approving the Historic Town Center Master Plan"; and

(4) The Council adopted Ordinance No. 993, amending the "Land Use Code to Add Section 9-3.316, Historic Town Center Form-Based Code."

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The full title of the City's resolution amending the General Plan is:

RESOLUTION NO. 12-04-03-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN
CAPISTRANO, CALIFORNIA APPROVING GENERAL PLAN AMEND-
MENTS (GPA) FOR THE HISTORIC TOWN CENTER MASTER PLAN.

This resolution made specific text edits and diagram changes to the General Plan to incorporate the Historic Master Plan into the General Plan's Land Use and Circulation Elements, e.g.:

Exhibit "A"
General Plan Amendments (GPA) Related
to Adoption of the Historic Town Center Master Plan

1. **Land Use Element:** Revise the Land Use Element as follows:

- a. Revise the description of the "Historic Town Center Master Plan Area" to read as follows:

~~The Historic Town Center Master Plan was adopted by the City in 1995 to address the specific needs of the downtown area. The Master Plan contains goals and policies for the downtown area based on the opportunities and constraints that were identified during the planning process. These goals and policies provide direction on how the General Plan should be implemented in the historic downtown center. The Historic Town Center Master Plan encompasses a 150-acre planning area including the 31 acre downtown core. With the Historic Town Center Form-Based Code, the Master Plan implements the City's Strategic Business Plan by providing a framework for the redevelopment of the downtown by private landowners and the City. The Master Plan establishes a broad framework for future development, does not specify absolute development capacity, but rather, allows a degree of flexibility in terms of land use mix to accommodate future changes in market conditions.~~

- b. Revise General Plan Land Use Element "Figure LU-4, Historic Town Center" to conform the boundaries to the adopted Historic Town Center Master Plan.

In short, the City *amended* its General Plan to make the Historic Master Plan the "framework for the redevelopment of the downtown by private landowners and the City."

Thus, when the City Council took its April 2012 four-pack of actions, the City *did* enact the Historic Master Plan "through proper legal process," contrary to what has been asserted. And thus the Historic Master Plan is a *binding* part of the City's General Plan.

Notably, before recent confusion, the City's staff was absolutely clear that the City *had* properly amended the General Plan to incorporate the Historic Master Plan. For example, in an August 5, 2014, staff report, the City's staff reported to the City Council that, at the time the

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Historic Master Plan was approved, "the City took several actions including approving City Council Resolution 12-04-03-02, *which amended specific portions of the City's General Plan.*" (Emphasis added.)

Importantly, this 2014 staff report was prepared in connection with a proposal to *further* amend the General Plan to capture *even more* of the Historic Master Plan (specifically the Plan's concept of allowing residential development in the Historic Town Center) into the General Plan. But this *further* amendment to the General Plan was *not* approved by the City Council. The failure to *further* amend the General Plan was what proved fatal to the City's approval of the Urban Village development (which had a residential component). That the City Council did not approve this *further* amendment to the General Plan seems to be the root of some people's mistaken belief today that the City *never* amended the General Plan to incorporate the Historic Master Plan when, in fact, the City *did* amend the General Plan in April 2012 through Resolution No. 12-04-03-02.

2. Problems that arise if the Historic Master Plan is repealed.

The suggestion that the Historic Master Plan be repealed would create planning chaos for the City's historic core. First, the rushed repeal of the Historic Master Plan would immediately – and with lack of adequate notice – make all of the projects the City has approved in the Historic Town Center since 2012 nonconforming uses. These projects include:

- Capistrano Gardens Event Center
- Plaza de Magdalena Event Center
- Ciao Pasta Trattoria
- Rancho Capistrano Winery
- Ellie's Table
- Selma's Chicago Pizzeria
- Five Vines Wine Bar
- Sundried Tomato
- Guapas Tapas & Wine Bar
- The Bagel Shack
- Hennessey's Taverns
- The Villa San Juan Capistrano Event Center
- Kimpton Hotel and Restaurant
- Trevor's at the Tracks Restaurant
- McDonalds
- We Olive & Wine Bar
- Mission Grill

Pursuant to the City's Municipal Code, section 9-3.533, the consequences for these businesses of being made nonconforming uses include a prohibition on "alteration or addition to any structure," a prohibition on "any enlargement of area, space, or volume occupied," and the potential prohibition on reconstruction in the event of fire or other damage. Of course, having this type of cloud on these businesses is going to immediately impact their ability to refinance loans and obtain investors.

Second, if the Historic Master Plan were repealed, this would cause an immediate inconsistency within the General Plan. As noted, the General Plan was amended to incorporate the Historic Master Plan, including the enlargement of the historic core from 10 acres to 150 acres. If the Master Plan were repealed, it would create a situation where the General Plan designation for these 150 acres requires compliance with the Historic Master Plan, but *no* Historic Master Plan exists to be followed. This would be fatal to all future projects within this 150-acre area unless the City again amended the General Plan.

Third, the Form-Based Code would be invalid. The City enacted the Form-Based Code as the zoning for the Historic Master Plan, covering the same 150 acres. In fact, the Form-Based Code's "Authority and Purpose" section specifically states that the Form-Based Code is "the set of integrated zoning standards . . . that implement the Historic Town Center Master Plan." Thus, if the Historic Master Plan is repealed, the Form-Based Code would apply to *nothing*.

Fourth, since the City replaced the 1995, 10-acre Historic Master Plan with the new, 2012, 150-acre Master Plan, the owners of the property within that original 10-acre area would have *no* land use designation under the General Plan until the 1995 Historic Master Plan – or some other plan – were readopted/adopted.

Fifth, all of the CEQA compliance for developments within the City's historic core since 2012 has been based on the Environmental Impact Report for the Historic Master Plan, as described below. If the Master Plan is repealed, that EIR would lose its relevance, and new EIRs would be needed for future projects in the historic core, particularly to assess impacts to the core's historic structures. This would be expensive and time consuming, delaying or preventing future projects in the historic core (like the improvements the City plans for Verdugo Street).

3. CEQA will require an environmental impact report before the Historic Master Plan can be repealed.

As noted, in April 2012 the City approved, as part of its four-pack of actions, Resolution No. 12-04-03-01, certifying the "Final Program Environmental Impact Report" for the "Historic Town Center Master Plan, General Plan Amendment and Rezone." This was a massive environmental study, and it includes numerous mitigation measures that the City has obligated itself to implement – all of which flow from various aspects of the Historic Master Plan.

All projects in the City's historic core since 2012 have relied on this study for some or all of their CEQA compliance.

Thus, if the City takes action to repeal its Historic Master Plan, the City will again need to prepare a massive CEQA study to evaluate what the environmental impacts of this new, replacement planning approach will be and to determine what mitigation measures will have to be implemented. This will be a costly, years-long effort.

Members of the San Juan Capistrano City Council
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4. **The correct solution is for the City to embrace and comply with the Historic Master Plan.**

The 2012 Historic Town Center Master Plan was not an accident. It was the product of thousands of hours of time invested by citizens, City staff, and hired consultants – at a cost to the City of hundreds of thousands of dollars.

Significantly, the General Plan amendments to incorporate the Historic Master Plan were *unanimously* approved by the City Council:

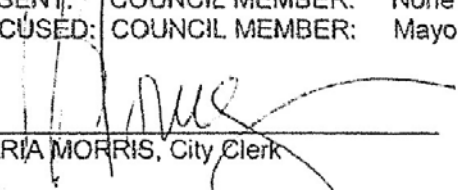
RESOLUTION NO. 12-04-03-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO, CALIFORNIA APPROVING GENERAL PLAN AMENDMENTS (GPA) FOR THE HISTORIC TOWN CENTER MASTER PLAN.

Here are the "AYE" votes that enacted those amendments to the General Plan to incorporate the Historic Master Plan:

I, MARIA MORRIS, appointed City Clerk of the City of San Juan Capistrano, do hereby certify that the foregoing **Resolution No. 12-04-03-03** was duly adopted by the City Council of the City of San Juan Capistrano at a Regular meeting thereof, held the 3rd day of April 2012, by the following vote:

AYES:	COUNCIL MEMBERS:	Freese, Reeve , Allevato, and Mayor Kramer
NOES:	COUNCIL MEMBER:	None
ABSENT:	COUNCIL MEMBER:	None
RECUSED:	COUNCIL MEMBER:	Mayor pro tem Taylor



MARIA MORRIS, City Clerk

It is time for the City to stop pretending that the Historic Master Plan was not adopted and was not incorporated into the City's General Plan. Instead, the City should embrace the hard work and hundreds of thousands of dollars that were invested in the comprehensive Historic Master Plan and start following it. But, if the City Council feels that a new planning effort is needed for the

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

Members of the San Juan Capistrano City Council

November 2, 2017

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City's historic core, SPM-Fairfield will support that effort, but *only* if the City does that planning properly and legally and with an eye toward maintaining the historic integrity of the Judge Egan House and its setting.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'K. Erik Friess', with a stylized flourish at the end.

K. Erik Friess

KEF:slp

cc: Benjamin Siegel, City Manager (via email)
Jeffrey S. Ballinger, Esq. (via email)
Elizabeth Hull, Assistant City Attorney (via email)
Joel Rojas, Planning Director (via email)
Maria Morris, City Clerk (via email)
Christy Jakl, Assistant City Clerk (via email)

From: Ann Ronan [mailto:ann.ronan@gmail.com]
Sent: Wednesday, May 15, 2019 8:38 PM
To: Sergio Klotz <SKlotz@sanjuancapistrano.org>
Subject: HTCMP Repeal

Hello,

Regarding the Historical Town Center Plan Repeal, General Plan Amendment and Code change:

I am in favor of repealing the Historic Town Center Plan. Glad to see the GPA will allow a FAR of 1.5 in the project area.

I've been traveling for three of the four week comment period and haven't had much time to review, in detail, the proposed changes. One thing on the top of my mind from recent lawsuits is that the issue of the Forster Street extension was an issue. I am not clear that the repeal of the HTCMP alone will correct this issue or if there is something to be also addressed in the General Plan or Form Based Code?

Thanks for the opportunity to give feedback.

Ann Ronan
Resident

*****Please note that email correspondence with the City of San Juan Capistrano, along with attachments, may be subject to the California Public Records Act, and therefore may be subject to disclosure unless otherwise exempt.

DEPARTMENT OF TRANSPORTATION

DISTRICT 12

1750 EAST FOURTH STREET, SUITE 100

SANTA ANA, CA 92705

PHONE (657) 328-6267

FAX (657) 328-6510

TTY 711

www.dot.ca.gov*Making Conservation
a California Way of Life.*

May 15, 2019

Mr. Sergio Klotz
City of San Juan Capistrano
32400 Paseo Adelanto
San Juan Capistrano, CA 92675

File: IGR/CEQA
SCH#: 2019049084
12-ORA-2019-01107
I-5, PM 9.564
SR 74, PM 0.0

Dear Mr. Klotz:

Thank you for including the California Department of Transportation (Caltrans) in the review of Notice of Preparation for the Historic Town Center Master Plan Repeal, General Plan Amendment, and Ordinance Change Project in the City of San Juan Capistrano. The mission of Caltrans is to provide a safe, sustainable, integrated, and efficient transportation system to enhance California's economy and livability.

The project proposes several actions to remedy land use inconsistencies between the Historic Town Center Master Plan (HTCMP) document, the City of San Juan Capistrano's General Plan, and the Form Based Code (FBC). The project area consists of the approximately 150 acres that comprise the Historic Town Center area of downtown San Juan Capistrano. Freeway access to the project site is provided by State Route (SR) 74 (Ortega Highway) and Interstate 5 (I-5) Freeway. Caltrans is a responsible agency on this project and upon review, we have the following comments:

Transportation Planning

1. Please ensure that appropriate measures are planned/implemented to increase safety of bicyclists and pedestrians traveling through the project area. Please also ensure that appropriate connections are provided to existing and planned facilities. This includes considering existing and planned bicycle and pedestrian facilities when developing the Historic Town Center Master Plan Repeal, General Plan Amendment, and Ordinance Change Projects, since the document notes that there may be a Potentially Significant Impact to the circulation system, "including transit, roadway, bicycle and pedestrian facilities."

These measures will increase the safety of Active Transportation users, encourage the development of Complete Streets facilities, and increase regional connectivity. The existing Class I Trabuco Creek Trail and Class I Robert McCollum Memorial Bicycle Trail are located near the site and provide connectivity to other regional trails and destinations. The City of San Juan Capistrano's General Plan Circulation Element

(1999) supports the use of non-motorized modes of transportation in Circulation Goal 3 and Policy 3.1, as well as in Circulation Goal 4 and Policies 4.1 and 4.3.

2. Please ensure that appropriate measures are planned/implemented to encourage residents and visitors to utilize the San Juan Capistrano Metrolink & Amtrak Station. Measures may include wayfinding signage and connections to bikeway facilities. This will increase the use of transit and regional connectivity. The City of San Juan Capistrano's General Plan Circulation Element (1999) supports the use of transit, including Metrolink, in Circulation Goal 2 and Policy 2.1.
3. Caltrans recommends Complete Streets elements to be incorporated into the project. Complete Streets strategies promote connectivity, safety, accessibility, and mobility for all users, and measures include bicycle, pedestrian, transit, and Americans with Disabilities Act facilities. Examples of additional elements may include improving crossings for pedestrians, adding pedestrian-level lighting, and highlighting conflict areas between bicyclists and vehicles. Please refer to Caltrans' Complete Streets Elements Toolbox (2018) for further guidance. Link to the Complete Streets Elements Toolbox: <http://www.dot.ca.gov/transplanning/ocp/docs/Complete-Streets-Elements-Toolbox.pdf>
4. Caltrans recommends incorporating Main Street elements into the Project as well. These strategies promote livability, a sense of community, and sustainability. Examples of Main Street elements may include way-finding signage, bicycle racks, and transit shelters. Main Street and Complete Streets elements complement each other and create a friendlier environment for multi-modal forms of transportation. Please refer to Caltrans' Main Street, California document (2013) for further guidance. Link to the Main Street, California document: http://www.dot.ca.gov/hq/LandArch/mainstreet/main_street_3rd_edition.pdf
5. Caltrans recognizes that the River Street Marketplace Project is located within the HTCMP area. Please ensure that the cumulative traffic impacts to both projects are considered and that appropriate mitigation measures are addressed.
6. Future development documents that fall within the project area should be circulated to Caltrans for review and concurrence.

Traffic Operations

7. The EIR should include a Traffic Impact Study (TIS) that analyzes potential short-term and long-term impacts to the State Highway System (SHS) including on-ramps, off-ramps, and freeway mainline specifically for SR 74 and I-5, based on criteria and methodologies established in the Caltrans Traffic Impact Study Guide: http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf

Mr. Klotz
5/15/2019
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Encroachment Permit

8. Please be advised that any project work proposed in the vicinity of the State Highway System (SHS) will require an Encroachment Permit and all environmental concerns must be adequately addressed. If the environmental documentation for the project does not meet Caltrans' requirements, additional documentation would be required before the approval of the Encroachment Permit. For specific details for Encroachment Permits procedure, please refer to the Caltrans' Encroachment Permits Manual. The latest edition of the Manual is available on the web site:
<http://www.dot.ca.gov/hq/traffops/developserv/permits/>

Please continue to keep us informed of this project and any future developments which could potentially impact the SHS. If you have any questions, please do not hesitate to contact Joseph Jamoralin, at (657) 328-6276 or Joseph.Jamoralin@dot.ca.gov.

Sincerely,



Scott Shelley
Branch Chief, Regional-IGR-Transit Planning
District 12

NATIVE AMERICAN HERITAGE COMMISSION
Cultural and Environmental Department
1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691 Phone (916) 373-3710
Email: nahc@nahc.ca.gov
Website: <http://www.nahc.ca.gov>
Twitter: @CA_NAHC



May 10, 2019

Sergio Klotz
City of San Juan Capistrano
32400 Paseo Adelanto
San Juan Capistrano, CA 92675



RE: SCH# 2019049084 Historic Town Center Master Plan Repeal, General Plan Amendment, and Ordinance Change Project, Orange County

Dear Mr. Klotz:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
 - a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
 - a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
 - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
 - a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: Steven.Quinn@nahc.ca.gov.

Sincerely,



for

Steven Quinn
Associate Governmental Program Analyst

cc: State Clearinghouse