



APPENDIX A

NOTICE OF PREPARATION / COMMENT LETTERS



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NOTICE OF PREPARATION



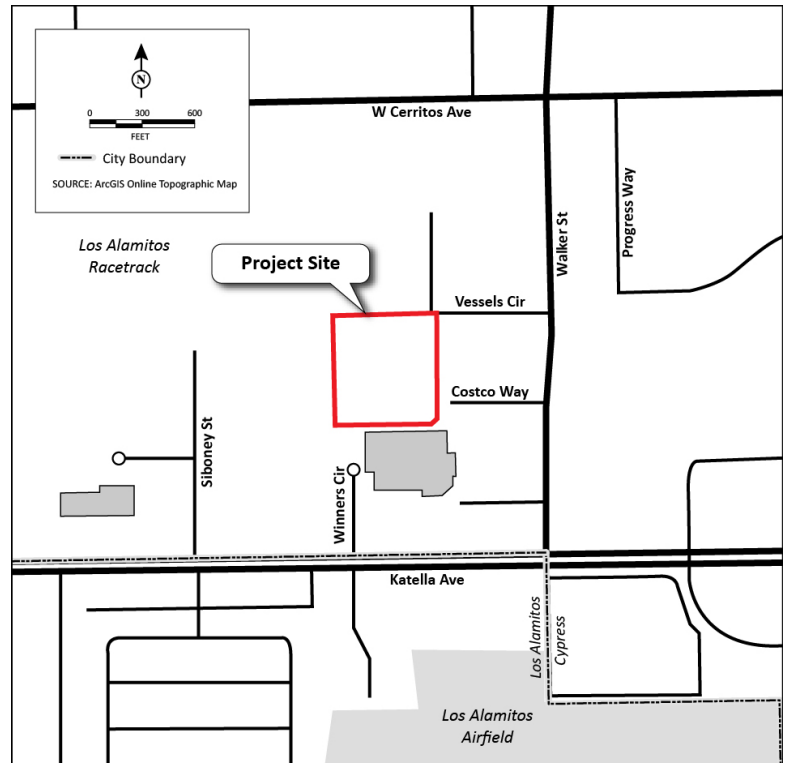
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PUBLIC NOTICE/NOTICE OF PREPARATION OF DRAFT ENVIRONMENTAL IMPACT REPORT

Project: Cypress Town Center
Lead Agency: City of Cypress
Project Applicant: Melia Homes

PROJECT DESCRIPTION: The City of Cypress (City) is the Lead Agency responsible for preparing an Environmental Impact Report (EIR) addressing potential environmental impacts associated with the Cypress Town Center Project (proposed project). The proposed project is located on an approximately 7-acre site (project site) south of Vessels Circle and west of Walker Street in the City of Cypress, California. In its existing condition, the project site is a parking lot with asphalt paving, six overhead light poles, and a 60-foot wide strip of ornamental trees, palm trees, and grass/shrubs on the north portion. The project site is bounded on the north by the Los Alamitos Race Track, on the west by surface parking lots, on the south by a Costco and a vacant parking lot approved for the Cypress City Center mixed-use development, and on the east by a two-story office building.



The proposed project includes the development of a portion of the Los Alamitos Race Course parking lot area into a residential multi-family community consisting of 135 dwelling units consistent with the Cypress Town Center and Commons Specific Plan 2.0 (Specific Plan). The 135 multi-family residential homes would include two types of multi-family units: 56 two-story condominiums in four buildings arranged around motor courts in the center portion of the project site; and 79 three-story row townhomes located along the outer portions of the project site. The layout of the proposed project is a paseo-style community with a central large open space area that would include a pool and landscaped areas for other active and passive recreation uses. The proposed project also includes an off-site swale south of the project site that would direct overflow from the proposed on-site drainage facilities towards Winners Circle. Access to the project site would be provided via a driveway from a proposed extension of Vessels Circle to the north of the project site. Additionally, the proposed project includes an off-site, 200-foot-long bioswale to treat drainage from the proposed Vessels Circle extension.

Required discretionary actions associated with the proposed project include the following: certification of the EIR; approval of a Vesting Tentative Tract Map; and approval of a Design Review Permit.

POTENTIAL ENVIRONMENTAL IMPACTS: The Draft EIR (DEIR) will examine potential environmental impacts generated by the proposed project in relation to the following Environmental Analysis categories: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, and Utilities and Service Systems. These categories reflect the probable environmental effects of the proposed project.

- **Aesthetics.** The proposed project would result in visual changes on the project site. The DEIR will analyze any visual impacts of the proposed project, and will include a consistency analysis with the City's zoning, Specific Plan, and General Plan regulations governing scenic quality. Project-related impacts with respect to light and glare will also be analyzed in the DEIR.

- **Air Quality.** The construction and operation of the proposed project would cause the emission of certain air pollutants. Potential air quality impacts, including consistency with the current Air Quality Management Plan (AQMP), violation of air quality standards, the increase of criteria pollutants, and the exposure of sensitive receptors to substantial pollutant concentrations will be analyzed further in the DEIR.
- **Biological Resources.** The construction of the proposed project would result in the removal of landscaping and trees on the project site. Project impacts to biological resources, including impacts to any species identified as a candidate, sensitive, or special-status species, sensitive natural communities, and conflicts with any local policies, ordinances, or approved habitat conservation plan protecting biological resources will be analyzed further in the DEIR.
- **Cultural Resources.** The proposed project would involve ground disturbance, which carries with it some potential for encountering cultural resources. Information provided through a record search at the South Central Coastal Information Center (SCCIC) of the California Historical Resources Information System (CHRIS) will be incorporated in the DEIR analysis and will assist in identifying whether cultural resources have been identified on the project site, and the significance of any potential impacts to such resources.
- **Energy.** The construction and operation of the proposed project would involve the use of energy. Project impacts to energy resources will be evaluated as part of the DEIR, analyzing short-term and long-term impacts of the proposed project, as well as project consistency with State and local plans related to energy.
- **Geology and Soils.** The proposed project would involve grading and soil disturbance. Potential impacts associated with strong seismic ground shaking, seismic-related ground failure, soil erosion, unsuitable soils, and paleontological resources will be analyzed further in the DEIR.
- **Greenhouse Gas Emissions.** During construction of the project, equipment and vehicles would be used that would generate some greenhouse gases (GHGs). In addition, the project's use of energy during long-term operations would contribute to the emission of GHGs. Potential GHG impacts will be analyzed further in the DEIR.
- **Hazards and Hazardous Materials.** The proposed project would result in a residential development on the project site. Potential impacts related to the release of hazardous materials into the environment as a result of project construction and operation will be analyzed further in the DEIR.
- **Hydrology and Water Quality.** The proposed project would involve construction and operation activities on the project site. The DEIR will evaluate any potentially significant adverse project impacts related to waste discharge requirements and surface and groundwater water quality, on- or off-site erosion and siltation, changes in the rate or amount of surface runoff, and other hydrology and water quality concerns.
- **Land Use and Planning.** The proposed project includes residential uses that are allowed under the Specific Plan. The project's potential conflicts with applicable land use plans, policies, or regulations will be addressed in the DEIR.
- **Noise.** The construction and operation of the proposed project would generate certain levels of noise. Potential impacts related to noise exceeding established thresholds and vibration and ground-borne noise impacts will be analyzed further in the DEIR.
- **Population and Housing.** The proposed project would include 135 dwelling units and would result in a corresponding increase in the City's population. The project's potential to induce substantial population growth, either directly or indirectly, will be assessed in the DEIR.
- **Public Services.** The proposed project would induce population growth in the City, which may increase the need for public services. Potentially adverse physical impacts associated with new or physically altered governmental facilities related to police, fire, schools, parks, and libraries will be analyzed in the DEIR.

- **Recreation.** The proposed project would result in an increase in the City's population, which may increase the demand for recreational facilities. Potential impacts related to the physical deterioration of park facilities, and the construction or expansion of recreational facilities will be evaluated in the DEIR.
- **Transportation.** Project construction and operation would generate vehicle trips. The proposed project's potential short- and long-term traffic impacts with respect to regional vehicle miles traveled (VMT) and the project's compliance with program plans, ordinances, and policies addressing the circulation system will be analyzed further in the DEIR.
- **Tribal Cultural Resources.** The proposed project would involve ground disturbance, which carries with it some potential for encountering tribal cultural resources. Information provided through tribal consultation will be incorporated in the DEIR analysis and will assist in identifying whether tribal cultural resources are present, and the significance of any potential impacts to such resources.
- **Utilities and Service Systems.** The proposed project would require utility and drainage system improvements. Potential impacts related to water, wastewater treatment, stormwater drainage, electric power, natural gas, telecommunications facilities, water supply, and solid waste disposal will be evaluated in the DEIR.

The DEIR will also identify appropriate and feasible mitigation measures, if necessary, for each of the environmental impacts listed above. Although the proposed project is not anticipated to result in impacts related to Agriculture and Forestry Resources, Mineral Resources, and Wildfire, these topics will be briefly discussed in the DEIR. An Initial Study has not been prepared for the proposed project. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

PROJECT SCOPING PROCESS: Circulation of this Notice of Preparation (NOP) starts a 30-day public review and comment period on the scope of the DEIR that begins on **September 25, 2020**, and ends on **October 26, 2020**, at 5:00 p.m. All interested parties, including the public, responsible agencies, and trustee agencies, are invited to provide comments and input on the scope and content of the environmental analysis to be addressed in the DEIR. Responsible and trustee agencies should provide comments and input related to the agencies' respective areas of statutory responsibility. Comments received during the scoping period will be considered during preparation of the DEIR. Public agencies and interested parties will have an additional opportunity to comment on the proposed project during the 45-day public review period to be held after the publication and circulation of the DEIR.

SCOPING MEETING: Consistent with the Governor's Stay at Home order, the City will conduct a virtual Public Scoping Meeting in order to present the proposed project and the EIR process and provide direction to the public on comments. The City encourages and invites all interested parties to participate in the following public scoping meeting in order to learn more about the project and ask questions:

Date/Time: Thursday October 8, 2020, 7:00 – 8:00 p.m.

Location: Instructions for participating in the virtual meeting will be published 72 hours prior to the Public Scoping Meeting at the following location on the City's website: <https://www.cypressca.org/government/departments/community-development/planning-division/development-information>

Address Comments to:

City of Cypress:
Attn: Jeff Zwack, City Planner
5275 Orange Avenue
Cypress, CA 90630
Phone: (714) 229-6720
Email: CityPlanner@cypressca.org



DISTRIBUTION LIST



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Agencies (NOP)

Anaheim Union High School District
Attn: CEQA Review
501 N. Crescent Way
Anaheim, CA 92801

California Department of Fish and Wildlife
South Coast Region
Attn: Environmental Review Manager
4949 Viewridge Avenue
San Diego, CA 92123

California Department of Toxic Substances Control
Attn: Environmental Review
5796 Corporate Avenue
Cypress, CA 90630

California Regional Water Quality Control Board – Caltrans – District 12
Santa Ana Region
Attn: Mr. Kurt Berchtold
3737 Main Street, Suite 500
Riverside, CA 92501-3348

Attn: Local CEQA Review
1750 E. 4th Street, Suite 100
Santa Ana, CA 92705

City of Anaheim
Community & Economic Development Dept.
201 S. Anaheim Blvd., Ste. 1003
Anaheim, CA 92805

City of Buena Park
Community Development Department
6650 Beach Boulevard, First Floor
Buena Park, CA 90622

City of Garden Grove
Community & Economic Development Dept.
11222 Acacia Parkway
Garden Grove, CA 92840

City of Los Alamitos
Community Development Department
3191 Katella Avenue
Los Alamitos, CA 90720

City of Stanton
Community Development Department
7800 Katella Avenue
Stanton, CA 90680

Cypress Chamber of Commerce,
Business Building 9, Room 101
9200 Valley View Street
Cypress, CA 90630

Cypress School District
Attn: Mr. Tim McLellan
9740 Moody Street
Cypress, CA 90630

Golden State Water Company
Los Alamitos CSA
10852 S. Cherry Street
Los Alamitos, CA 90720

Native American Heritage Commission
Attn: Environmental Review
1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691

OC Development Services
Attn: Environmental Review
P.O. Box 4048
Santa Ana, CA 92702

OCFA
Attn: Fire Prevention Department
1 Fire Authority Road
Irvine, CA 92602

OC Flood Control District
Attn: Environmental Review
P.O. Box 4048
Santa Ana, CA 92702

OC Health Care Agency
Attn: Environmental Health Division Manager
P.O. Box 355
Santa Ana, CA 92702

Orange County Public Library
Attn: Environmental Review
1501 E. St. Andrew Place
Santa Ana, CA 92705

Orange County Transportation Authority
Attn: Environmental Review
550 South Main Street
Orange, CA 92863

Orange County Sanitation District
Attn: Environmental Review
10844 Ellis Avenue
Fountain Valley, CA 92708

Orange County Water District
Attn: Environmental Review
18700 Ward Street
Fountain Valley, CA 92708

OC Waste & Recycling
Attn: Environmental Review
320 North Flower Street, Ste. 400
Santa Ana, CA 92703-5000

SCAG
Attn: Intergovernmental Review
900 Wilshire Blvd., Ste. 1700
Los Angeles, CA 90017

SCAQMD
Attn: Environmental Review
21865 E. Copley Drive
Diamond Bar, CA 91765

Southern California Edison
Attn: Environmental Review
2800 E. Willow Street
Long Beach, CA 90806

Southern California Gas Company
Attn: Environmental Review
P.O. Box 3150
San Dimas, CA 91773

U.S. Fish & Wildlife Service
Attn: Environmental Review
6010 Hidden Valley Road
Carlsbad, CA 92009

State Clearinghouse and Orange County Clerk

State of California, State Clearinghouse
Office of Planning & Research
1400 Tenth Street, Room 212
Sacramento, CA 95814

15 NOP
1 NOC

Orange County Clerk-Recorder
601 N Ross Street
Santa Ana, California 92701

2 NOP

Tribal Representatives (NOP)

Soboba Band of Luiseno Indians
Scott Cozart, Chairperson
P. O. Box 487
San Jacinto, CA 92583

Gabrielino Tongva Tribe
Sam Dunlap
TongvaTCR@gmail.com

Campo Band of Diegueño Mission Indians
Attn: Ralph Goff, Chairperson
36190 Church Road, Suite 1
Campo, CA 91906

Gabrielino-Tongva Tribe
Attn: Charles Alvarez
23454 Vanowen Street
West Hills, CA 91307

Gabrielino/Tongva Nation
Attn: Sandonne Goad, Chairperson
106 ½ Judge John Aiso Street, #231
Los Angeles, CA 90012

Ewiiapaayp Band of Kumeyaay Indians
Attn: Michael Garcia, Vice Chairperson
4054 Willows Road
Alpine, CA 91901

Juaneno Band of Mission Indians
Acjachemen Nation – Belardes
Attn: Matias Belardes, Chairperson
32161 Avenida Los Amigos
San Juan Capistrano, CA 92675

Juaneno Band of Mission Indians
Acjachemen Nation
Attn: Joyce Perry, Tribal Manager
4955 Paseo Segovia
Irvine, CA 92603

Gabrieleno Band of Mission Indians - Kizh Nation
Attn: Andrew Salas, Chairperson
P.O. Box 393
Covina, CA 91723

Gabrieleno/Tongva San Gabriel
Band of Mission Indians
Attn: Anthony Morales, Chairperson
P.O. Box 693
San Gabriel, CA 91778

La Posta Band of Diegueño Mission Indians
Javaughn Miller, Tribal Administrator
8 Crestwood Road
Boulevard, CA 91905

Ewiiapaayp Band of Kumeyaay Indians
Attn: Robert Pinto, Chairperson
4054 Willows Road
Alpine, CA 91901

Gabrielino Tongva Indians of California
Tribal Council
Attn: Robert Dorame, Chairperson
P.O. Box 490
Bellflower, CA 90707

La Posta Band of Diegueño Mission Indians
Attn: Gwendolyn Parada, Chairperson
8 Crestwood Road
Boulevard, CA 91905

Pala Band of Mission Indians
Attn: Shasta Gaughen
Tribal Historic Preservation Officer
PMB 50, 35008 Pala Temecula Rd.
Pala, CA 92059

Manzanita Band of Kumeyaay Nation
Attn: Angela Elliott Santos, Chairperson
P.O. Box 1302
Boulevard, CA 91905

Mesa Grande Band of Diegueño Mission Indians
Attn: Michael Linton, Chairperson
P.O. Box 270
Santa Ysabel, CA 92070

Santa Rosa Band of Cahuilla Indians
Attn: Lovina Redner, Tribal Chair
P.O. Box 39180
Anza, CA 92539

Sycuan Band of the Kumeyaay Nation
Attn: Cody Martinez, Chairperson
1 Kwaaypaay Court
El Cajon, CA 92019

Soboba Band of Luiseno Indians
Attn: Joseph Ontiveros
Cultural Resource Director
P.O. Box 487
San Jacinto, CA 92581

Interested Parties (NOP)

Melia Homes
Attn: Chad Brown
Vice President of Planning & Development
8951 Research Drive
Irvine, CA 92618

Warland Investments Company
Attn: Chip Robertson, Hope Warschaw
Co-Managing Directors
1299 Ocean Avenue, Suite 300
Santa Monica, CA 90401

Los Alamitos Race Course
4961 Katella Avenue
Cypress, CA 90720

Cypress Land Company
Attn: Mr. Matthew Doss
Director of Real Estate
10940 Wilshire Blvd., Suite 1900
Los Angeles, CA 90024

Warland Investments Company
Attn: Susan Garey
Director of Asset Management
11155 Knott Avenue, Suite J
Cypress, CA 90630

Costco Wholesale Corp
999 Lake Drive
Issaquah, WA 98027

Grace Community Church of Cypress
5100 Cerritos Avenue
Cypress, CA 90630

Pac West Office Equities LP
555 Capitol Mall, Ste. 900
Sacramento, CA 95814

Prologis Walker LLC
1800 Wazee Street
Denver, CO 80202



SCOPING COMMENTS



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DEPARTMENT OF TRANSPORTATION

DISTRICT 12

1750 EAST 4TH STREET, SUITE 100

SANTA ANA, CA 92705

PHONE (657) 328-6000

FAX (657) 328-6522

TTY 711

www.dot.ca.gov/caltrans-near-me/district12*Making Conservation
a California Way of Life.*

October 26, 2020

Mr. Jeff Zwack
City of Cypress
5275 Orange Avenue
Cypress, CA 90630

File: IGR/CEQA
IGR# 2020-01473
SCH#: 2020099025
SR 39 PM 10.645
SR 22 PM 0.917
I-605 PM 1.442

Dear Mr. Zwack,

Thank you for including the California Department of Transportation (Caltrans) in the review of the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Cypress Town Center Project in the City of Cypress. The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability.

The proposed project includes the development of a portion of the Los Alamitos Race Course parking lot area into a residential multi-family community consisting of 135 dwelling units consistent with the Cypress Town Center and Commons Specific Plan 2.0 (Specific Plan). The 135 multi-family residential homes would include two types of multi-family units: 56 two-story condominiums in four buildings arranged around motor courts in the center portion of the project site; and 79 three-story row town homes located along the outer portions of the project site. The layout of the proposed project is a paseo-style community with a central large open space area that would include a pool and landscaped areas for other active and passive recreation uses. The proposed project also includes an off-site swale south of the project site that would direct overflow from the proposed on-site drainage facilities towards Winners Circle. Access to the project site would be provided via a driveway from a proposed extension of Vessels Circle to the north of the project site. Additionally, the proposed project

includes an off-site, 200-foot-long bioswale to treat drainage from the proposed Vessels Circle extension.

The proposed project is located on an approximately 7- acre site south of Vessels Circle and west of Walker Street in the City of Cypress, California. The project site is in relative proximity to Interstate 605 (I-605), State Route (SR) 39 and SR 22. Interstate 605 as well as SR 39 and SR 22 are owned and operated by Caltrans. Caltrans is a responsible agency and has the following comments:

LD-IGR

1. This project is in close proximity to the Amazon Facility Project, also in the City of Cypress. Has there been discussion or analysis in regard to the direct or indirect increase of VMT's on State Highway ramps from both projects?
2. Please consider incorporating designated areas/parking for freight delivery, package and transportation network companies pick up and drop off in the site plan design for this project.
3. Please consider providing adequate wayfinding signage to nearby transit stops within the proposed project. Connectivity of first and last mile mobility options and transit services help integrate a complete multimodal transportation network.

Transportation Planning

4. Please make sure that the DEIR includes the discussion relating to City's multimodal mobility strategies such as Transit and Connectivity. We encourage the City to look at transit mobility opportunities to connect current/existing bus services to the nearest train stations for regional connectivity to Metrolink and Amtrak Pacific Surfliner rail services.
5. Please encourage the use of transit among future residents, visitors and workers of the residential multi-family community development. Increasing multimodal transportation will lead to a reduction to congestion, Vehicle Miles Traveled, and improve air quality.

Traffic Operations

6. Please consider including "Fire Prevention" into the Environmental Analysis Categories, under the Potential Environmental Impact section.
 - a. The developer shall be responsible for fire protection in its work and operational areas, through the duration of work.
 - b. Approved fire extinguisher equipment, in required quantities, shall be provided by developer, and employees shall be knowledgeable in the usage of such equipment.
 - c. Motorized industrial trucks, earthmoving equipment, and similar construction vehicles shall be equipped with fire extinguishers.
7. Please check the 95% queues on the off-ramp or left-turn lane to on-ramp at the ramp intersection of Route 22 to determine if there is an overflow to the adjacent lane that has potential safety concerns.

System Planning

8. New residential infill development offers an opportunity to encourage multimodal transportation options.
9. Caltrans encourages the design of Complete Streets that include high-quality pedestrian, bicycle, and transit facilities that are safe and comfortable for users of all ages and abilities. This may include safety measures such as physically separated sidewalks and bike lanes; pedestrian-oriented LED lighting; high-visibility continental crosswalk striping; raised crosswalks; refuge islands; wayfinding signage; and safe connections to existing and proposed bicycle, pedestrian, and transit facilities. Complete Streets improvements promote local and regional connectivity, improve air quality, reduce congestion, and increase safety for all modes of transportation.
10. Consider strategies to incorporate easy walking and biking access to the adjacent Cypress City Center mixed-use development.

Permits:

11. Any project work proposed in the vicinity of the State right of way will require an encroachment permit, and all environmental concerns must be adequately addressed. Please coordinate with Caltrans in order to meet the requirements for any work within or near State Right-of-Way. A fee may apply. If the cost of work within the State right of way is below one Million Dollars, the Encroachment Permit process will be handled by our Permits Branch; otherwise the permit should be authorized through the Caltrans's Project Development Department. When applying for Encroachment Permit, please incorporate all Environmental Documentation, SWPPP/ WPCP, Hydraulic Calculations, R/W certification and all relevant design details including design exception approvals. For specific details for Encroachment Permits procedure, please refer to the Caltrans's 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 coordinate with Caltrans for any future developments that could potentially impact State transportation facilities. If you have any questions, please do not hesitate to contact Julie Lugaro at Julie.lugaro@dot.ca.gov.

Sincerely,



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



October 20, 2020

Jeff Zwack, City Planner
City of Cypress
Planning Division
5275 Orange Avenue
Cypress, CA 90630

**SUBJECT: RESPONSE TO NOTICE OF PREPARATION OF A DRAFT
ENVIRONMENTAL IMPACT REPORT FOR THE CYPRESS TOWN
CENTER PROJECT**

Dear Mr. Zwack:

The City of Los Alamitos appreciates the opportunity to review and comment on the Notice of Preparation of the Draft Environmental Impact Report for the Cypress Town Center Project (south of Vessels Circle and west of Walker Street). The following comments identify the City's concerns and recommendations regarding the proposed Notice of Preparation:

- **Piecemeal CEQA Documents:** As part of the February 2020 scoping meeting, the project presentation did not include any commercial structures. Will there be any commercial structures included in the development? Are there other residential structures as were noted on that plan? Please see below.

The City of Cypress is undergoing several development projects including:

- Cypress City Center (Siboney Street and Katella Avenue)
- Sports Park Project (SE corner of Lexington Drive & Cerritos Avenue)
- Amazon Project (SW corner of Katella Avenue and Holder Street)
- Warehouse Project (Also at SW corner of Katella Avenue & Holder Street)

The above projects including the Cypress Town Center Project should be considered together toward their combined effect on the environment in a cumulative impact analysis (CEQA Guidelines 15130). Why was this not done?

All of the projects mentioned above also increase the number of vehicles, including commercial vehicles/trucks. This will significantly impact streets such as Katella Avenue and Cerritos Avenue. The piecemeal of all the projects does not fully reflect the vehicle impacts on street infrastructure and traffic.

- Joint Forces Training Base: Has the Notice of Preparation for this project been submitted to the Airport Land Use Commission (ALUC), since this project area is located near a military airbase?
- Access: If Vessels Circle will be the access street to the project, will any access be opened to Winners Circle? How will the traffic patterns at the intersection of Walker Street and Katella Avenue be effected? How will this project connect to other future projects closer to Katella Avenue?
- Transportation: Will any new bus stops or bus shelters need to be added near the project?
- Parking: Are there are affordable housing units included, and if so, will they require less parking?

The City would like to thank you again for the opportunity to review the Notice of Preparation. If you have any questions regarding this letter, please contact me at (562) 357-4520 or our Associate Planner, Tom Oliver, at (562) 431-3538, x303.

Sincerely,



Ron Noda
Acting Deputy City Manager

cc: Chet Simmons, City Manager
Tom Oliver, Associate Planner
Chris Kelly, City Engineer
Farhad Iranitalab, Traffic Engineer
Leslie Roseberry, Planning Consultant, CAA



CITY OF
Los Alamitos
California

3191 Katella Avenue
Los Alamitos, CA 90720-5600
Telephone: (562) 431-3538
FAX: (562) 493-1255
www.cityoflosalamitos.org





NATIVE AMERICAN HERITAGE COMMISSION

September 28, 2020

Jeff Zwack
City of Cypress
5275 Orange Avenue
Cypress, CA 90630

Re: 2020099025, Cypress Town Center Project, Orange County

Dear Mr. Zwack:

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, §15064 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 (16 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.

CHAIRPERSON
Laura Miranda
Luiseño

VICE CHAIRPERSON
Reginald Pagaling
Chumash

SECRETARY
Merrill Lopez-Keller
Luiseño

PARLIAMENTARIAN
Russell Attebery
Karuk

COMMISSIONER
Marshall McKay
Wintun

COMMISSIONER
William Mungary
Paiute/White Mountain
Apache

COMMISSIONER
Julie Tumamait-
Stenslie
Chumash

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

EXECUTIVE SECRETARY
Christina Snider
Pomo

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

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:
Andrew.Green@nahc.ca.gov.

Sincerely,



Andrew Green
Cultural Resources Analyst

cc: State Clearinghouse



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October 26, 2020

Mr. Jeff Zwack, City Planner
City of Cypress
5275 Orange Avenue
Cypress, CA 90630

Subject: Notice of Preparation of a Draft Environmental Impact Report for the Cypress Town Center Project

Dear Mr. Zwack:

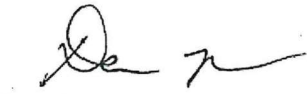
Thank you for providing the Orange County Transportation Authority (OCTA) with the Notice of Preparation (NOP) for the Cypress Town Center (Project). The following comments are provided for your consideration:

- While CEQA now uses vehicle miles traveled to identify transportation impacts, OCTA still requires level of service analysis to monitor Congestion Management Program (CMP) Highway System (HS) performance, per the CMP Traffic Impact Analysis Requirements. Such analysis may be submitted to OCTA separately from any CEQA documents. For more information, please refer to the 2019 CMP Report available here: <http://www.octa.net/Projects-and-Programs/Plans-and-Studies/Congestion-Management-Program/Overview/>.
- Please note that Katella Avenue and Valley View Street are part of the CMPHS. Additionally, the Katella Avenue/Valley View Street intersection is a CMP intersection. These roadways and this intersection should be analyzed for any potential traffic impacts consistent with the Orange County CMP.
- In the legend for Exhibit 3-9 of Appendix L, "Route 21" should be updated to the new name of "Route 123." It was correctly updated in the Transit Service text section.

Throughout the development of this project, we encourage communication with OCTA on any matters discussed herein. If you have any questions or comments, please contact me at (714) 560-5907 or at dphu@octa.net.

Zwack
October 26, 2020
Page 2

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Phu', with a stylized flourish at the end.

Dan Phu
Manager, Environmental Programs