

Memorandum

DATE	June 3, 2020		
TO	<p>Tim Maier, AICP Associate Planner Community Development Department City of Foster City 610 Foster City Boulevard Foster City, CA 94404</p> <p>tmaier@fostercity.org Direct: 650-286-3237</p> <p><i>Sent via e-mail</i></p>	FROM	<p>Emilio Balingit, Planner Carla Violet, Senior Planner</p>

RE: Response to Comments (RTC) on the Environmental Impact Report for the New Hotel in Metro Center General Development Plan Area

INTRODUCTION

This Response to Comments Memorandum (RTC Memo) has been prepared to document responses to comments received on the Draft Environmental Impact Report (Draft EIR) prepared for the new hotel proposed in the Metro Center General Development Plan (GDP) area (the project) (State Clearinghouse # 2019049065). The Draft EIR identifies the likely environmental consequences associated with the implementation of the project and recommends mitigation measures to reduce potentially significant impacts. This RTC Memo includes: a short description of the environmental review process and a discussion presenting the comments that were received on the Draft EIR and responses to those comments. This RTC Memo, together with the Draft EIR, constitutes the Final EIR for the new hotel proposed in the Metro Center GDP area project.

A. ENVIRONMENTAL REVIEW PROCESS

According to the California Environmental Quality Act (CEQA), lead agencies are required to consult with public agencies having jurisdiction over a project and to provide the general public with an opportunity to comment on the Draft EIR. The City of Foster City circulated a Notice of Preparation (NOP) that briefly described the project and the environmental topics that would be

evaluated in the Draft EIR. The NOP was initially published and submitted to the State Clearinghouse on April 8, 2019. The 30-day public comment period for the scope of the EIR lasted from April 10, 2019 to May 10, 2019. The NOP was sent to responsible and trustee agencies, organizations, and interested individuals. The NOP was also sent to the State Clearinghouse.

One public scoping session for the project was held on April 18, 2019 in conjunction with the Planning Commission meeting. No comments were received by the City on the NOP at the public scoping meeting. NOP comments were received from the State Department of Transportation (Caltrans) and the City/County Association of Governments of San Mateo County (C/CAG). No members of the general public provided any written or verbal comments on the NOP, although Hudson Pacific Properties, Inc., the corporate entity that manages the Declaration of Covenants, Conditions, and Restrictions for Metro Center, submitted a comment letter asking to be informed on the status of the project. The NOP and comment letters are included in Appendix A of the Draft EIR.

The Draft EIR was published on March 13, 2020 and distributed to applicable local and State agencies. Copies of the Notice of Availability of the Draft EIR (NOA) were mailed to all individuals previously requesting to be notified of the Draft EIR, in addition to those agencies and individuals who received a copy of the NOP.

The 45-day public comment period for the Draft EIR began on March 13, 2020 and ended on April 27, 2020. A public hearing was held for the Draft EIR after the closure of the comment period, on May 7, 2020. One comment letter from a member of the public was received and read aloud during the hearing. Members of the Foster City Planning Commission did not have any comments regarding the adequacy of the Draft EIR.

B. WRITTEN COMMENTS

During the 45-day comment period, the City received written comments from two public agencies and one individual. This memorandum includes a reproduction of each written comment letter (or email) in its entirety received on the Draft EIR. Written responses to each comment are provided. Written comments received during the public review period on the Draft EIR are provided in their entirety.

The comment letters are numbered consecutively following the A, B, and C designations. The letters are annotated in the margin according to the following code:

State, Local and Regional Agencies:	A#
Individuals and Organizations:	B#

The following agencies and individuals submitted written comments:

State, Local, and Regional Agencies		
A1	Native American Heritage Commission	March 20, 2020
A2	State of California Department of Transportation, District 4	April 9, 2020
Individuals		
B2	John and Elizabeth Burr	May 7, 2020

C. RESPONSES

Written responses to all comments on the Draft EIR are provided in this section. Letters received on the Draft EIR are provided in their entirety. Each letter is immediately followed by a response keyed to the specific comment. Please note that text within individual letters that has not been numbered does not raise environmental issues or relate to the adequacy of the information or analysis within the Draft EIR. As a result, no comment is enumerated or response required, per CEQA Guidelines Section 15132.

NATIVE AMERICAN HERITAGE COMMISSION

March 20, 2020

Marlene Subhashini
City of Foster City

Via Email to: msubhashini@fostercity.org
Cc Email to: tmaier@fostercity.org

Re: SCH#2019049065, New Hotel in Metro Center General Development Plan Area EIR Project, San Mateo County, California

Dear Ms. Subhashini:

The Native American Heritage Commission (NAHC) has reviewed the Draft Environmental Impact Report (DEIR)/Mitigated Negative Declaration (MND) or Negative Declaration prepared for the project referenced above. The review may have included the Cultural Resources Section, Archaeological Report, Appendices for Cultural Resources Compliance, as well as other informational materials. We have the following concerns:

- There is no information in the documents of any contact or consultation with all traditionally, culturally affiliated California Native American Tribes from the NAHC's contact list.
There does not appear to be evidence that possible mitigation measures were developed in consultation with the traditionally, culturally affiliated California Native American Tribes, for example when resources are found, avoidance or conservation easements.
There does not appear evidence that a cultural assessment was completed.

The California Environmental Quality Act (CEQA)1, specifically Public Resources Code section 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.2 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.3 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 with the area of project effect (APE).

CEQA was amended in 2014 by Assembly Bill 52 (AB 52).4 AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015. AB 52 created a separate category for "tribal cultural resources"5, that now includes "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.6 Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.7 Your project may also be subject to Senate Bill 18 (SB 18) (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or

1 Pub. Resources Code § 21000 et seq.
2 Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b)
3 Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1); CEQA Guidelines § 15064 (a)(1)



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amendment to a general plan or a specific plan, or the designation or proposed designation of open space. **Both SB 18 and AB 52 have tribal consultation requirements.** Additionally, 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 1966⁸ may also apply.

5,
cont.

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

Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. 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/>. Additional information regarding AB 52 can be found online at http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf, entitled "Tribal Consultation Under AB 52: Requirements and Best Practices".

6

The NAHC recommends lead agencies consult with all 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.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

7

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

Sincerely,



Sarah Fonseca
Cultural Resources Analyst

Attachment

cc: State Clearinghouse

Pertinent Statutory Information:

Under AB 52:

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements: 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. 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.⁴ and **prior to the release of a negative declaration, mitigated negative declaration or environmental impact report.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18).⁵

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.⁶

1. 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.

If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency.⁷

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 sections 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.⁸

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 section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.⁹

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.¹⁰

Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 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 section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable.¹¹

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 section 21084.3 (b).¹²

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:

⁴ Pub. Resources Code § 21080.3.1, subds. (d) and (e)

⁵ Pub. Resources Code § 21080.3.1 (b)

⁶ Pub. Resources Code § 21080.3.2 (a)

⁷ Pub. Resources Code § 21080.3.2 (a)

⁸ Pub. Resources Code § 21082.3 (c)(1)

⁹ Pub. Resources Code § 21082.3 (b)

¹⁰ Pub. Resources Code § 21080.3.2 (b)

¹¹ Pub. Resources Code § 21082.3 (a)

¹² Pub. Resources Code § 21082.3 (e)

Letter A1 - Attachment A

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 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 section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.¹³

This process should be documented in the Tribal Cultural Resources section of your environmental document.

Under SB 18:

Government Code § 65352.3 (a) (1) requires consultation with Native Americans on general plan proposals for the purposes of “preserving or mitigating impacts to places, features, and objects described § 5097.9 and § 5091.993 of the Public Resources Code that are located within the city or county’s jurisdiction. Government Code § 65560 (a), (b), and (c) provides for consultation with Native American tribes on the open-space element of a county or city general plan for the purposes of protecting places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

- SB 18 applies to **local governments** and requires them 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. 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
- **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.**¹⁴
- **There is no Statutory Time Limit on Tribal Consultation under the law.**
- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,¹⁵ 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 sections 5097.9 and 5097.993 that are within the city’s or county’s jurisdiction.¹⁶
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
 - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - 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.¹⁷

NAHC Recommendations for Cultural Resources Assessments:

- Contact the NAHC for:
 - 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.
 - A Native American Tribal Contact 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.
 - The request form can be found at <http://nahc.ca.gov/resources/forms/>.
- 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:
 - If part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have been already been recorded on or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.

¹³ Pub. Resources Code § 21082.3 (d)

¹⁴ (Gov. Code § 65352.3 (a)(2)).

¹⁵ pursuant to Gov. Code section 65040.2,

¹⁶ (Gov. Code § 65352.3 (b)).

¹⁷ (Tribal Consultation Guidelines, Governor’s Office of Planning and Research (2005) at p. 18).

Letter A1 - Attachment A

- 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.
 - 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.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

Examples of Mitigation Measures That May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- 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:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
- 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.
- 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.¹⁸
- Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.¹⁹

The lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.²⁰ 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.
- 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.
- 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 section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 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.

¹⁸ (Civ. Code § 815.3 (c)).

¹⁹ (Pub. Resources Code § 5097.991).

²⁰ per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).

Letter A1

State of California Native American Heritage Commission

Sarah Fonseca, Cultural Resources Analyst

Response 1. Public Resources Code Section 21080.3.1 (b) as modified by Assembly Bill (AB) 52, requires that prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report for a project, the lead agency shall begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. The City of Foster City has not received any requests from California Native American Tribes to be notified of projects in Foster City. Nonetheless, the NOP dated April 10, 2019, was distributed to the following tribes and affiliated organizations:

- Native American Heritage Commission
- Amah/Mutsun Tribal Band
- Coastanoan Rumsen Carmel Tribe
- Indian Canyon Mutsun Band of Costanoan
- Muwekma Ohlone Indian Tribe of the SF Bay Area
- The Ohlone Indian Tribe

No culturally affiliated California Native American Tribes responded to or provided comment on the NOP or otherwise requested consultation.

Response 2. Public Resources Code Section 21080.3.1 (e) as modified by per Assembly Bill (AB) 52 requires the lead agency to begin the consultation process within 30 days of receiving a California Native American tribe's request for consultation and Section 21080.3.2 sets forth a process, as a part of the consultation pursuant to Section 21080.3.1, for the parties to propose and agree to mitigation measures capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource. As discussed above no consultation was requested and further, no mitigation measures were proposed, by any California Native American Tribe. The City of Foster City's standard conditions of approval (SCOAs) include measures to assess and avoid damage to any cultural resources found during project construction. SCOAs 9.20 and 9.21 require that, in the event that historic cultural materials or human remains are discovered at the project site, the project sponsor contact a qualified archaeologist to assess the materials and provide recommendations to the City to avoid or minimize impacts to these materials. The City shall ensure that any mitigation involving excavation of the deposit is implemented prior to the resumption of actions that could adversely affect the deposit. These measures would be incorporated into the project's Standard Conditions of Approval and Mitigation Monitoring and Reporting Plan (SCAMMRP) and would ensure that any impacts to tribal cultural resources would be avoided or minimized.

Response 3. A cultural assessment was not prepared for the project. As discussed in the Draft EIR pages 314-316, with implementation of standard SCOAs, described above in Response 2, the project's impact on cultural resources was found to be less than significant through the scoping process and preliminary review. Additionally, the project site is not listed or eligible for listing in any local, State, or federal register of historic resources. The City of Foster City has not determined any resource within the project site to be significant. However, should cultural resources be found during project construction, the City of Foster City's SCOAs, described above in Response 2, include measures to assess and avoid damage to any cultural resources.

Response 4. As discussed on page 318 of the Draft EIR, "the project site is not 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 Code Section 5020.1(k). The City of Foster City has not determined any resource within the project site to be significant pursuant to the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. Therefore, the project's impacts to tribal cultural resources would not be significant and no mitigation measures are required." Accordingly, there is no potential for the project to cause a substantial adverse change in the significance of a historic resource.

Response 5. See Response 1 for the applicability of AB 52 to the project and steps taken to avoid damaging effects to tribal cultural resources. Senate Bill (SB) 18 does not apply to the project as the project does not involve adoption of an amendment to a general plan or specific plan or the designation of open space. The project is not subject to the federal National Environmental Policy Act. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response 6. This response acknowledges receipt of the comment regarding best practices for tribal consultation. The comments do not address the adequacy of the Draft EIR; no further response is necessary.

Response 7. This response acknowledges receipt of the summary of AB 52 and SB 18. The comments do not address the adequacy of the Draft EIR; no further response is necessary.

DEPARTMENT OF TRANSPORTATION

DISTRICT 4

OFFICE OF TRANSIT AND COMMUNITY PLANNING

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*Making Conservation
a California Way of Life.*

April 9, 2020

SCH #2019049065

GTS # 04-SM-2019-00245

GTS ID: 15259

Co/Rt/Pm: SM/92/R13.44

Marlene Subhashini, Director
Community Development, City of Foster City
610 Foster City Boulevard
Foster City, CA 94404

Metro Center Hotel- Draft Environmental Impact Report (DEIR)

Dear Marlene Subhashini:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Metro Center Hotel Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the March 2020 DEIR.

1

Project Understanding

The project proposes development of a new, seven-story hotel (approximately 89 feet tall) with a ground-level parking garage and additional parking provided in a surface lot to the rear of the project site. The parking garage and surface parking lot would accommodate 141 parking stalls. The hotel would feature up to 156 guest rooms on the upper floors; totaling approximately 83,190 square feet. The project is located on an approximately 1.36-acre site at the intersection of Metro Center Boulevard and Shell Boulevard in central Foster City. SR-92 is located approximately 2,000 feet from the proposed project site and access would be from Metro City Boulevard and the on-ramps to SR-92.

2

Highway Operations

If project-generated transportation impacts ramp operations, impacts shall be mitigated or fair share fees shall be allocated for such mitigation. Ramp operation locations include:

3

- SR-92 WB ramps/Chess Drive,
- SR-92 EB ramps/Metro Center Boulevard, and
- SR-92 EB ramp/Mariners Island Boulevard.

The project applicant shall coordinate with the City of Foster City and Caltrans if there are any project impacts to the STN.

3
(cont.)

Encroachment Permit

Please be advised that any permanent work or temporary traffic control that encroaches onto the ROW requires a Caltrans-issued encroachment permit. If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As part of the encroachment permit submittal process, you may be asked by the Office of Encroachment Permits to submit a completed encroachment permit application, six (6) sets of plans clearly delineating the State ROW, six (6) copies of signed, dated and stamped (include stamp expiration date) traffic control plans, this comment letter, your response to the comment letter, and where applicable, the following items: new or amended Maintenance Agreement (MA), approved Design Standard Decision Document (DSDD), approved encroachment exception request, and/or airspace lease agreement.

4

To download the permit application and to obtain more information on all required documentation, visit <https://dot.ca.gov/programs/traffic-operations/ep/applications>.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Laurel Sears at 510-286-5614 or laurel.sears@dot.ca.gov.

5

Sincerely,



Mark Leong
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Letter A2

State of California Department of Transportation, District 4

Mark Leong, District Branch Chief

Response 1. These introductory comments are noted. The comments do not address the adequacy of the Draft EIR; no further response is necessary.

Response 2. The agency's understanding of the project does not address the adequacy of the Draft EIR; no further response is necessary.

Response 3. As described in *Chapter V.C, Transportation*, of the Draft EIR, any impacts to the ramps leading to State Route 92 at Chess Drive, Metro Center Boulevard, and Mariners Island Boulevard resulting from project-generated traffic would be minimal and not significantly degrade level of service from existing conditions. The comments do not address the adequacy of the Draft EIR; no further response is necessary.

Response 4. The encroachment permit requirements are noted. The comments do not address the adequacy of the Draft EIR; no further response is necessary.

Response 5. The closing remarks do not address the adequacy of the Draft EIR; no further response is necessary.

Letter B1

From: BURR 3 <jeburr@comcast.net>
Sent: Thursday, May 7, 2020 10:30 AM
To: Timothy Maier <tmaier@fostercity.org>
Subject: Fwd: Concerns Regarding Proposed Hotel at Metro Center and Shell Blvds.

Hi Tim.

Apologies, but I forgot to include you on this email regarding our concerns tonight for the public hearing on the proposed hotel.

Hope you are well and staying safe.

The Burr Family.

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

From: BURR 3 <jeburr@comcast.net>
To: publiccomment@fostercity.org
Date: May 7, 2020 at 10:18 AM
Subject: Concerns Regarding Proposed Hotel at Metro Center and Shell Blvds.

Good day.

As home owners within the Cityhomes East townhome complex we will be directly affected by not only the construction of the proposed hotel but the long term operation of the property as well. As such, we have several concerns spanning both the proposed construction and operational phases that have not been adequately addressed to date. | 1

1. My wife and I work off-shift hours and will be at home during the day, so how long is pylon installation expected to last? This will definitely impact our daily lives for a while. | 2

2. How many pylons will be placed into the ground to support the structure? | 3

3. What is the expected decibel level during pylon installation? | 4

- 4. What is the vibration level associated with pylon installation? | 5
- 5. How much should we expect our home to "shake and rattle" during pylon installation? We are concerned not only for visible damage but unseen damage to our structure as well given our home is ~33 years old and 20 yards from the proposed hotel property. | 6
- 6. How will the construction dust be controlled? The Foster City winds blow directly across the proposed hotel property into the side of our home. We are worried that we will not be able to open any of our windows because dust and dirt will be blown into the house. Every time we open the garage door dust and dirt comes in which then gets tracked into the house. Even with the garage door closed (garage doors are never perfectly sealed) dust and dirt will get in. Not only would the home be soiled, but this will most likely affect our allergies and asthma. | 7
- 7. There are also concerns of hotel trash bin placement and pick-up. Large vehicles traveling down the street between Cityhomes East and the proposed hotel property generate a lot of noise and we are concerned about the potential disturbance during "quiet" hours. How will this be addressed? | 8
- 8. As for the proposed hotel parking garage, how much noise does the proposed car lift system make? Will the noise carry over to Cityhomes East? If so, will there be restrictions on operational hours? | 9

Thank you for considering and addressing our concerns.

John and Elizabeth Burr
 8 East Court Lane
 Foster City, CA 94404

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Letter B1

John and Elizabeth Burr

Response 1. These introductory comments are noted. The comments do not address the adequacy of the Draft EIR; no further response is necessary.

Response 2. It is assumed that the commenter is referring to foundation pile installation (i.e., pile-driving) when referring to "pylon installation". Pile installation is expected to be part of the grading phase and is expected to be between 14-21 calendar days, depending on weather. As discussed in the Draft EIR (pages 258-261), the proposed project is required to comply with applicable SCOA's. SCOA 2.9 specifies required measures to address and track construction noise complaints during construction by designating a noise disturbance coordinator. SCOA 9.1 provides limits on the days and hours of construction to avoid generating noise when it would be most objectionable to neighboring residences. SCOA 9.2 requires all engine-driven construction vehicles, equipment, and pneumatic tools to use effective intake and exhaust mufflers; to be properly adjusted and maintained; and to be equipped with mufflers in accordance with OSHA standards. SCOA 9.10 requires the greatest possible distance between the stationary construction equipment and the sensitive receptors near the project site. SCOA 9.11 requires the greatest possible distance between the staging areas and the sensitive receptors near the project site. SCOA 9.12 limits idling times to no longer than five minutes when not in use.

SCOA 9.1 limits construction activities to weekdays between 8 a.m. and 5 p.m., with any deviations being subject to City approval. This SCOA is designed to protect residential areas from evening and nighttime noise, when it could interfere with residents' sleep and quiet enjoyment of their homes. It is not feasible to restrict construction hours further.

The Draft EIR found implementation of the above SCOA's would reduce construction noise to the extent feasible. However, the amount of noise reduction that would result from implementation of the SCOA's is not practicably quantifiable, and the construction of the proposed project could still generate noise levels that conflict with the maximum noise limits established by Foster City Municipal Code regulations. As a result, the Draft EIR found potential construction noise to be a significant impact and the proposed project is required to comply with Mitigation Measure NOISE-1, which is described on pages 260- 261 of the Draft EIR.

Response 3. The project would require approximately 45 foundation piles.

Response 4. The Draft EIR analyzed the impacts associated with pile installation, assuming that an impact pile driver (the loudest type of pile driver) would be used. However, it was later clarified by the project applicant (during a Regular Meeting of the Foster City Planning Commission on March 5, 2020) that a drilled pile installation method (using an auger drill rig) would likely be used for this project.

As indicated in Table V.I-6 of the Draft EIR (page 259), decibel levels during pile installation could reach 95 A-weighted decibels (dBA) at 50 feet if an impact pile driver would be used. It was not explicitly analyzed for the impacts associated with using an auger drill because the Draft EIR analyzed the reasonable worst-case scenario (i.e., use of an impact pile driver). More recent calculations indicate that use of a drilled pile approach would reduce noise levels (relative to impact pile driving) to approximately 88 dBA at 50 feet. As indicated in Table V.I-6 of the Draft EIR, a buffer distance of 13 feet is required from source to project site boundary to avoid exceedance of 100 dBA. As described in Mitigation Measure NOISE-1 (page 260), should construction activities be required within the buffer distance, the project applicant shall obtain prior authorization and comply with any special mitigation measures as determined by the Community Development Director.

Response 5. The Draft EIR analyzed the impacts associated with pile installation by using an impact pile driver. However, it was clarified that drilled method (with an auger drill) would likely be used for this project during a Regular Meeting of the Foster City Planning Commission on March 5, 2020.

Vibration is measured by peak particle velocity (PPV) and root-mean-square (RMS) velocity. PPV is used to analyze potential for vibration to damage buildings and structures while RMS is used to analyze disturbance to people.

Table V.I-8 of the Draft EIR (page 266) indicates the buffer distances needed to keep vibration levels generated by various construction activities below the threshold to prevent cosmetic damage to structures. For buildings such as those at the Cityhomes East residences, the PPV threshold is 0.3 inches per second. This table shows that buildings at least 109 feet away from the most vibration-intensive construction activity, impact pile driving, would not receive vibration levels above this threshold. This estimate is conservative and considers the distance needed from the upper range of vibration generated by an impact pile driver. For most typical pile drivers, the buffer distance to reduce vibration below this threshold is 50 feet.

The commenter's property is located at 8 East Court Lane. After the study session in August 2019, the applicant made changes to the design of the project to eliminate the proposed parking garage and include surface parking only at the rear of the site. This change shifted the most intensive construction activity to the northwest portion of the project site, furthest away from the Cityhomes East residences. With this modification, the property at 8 East Court Lane is about 145 feet from the proposed hotel where the closest pile installation would occur. Therefore, vibration damage would not be expected to occur at the property at 8 East Court Lane during pile installation under the drilled pile scenario.

RMS velocity is used to measure human response to vibration and is expressed in vibration decibels (VdB). The approximate threshold for human perception of vibration is 65 VdB. As described on page 256 of the Draft EIR, occasional events (between 30 and 70 vibration events per day) must generate less than 75 VdB to prevent disturbance to people. As indicated in Table V.I-8, a buffer distance of 63 feet is required from drilled piles to avoid exceedance of vibration disturbance

threshold and a buffer distance of 8.3 feet is required from drilled piles to avoid exceedance of vibration damage threshold. As described above, the closest pile installation under the revised hotel plan would occur at least 145 feet away from the Cityhomes East residences. At this distance, vibration from drilled piles would be below perceptible levels.

Furthermore, pile installation and grading, which are the most vibration intensive construction activities, are expected to take no longer than 14-21 calendar days. Even during this period, extreme noise and vibration events would be infrequent. Due to the infrequency of such events and the short time period over which they could potentially occur, it is not expected that residents of the Cityhomes East townhomes would be disturbed by construction-generated vibration.

Response 6. As discussed under Response 5, a drilled pile installation method (with an auger drill) would likely be used for this project for pile installation instead of an impact pile driver. As discussed under Response 5, a buffer distance of 8.3 feet is required from drilled piles to avoid exceedance of vibration damage threshold. The buffer distances were calculated assuming buildings with engineered concrete and masonry (no plaster), which is a conservative method consistent with Federal Transit Administration guidance. Therefore, vibration damage would not be expected to occur at the property at 8 East Court Lane during pile installation under the drilled pile scenario which is about 145 feet from the proposed hotel where pile installation would occur.

Response 7. The City's SCOA 9.12 contains measures to control dust during construction. The project is required to implement these measures during project construction. SCOA 9.12 mandates that the project sponsor:

- Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing sensitive land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers to control dust;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; and
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
- Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible.
- Water trucks shall be present and in use at the construction site.
- All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the City in order to insure proper control of blowing dust for the duration of the project.
- Watering on public streets shall not occur.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.

- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations (CCR). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the City Engineer.
- Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 7 p.m. and shall include at least one late-afternoon watering to minimize the effects of blowing dust.
- All public streets and medians soiled or littered due to this construction activity shall be cleaned and swept on a daily basis during the workweek to the satisfaction of the City.
- Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Response 8. The noise impact from trash pick-up was considered in the Draft EIR (see page 262). The loading and unloading area would be located on the northwestern side of the project site adjacent to Metro Center Boulevard, and therefore as far away from the Cityhomes East residences as possible. However, because the loading and unloading area is within 300 feet from the Cityhomes East residences, trash pick-up activities would be limited to between 7:30 a.m. and 8:00 p.m. on weekdays and between 9:00 a.m. and 8:00 p.m. on weekends and holidays per the Foster City Municipal Code. In addition, the Draft EIR analyzed noise from loading and unloading activities and compared to the noise standards of the City Ordinance and found that no exceedance would occur. Furthermore, SCOA 1.12 requires development of a plan to minimize noise from truck arrival or unloading operations if this becomes a problem. For example, if the City receives complaints from surrounding receptors, the applicant would be required to develop and implement a plan to further minimize the effects on nearby receptors.

Response 9. After the study session in August 2019, the applicant made changes to the design of the project to include surface parking at the rear of the site and mechanical parking lifts located below the building podium. A noise study conducted by Veneklasen Associates and included in the appendix of this RTC found that the CityLifts puzzle parking lifts which the applicant intends to install produces approximately 63 dBA at a 5-foot distance during its loudest phase of operation. The Draft EIR Table V.I-2, located on page 245, indicates that normal conversation at a 3-foot distance is approximately 65 dBA. Thus, at a 5-foot distance the parking lifts would generate less

noise than normal conversation. As described in the Draft EIR (page 243), noise levels at a known distance from point sources are reduced by 6 dBA for every doubling of that distance over hard surfaces. The parking lifts are located approximately 145 feet away from the shared property line with the Cityhomes East townhomes. At this distance, the noise level from the parking lifts would be reduced by 24 dBA. The perceived noise of the parking lifts at the property line with the Cityhomes East residences would be approximately 41 dBA, roughly approximate to a whispered conversation (42 dBA).

It is expected that the noise generated by the parking lifts would be nearly imperceptible to residents of Cityhomes East and thus there is no plan to restrict the operational hours of the parking lifts.

D. TEXT REVISIONS

This RTC Memo presents one specific revision to the text of the Draft EIR that was initiated by City staff for the purpose of clarifying the title of the project in the Draft EIR. Added text is indicated with underlined text. Deletions are shown with ~~strikeouts~~. The cover and title pages of the Draft EIR are shown in Attachment B. Revisions presented in this RTC Memo do not significantly alter the conclusions or findings of the Draft EIR.

Cover and title pages are revised as follows:

New Hotel in Metro Center ~~Hotel Project~~ General Development Plan Area

E. APPENDIX

Attachment A: Veneklasen Associates, 2018. Sound Measurements of Parking Lift Operation.

Attachment B: Revised Draft EIR cover and title pages

ATTACHMENT A

**VENEKLASEN ASSOCIATES, 2018. SOUND MEASUREMENTS OF PARKING LIFT
OPERATION**

NEW HOTEL IN METRO CENTER GENERAL DEVELOPMENT PLAN AREA
APPENDIX A: VENEKLASEN ASSOCIATES, 2018. SOUND MEASUREMENTS OF PARKING LIFT OPERATION

September 6, 2018

CityLift
 811 W. 7th Street
 Los Angeles, CA 90017

Attention: Melissa Kakuk, VP Business Development

Subject: CityLift Puzzle
 Sound Measurements of Parking Lift Operation
 VA Project No. 7246-001

Dear Melissa:

Veneklasen Associates, Inc. (VA) has prepared this memo to document sound level measurements of a CityLift parking lift product in an installed condition. This memo documents VA's measurement procedure and results.

Measurement Procedure and Observations

VA conducted a site visit on June 27, 2018 to measure sound levels due to the operation of a CityLift Puzzle model 2LP installed at Broadway Grand Garage. The measured model consists of two (2) levels by three (3) stacks with five (5) SEW electric motors and five vehicle pads. Note that only one motor is ever running at once during a vehicle movement.

All sound levels were measured with a Bruel and Kjaer type 2270 sound level meter in third-octave bands and in terms of the Leq (equivalent continuous sound level). The Leq is defined as the steady sound pressure level which, over a given period of time, has the same total energy as the actual fluctuating noise. VA measured sounds levels due to typical operation of the CityLift product (i.e. vehicle pads moving vertically and horizontally) as well as with the product not moving (i.e. ambient). The motors were observed to be the main sound sources with secondary sound originating from other Puzzle components (e.g. gates).

Results

The following table shows the results from VA's measurements.

Table 1 - Measured Sound Levels

CityLift Product	Operation	Sound Level (dBA L _{eq} measured @ 5ft)
Puzzle 2LP (2 levels by 3 stacks)	No Movement (Ambient)	50
	Vertical Vehicle Movement	59
	Horizontal Vehicle Movement	63

Other configurations of the Puzzle parking lift product are available (e.g. 6 levels by 3 stacks). Assuming the same components for the measured model 2LP are used for other configurations (e.g. SEW electric motor), VA expects Puzzle sound levels to be virtually the same regardless of differences in parking lift height or movement duration.

Please feel free to contact us with any questions or comments.

Respectfully submitted,
Veneklasen Associates, Inc.



Richard H. Silva
Senior Associate



Kevin Patterson
Associate

ATTACHMENT B

REVISED DRAFT EIR COVER AND TITLE PAGES

NEW HOTEL IN METRO CENTER GENERAL DEVELOPMENT PLAN AREA
ATTACHMENT B: REVISED DRAFT EIR COVER AND TITLE PAGES

NEW HOTEL IN METRO CENTER GENERAL DEVELOPMENT PLAN AREA

Final Environmental Impact Report
State Clearinghouse No. 2019049065



Prepared for:
City of Foster City

June 2020

URBAN
PLANNING
PARTNERS
INC.

NEW HOTEL IN METRO CENTER GENERAL DEVELOPMENT PLAN AREA

Final Environmental Impact Report
State Clearinghouse No. 2019049065

Prepared for the City of Foster City

By:

Urban Planning Partners
388 17th Street, Suite 230
Oakland, CA 94612

With:

BASELINE Environmental Consulting
Fehr & Peers

June 2020

The logo for Urban Planning Partners Inc. is a solid orange square containing the text "URBAN PLANNING PARTNERS INC." in white, uppercase, sans-serif font, arranged in four lines.

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