

COMMENTS

RESPONSES

From: Mauricio Alvarez <malvarez@riversidetransit.com>
Sent: Thursday, December 23, 2021 9:49 AM
To: Damaris Abraham <dabraham@lake-elsinore.org>
Subject: [External]Bamiyan Marketplace TTM 37578 CUP2019-03

Good Morning Damaris,

RTA has reviewed the plans you have sent regarding the Bamiyan Marketplace project and have a few comments:

- A-1 ☐ 1. Per the plans, there is a proposed turnout at the intersection of Grand & Macy, which is fantastic. I have attached RTA's Bus Stop Design Guidelines to use as a reference for the turnout. It is on page 27.
- A-2 ☐ 2. Is the intersection of Grand & Macy controlled – traffic signal?
- A-3 ☐ 3. Will the other side of Grand Ave be improved as well, as part of this project? We have a bus stop near this project located across the street, on Grand & Macy, for the opposite direction. A crosswalk is planned for this intersection. I would recommend adding an ADA compliant pathway, so that residents can utilize the bus stop facilities for the opposite direction. I have provided an image below.

Thank you,

Mauricio



Mauricio Alvarez, MBA

Planning Analyst
 Riverside Transit Agency
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 1825 Third Street, Riverside, CA 92507

- A-1 The City appreciates the Riverside Transit Agency providing the Bus Stop Guidelines and will consult this resource during design and construction of the project's proposed bus turnout.
- A-2 In the current condition, the intersection of Macy Street and Grand Avenue includes cross-street (Macy Street) stop traffic control. As part of the proposed project, a new traffic signal would be installed at this intersection to provide traffic control.
- A-3 The northern side of Grand Avenue, including the location of the bus stop mentioned in this comment, would not be improved as part of the proposed project. The applicant is responsible for improvements along the project site's frontages, which include the eastern side of Macy Street, the southern side of Grand Avenue, and the western side of Ortega Highway. While no pathway would be provided on the northern side of Grand Avenue as part of this project, crosswalks would be provided across Macy Street and Grand Avenue as part of the project's improvements at this intersection, which would allow for safe crossing of the roadways to access the bus stop.

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JASON E. UHLEY
General Manager-Chief Engineer



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RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

January 7, 2022

241895

City of Lake Elsinore
130 South Main Street
Lake Elsinore, CA 92530

Attention: Damaris Abraham

Re: PA 2019-07, CDR 2019-05,
CUP 2019-03, TM 37578

The Riverside County Flood Control and Water Conservation District (District) does not normally recommend conditions for land divisions or other land use cases in incorporated cities. The District also does not plan check City land use cases or provide State Division of Real Estate letters or other flood hazard reports for such cases. District comments/recommendations for such cases are normally limited to items of specific interest to the District including District Master Drainage Plan facilities, other regional flood control and drainage facilities which could be considered a logical component or extension of a master plan system, and District Area Drainage Plan fees (development mitigation fees). In addition, information of a general nature is provided.

The District's review is based on the above-referenced project transmittal, received December 17, 2021. The District has not reviewed the proposed project in detail, and the following comments do not in any way constitute or imply District approval or endorsement of the proposed project with respect to flood hazard, public health and safety, or any other such issue:


- ☐ This project would not be impacted by District Master Drainage Plan facilities, nor are other facilities of regional interest proposed.
- ☐ This project involves District proposed Master Drainage Plan facilities, namely, _____. The District will accept ownership of such facilities on written request of the City. Facilities must be constructed to District standards, and District plan check and inspection will be required for District acceptance. Plan check, inspection, and administrative fees will be required.
- ☐ This project proposes channels, storm drains 36 inches or larger in diameter, or other facilities that could be considered regional in nature and/or a logical extension of the adopted ____ Master Drainage Plan. The District would consider accepting ownership of such facilities on written request of the City. Facilities must be constructed to District standards, and District plan check and inspection will be required for District acceptance. Plan check, inspection, and administrative fees will be required.
- ☐ This project is located within the limits of the District's West Elsinore Area Drainage Plan for which drainage fees have been adopted. If the project is proposing to create additional impervious surface area, applicable fees should be paid by cashier's check or money order only

B-1

B-1 Project construction would occur over a portion of the Riverside County Flood Control and Water Conservation District's (District's) Ortega Channel that traverses the site in an existing underground conduit, and therefore an encroachment permit will be obtained. This permit requirement will be a condition of project approval and has been incorporated into the Final IS/MND. Revisions to the Draft IS/MND are provided in strike-out/underline format to signify deletions and insertions in the Final IS/MND text. Project construction would not result in physical adverse impacts to the facility. In addition, a new easement would be established that would include provisions for reciprocal access during the District's periodic maintenance operations for the Ortega Channel.

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	<p>City of Lake Elsinore Re: PA 2019-07, CDR 2019-05, CUP 2019-03, TM 37578</p>	<p>- 2 - January 7, 2022 241895</p>
<p>B-1 cont.</p>	<p>to the Flood Control District or City prior to issuance of grading or building permits. Fees to be paid should be at the rate in effect at the time of issuance of the actual permit.</p> <p><input checked="" type="checkbox"/> An encroachment permit shall be obtained for any construction related activities occurring within District right of way or facilities, namely, <u>Ortega Channel</u>. For further information, contact the District's Encroachment Permit Section at 951.955.1266.</p> <p><input type="checkbox"/> The District's previous comments are still valid.</p>	
<p>B-2</p>	<p>GENERAL INFORMATION</p> <p>This project may require a National Pollutant Discharge Elimination System (NPDES) permit from the State Water Resources Control Board. Clearance for grading, recordation, or other final approval should not be given until the City has determined that the project has been granted a permit or is shown to be exempt.</p>	<p>B-2 As indicated on page 12 of the IS/MND, the project would obtain a National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction of Land Disturbance Activities prior to the start of construction at the site. The information included in this comment is consistent with that provided in the Draft IS/MND.</p>
<p>B-3</p>	<p>If this project involves a Federal Emergency Management Agency (FEMA) mapped floodplain, then the City should require the applicant to provide all studies, calculations, plans, and other information required to meet FEMA requirements, and should further require that the applicant obtain a Conditional Letter of Map Revision (CLOMR) prior to grading, recordation, or other final approval of the project and a Letter of Map Revision (LOMR) prior to occupancy.</p>	<p>B-3 As stated on page 60 of the IS/MND, the project site is not located within a Federal Emergency Management Agency (FEMA) special flood hazard area and therefore does not require flood-related studies, a Conditional Letter of Map Revision (CLOMR), or a Letter of Map Revision (LOMR).</p>
<p>B-4</p>	<p>If a natural watercourse or mapped floodplain is impacted by this project, the City should require the applicant to obtain a Section 1602 Agreement from the California Department of Fish and Wildlife and a Clean Water Act Section 404 Permit from the U.S. Army Corps of Engineers, or written correspondence from these agencies indicating the project is exempt from these requirements. A Clean Water Act Section 401 Water Quality Certification may be required from the local California Regional Water Quality Control Board prior to issuance of the Corps 404 permit.</p>	<p>B-4 There are no natural watercourses on the project site and no direct impacts to an off-site watercourse would occur from project implementation. Potential indirect impacts to off-site watercourses would be avoided through implementation of mitigation measure MM BIO-3.</p>
	<p>Very truly yours,</p> <p></p> <p>DEBORAH DE CHAMBEAU Engineering Project Manager</p>	
	<p>cc: Riverside County Planning Department Attn: Phayvanh Nanthavongdouangsy</p> <p>WMC:blm</p>	

COMMENTS

RESPONSES

From: Michele Fahley <mfahley@pechanga-nsn.gov>
Sent: Friday, January 14, 2022 3:06 PM
To: Damaris Abraham <dabraham@lake-elsinore.org>; David Mann <david@ceqa.com>; Jason Simpson <jsimpson@Lake-Elsinore.org>; Justin Kirk <jkirk@Lake-Elsinore.org>
Cc: Ebru Ozdil <eo2dil@pechanga-nsn.gov>; Juan Ochoa <jchoa@pechanga-nsn.gov>; Andrea Fernandez <afernandez@pechanga-nsn.gov>
Subject: [External]Pechanga Band Comments on PA 2010-07 Bamiyan Marketplace Project MND
Importance: High

Damaris,

The Tribe submits these comments concerning the draft MND and the Project's potential impacts to cultural resources in conjunction with the environmental review of the Project. We request that these comments be included in the record for this project.

C-1

The Tribe's immediate concern is that this MND has been issued for public review in violation of AB 52. This project is subject to that statute, and the Pechanga Tribe requested consultation on September 26, 2019, and had its initial (and only) consultation on February 21, 2020. Pechanga also notified the City both in our request for consultation and during our consultation that the project lies within a Traditional Cultural Property (TCP), which is a Tribal Cultural Resource under AB 52 and CEQA. The MND lacks any discussion of the TCRs, and simply adopts mitigation measures, none of which were ever discussed with the Tribe. The MND fails to even acknowledge the presence of tribal cultural resources and lacks any discussion of the impacts thereto. This is a violation of the law. Further, the mitigation measures were never discussed with the Tribe and have not been agreed upon, as demanded by the statute. (See PRC Sections 21080.3.2 and 21082.3). In short,

1

C-1

The IS/MND has not been issued for public review in violation of state law. Assembly Bill (AB) 52 requires that the Lead Agency begin the consultation process prior to the release of an IS/MND. As detailed in this comment, the Pechanga Band of Luiseño Mission Indians (Tribe) and City had an initial consultation on February 21, 2020. The public review period for the IS/MND began on Friday, December 17, 2021, which is after the commencement of the initial consultation between the Tribe and City. As such, the City's tribal process is not in violation of AB 52. In addition, the City has attempted to proceed with the consultation process and has provided the Tribe the Cultural Resources Survey Report prepared for the project and other project-related materials on January 30, 2020 to which the City has not received any comment or response.

The IS/MND includes analysis specific to potential impacts to tribal cultural resources (TCRs) from the project on pages 73 and 74. As discussed therein, a records search conducted at the Eastern Information Center indicated that 28 cultural resources have been identified within a one-mile radius of the project site, which include prehistoric lithic artifact scatters and prehistoric isolates that may be considered potentially significant TCRs. None of the resources are located within the project site, and no new resources were identified during the field survey conducted at the project site. In addition, as discussed on page 73 of the IS/MND, to identify the potential presence of TCRs at the project site, a Sacred Lands File Search was conducted with the Native American Heritage Commission. The results of Sacred Lands File Search were negative and no resources have been previously identified in the immediate project area. It is noted in the IS/MND, however, that cultural resources and TCRs may still be present at the project site, especially based on the project site's proximity to Lake Elsinore, which is associated with past human occupation. To ensure that potential impacts to TCRs from project implementation are less than significant, the IS/MND includes mitigation measures MM CUL-1 through MM CUL 7.

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C-1 cont.	<p>this MND is fatally flawed and fails to comport with even the basic requirements of AB 52 and CEQA. The Tribe informed the City of the significance of the Project's vicinity to the Tribe and the TCP. In our one and only consultation (February 21, 2020), Pechanga informed the City that because the project lies within a TCP/TCR, this project would need to be presented to it's Tribal Council. Pechanga has had no other notification from the City regarding this project since that date. The Tribe is perplexed why the City is issuing an MND which so clearly falls short of CEQA's requirement. Despite the MND's assertion that consultation is on-going, the City has failed to document the tribal information and assess the project's impacts to known and identified tribal cultural resources. AB 52 requires these steps be completed before an environmental document may be issued.</p>	<p>C-1 cont. Further, as described on page 74 of the IS/MND, AB 52 consultation with the Tribe is ongoing through the IS/MND public review period. Comments related to revisions to the mitigation measures have not yet been received by the Tribe through either AB 52 consultation or comments to the public review IS/MND. Overall, the IS/MND evaluation related to tribal cultural resources is compliant with AB 52 and CEQA.</p>
C-2	<p>The proposed draft MND does not address the TCP – nor even mention it, actually – and there is no assessment of impacts to the TCP. The Mitigated Negative Declaration as proposed is not sufficient and does not meet CEQA's mandates. Further, any mitigation contained therein is deferred mitigation. The measures do not address impacts to the TCP because the MND itself does not address the TCP. Since the impacts to the TCRs have not been assessed, mitigation measures (or Conditions of Approval) cannot yet be adopted because the City does not even know what is being mitigated. This is another violation of CEQA.</p>	<p>C-2 As discussed in response C-1, the IS/MND includes analysis specific to potential impacts to TCRs, which encompass Traditional Cultural Properties (TCPs). No TCRs were identified at the site during the records search, pedestrian survey, or Sacred Lands File Search with the Native American Heritage Commission; however, it was determined in the IS/MND that TCRs could be present at the project site. Thus, the IS/MND identifies the potential impact to be mitigated and, in response, the MND includes mitigation measures to reduce potential impacts to a less than significant level.</p>
C-3	<p>The Pechanga Tribe, which is engaged in government-to-government consultation with the City as lead agency, hereby requests that the City pull back the MND from public review. This document was issued for public review in violation of CEQA. The City must complete consultation with the Tribe before this document can withstand public review.</p> <p>Thank you,</p> <p>Michele Fahley Deputy General Counsel Pechanga Indian Reservation P.O. Box 1477 Temecula, CA 92592 Direct Tel.: (951) 770-6179 Fax: (951) 694-0734 Cell: (951) 252-4098</p> <p><small>CONFIDENTIAL COMMUNICATION: This message is a confidential attorney communication only for use by the intended recipient. Any inadvertent receipt shall not constitute a waiver of attorney-client or work product protection. If you are not the intended recipient or authorized agent for the intended recipient, you have received this message and attachments in error, and any review, dissemination, or reproduction is strictly prohibited. If you are not the intended recipient, please immediately notify Michele Fahley by reply email or by telephone at (951) 770-6179, and destroy the original transmission and its attachments without reading them or saving them. Thank you for your cooperation.</small></p>	<p>C-3 As discussed in response C-1, the City has attempted to proceed with the consultation process and has provided the Tribe the Cultural Resources Survey Report prepared for the project and other project-related materials on January 30, 2020 to which the City has not received any comment or response. AB 52 requires that the Lead Agency begin the consultation process prior to the release of an IS/MND, which was done for the proposed project. Therefore, the environmental process is in compliance with the requirements of AB 52.</p>