# Appendix A

Notice of Preparation (NOP) and NOP Comments



# NOTICE OF PREPARATION

# of a Draft Program Environmental Impact Report Notice of Public Scoping Meeting

**Project:** Santee Town Center Specific Plan Update

**Project Case Files:** General Plan Amendment GPA2023-1, Town Center Specific Plan Amendment TCSPA2023-1, Rezone 2023-1, Zoning Ordinance Amendment ZA2023-2,

Environmental Impact Report AEIS2023-2

**Project Proponent**: City of Santee

Project Location: Town Center, Arts & Entertainment Overlay District, Strategic Housing

Element Sites 16A, 16B, 20A, 20B (refer to Table 1 and Figure 2)

**Environmental Impact Report:** The City of Santee is preparing a Program Environmental Impact Report (EIR) addressing a comprehensive update to the City of Santee Town Center Specific Plan (TCSP), including updates to the Santee Arts & Entertainment Overlay District (AEOD), and conceptual planning and objective design standards for four large strategic housing sites, which were analyzed programmatically within the Sixth Cycle Housing Element EIR. The City will be the lead agency under the California Environmental Quality Act (CEQA) for the project. This Notice of Preparation (NOP) describes the proposed project that will be analyzed in the Program EIR and identifies areas of probable environmental effects of the project.

As specified in the CEQA Guidelines, the Notice of Preparation will be circulated for a 30-day review period. Agencies, organizations, and interested members of the public are invited to provide input on the scope of the environmental analysis. If you are a responsible or trustee agency, the views of your agency are requested as to the scope and content of the environmental information which is germane to your agency's statutory responsibilities in connection with the proposed project. In the event that no response or well justified request for additional time is received by any responsible agency or trustee agency by the end of the review period, we presume that these agencies have no response. Comments may be submitted in writing during the review period and addressed to:

Michael Coyne, Principal Planner
City of Santee Planning & Building Department
10601 Magnolia Avenue
Santee, CA 92071
Telephone: (619) 258-4100 ext. 160

Telephone: (619) 258-4100 ext. 160 Email: mcoyne@cityofsanteeca.gov

The Notice of Preparation comment period commences September 1, 2023 and closes at 5:00 p.m. on October 16, 2023. All comments concerning this environmental document must be submitted in writing to Michael Coyne, Principal Planner, prior to the close of the public comment period as noted above. Please indicate a contact person in your comment. The City will consider all written comments received during the noticed public review period prior to approving the project.

# **Public Scoping Meeting:**

The City will hold a scoping meeting to provide an opportunity for agency staff and interested members of the public to submit comments, either written or verbal, on the scope of the environmental issues to be addressed in the Program EIR. The scoping meeting will be held on September 7, 2023 between 3:00 p.m. and 5:00 p.m. at the City of Santee, Building 5, 10601 Magnolia Avenue, Santee, CA 92071.

# **Project Background:**

In October 1986, the City of Santee completed a focused effort to plan for the development of property in its geographic core known as the Town Center Specific Plan (TCSP). The TCSP establishes guidelines for creating a people- and transit-oriented hub for commercial, civic, and residential uses along the San Diego River. Since its adoption, the TCSP has been amended 16 times, with the latest amendment, Amendment 19-1 adopted in December 2019, establishing the AEOD. The primary goal of the AEOD is to support tourism in the City and attract commercial, educational, and recreational uses that beautify and enliven portions of the Town Center.

More recently, on July 14, 2021, the City Council adopted the Sixth Cycle Housing Element, which included within its Sites Inventory four strategic housing sites (Sites 16A, 16B, 20A, 20B) within the TCSP area that were identified as sites intended to be developed with transit-oriented multifamily residential uses that support the inclusion of affordable housing. The City has also recently adopted a few other plans that are relevant to ongoing planning in the TCSP area, including the Sustainable Santee Plan, the City of Santee Mobility Element, and the Active Santee Plan.

# **Proposed Project:**

The proposed project consists of a comprehensive update to the TCSP to modify or establish new land use designations, land uses, development standards, and conceptual guidelines that would apply to future development within the TCSP area. As part of this effort, the City of Santee would also make modifications to the Arts & Entertainment District and provide objective design standards and conceptual designs for strategic Housing Element sites within the TCSP. See Figure 1, *Regional Location*, and Figure 2, *Project Boundaries*, for illustrations of the location and regional context of the project. A more detailed description of each of the proposed project components is described below.

# Town Center Specific Plan

Amendments to the TCSP would incorporate relevant updates to the plan's vision, land use permissions, and development standards. As part of the updates, new text and graphics would be developed and organized into a series of chapters, such as: Introduction, Land Use and Urban Form, Mobility and Beautification, Infrastructure and Public Facilities, Implementation, and Administration. Text and concepts that remain relevant to the vision and goals of the TCSP would be maintained and incorporated into the updated TCSP document format and structure.

The amended TCSP would incorporate updated allowable and permitted land uses and development standards tailored to the project area. The updated TCSP would include graphics that illustrate the planned land use concepts and the plan's vision at key sites. As part of the TCSP, the circulation network exhibits of the plan would be updated, including the bicycle, pedestrian, and transit network maps, and street cross sections. The TCSP would include concepts for key improvements in the public right-of-way to enhance circulation within the project area. The TCSP would incorporate concepts to illustrate wayfinding and branding signage at important locations within the public right-of-way and public trails, such as signs tailored for pedestrian, bicyclists and transit users, signs designed to direct vehicular traffic and refer to parking areas, as well as iconic gateway structures that enhance the identity and sense of place in the project area.

The TCSP would also outline fundamental elements for the administration of the plan, such as the process for future specific plan amendments, and the development review, permit, and approval process for projects within the TCSP area. Additionally, the TCSP would address the relationship between the TCSP document and other planning documents, as well as consistency with the General Plan. The TCSP would also include a section describing how to use the document and guide reviewers and applicants through the path for review and approval of proposals within the TCSP area.

Finally, the TCSP amendment would also incorporate an adjustment to the Specific Plan boundaries to include additional sites such as the shopping center located at the northwest corner of Mission Gorge Road and Cuyamaca Road, and the shopping center located west of Cuyamaca Road, between Mission Creek Drive and River Park Drive. As a result of the boundary adjustment, the TCSP area would expand from 609.70 to 651.42 acres<sup>1</sup>. Increasing a total of 41.72 acres.

# **Arts & Entertainment Overlay District**

The TCSP would include an amendment to the AEOD. As discussed above, the City adopted the AEOD in 2019, with the intent of encouraging the development of an Arts & Entertainment district within a significant portion of the TCSP. The update would

<sup>&</sup>lt;sup>1</sup>The original Town Center Specific Plan published in 1986 cited the TCSP area as 706 acres, however amendments to the plan have reduced the Specific Plan total acreage. Additionally, the original acreage was based on an estimate, due to improved geographic information software over time, the number of reported acres in the TCSP has changed as the accuracy of the data has increased.

incorporate the vision, guidelines, and development standards specific to the AEOD as a subsection of the Land Use and Urban Form chapter of the TCSP. This section of the TCSP would also incorporate tailored land use designations that support uses related to art and culture, entertainment, commercial recreation, visitor, and civic uses.

The update to the vision and development standards for the AEOD would aim to enhance connections to the San Diego River, strengthen the sense of place by creating an attraction for residents and visitors to gather, and public space concepts that would incorporate streetscape concepts with features such as landscaping, water elements, shade, lighting, and wayfinding. The concepts would also aim to create a central destination within the TCSP area, with a strong emphasis on connecting Arts & Entertainment to the natural environment.

Additionally, the update would incorporate an adjustment to the AEOD boundaries to include additional sites such as the open space designated areas along the San Diego River, areas north of the San Diego River, south of Riverwalk Drive, west of River Park Drive, east of Cuyamaca Street, and west of Magnolia Avenue. As a result of the boundary adjustments, the AEOD area would expand from 172.49<sup>2</sup> to 341.72 acres, increasing by a total of 169.23 acres. See Figures 2 and 3 for more details.

# Four Strategic Housing Element Sites (2021-2029 Sixth Cycle)

The City Council adopted the Housing Element (2021-2029 Sixth Cycle) on May 11, 2022. The Housing Element (HE) was prepared in compliance with State housing law as determined by the California Department of Housing and Community Development (HCD) on December 6, 2022. The HE included a Sites Inventory map and table (figure C-1 and table C-1 of the HE), that included a series of sites that are currently undeveloped or underutilized. The identified sites provide an opportunity for the City to meet its Regional Housing Needs Allocation (RHNA) housing production goals. Four strategic undeveloped housing sites identified in the Sites Inventory are located within the boundary of the TCSP and the AEOD. The sites are identified as 16A, 16B, 20A, and 20B. Sites 16A and 16B are undeveloped sites located just north of Mission Gorge Road and east of Riverview Parkway in the Santee Town Center. The area surrounding the sites is primarily developed with Santee Trolley Square immediately west of the site, the Las Colinas Detention Facility to the east, and open space associated with the San Diego River to the north. A portion of Site 16A is located within the Airport Safety Zone 4 as designated in the Gillespie Field Land Use Compatibility Plan (ALUCP). Sites 20A and 20B are undeveloped sites located just west of Magnolia Avenue, south of Riverview Parkway, and east of Edgemoor Drive. Sites 20A and 20B surround the Historic Edgemoor Polo or Dairy Barn. To the west of Site 20A is the Las Colinas Detention Facility, to the east is a gated 55+ manufactured home community. Site 20B is bordered by single-family residential homes to the south, multifamily residential to the east, and Las Colinas and

<sup>&</sup>lt;sup>2</sup> The 2019 Art and Entertainment Overlay District refers to 155 acres; however, current GIS data shows 172 acres for the same area.

Riverview Office Park to the west. A portion of the site is located within the Gillespie Field ALUCP Airport Safety Zone 4. The sites are proposed to be developed with residential uses.

The HE Implementation Program identified specific sites that would require to be rezoned to allow for residential uses, and/or to allow for the estimated housing capacity included in the HE. The Housing Element proposed zoning changes for sites 16A, 16B, 20A, and 20B. As part of the realization of the Housing Element Implementation Program, the City analyzed and approved the re-zone of the four above-mentioned sites and adopted the rezoning on October 26, 2022. The zoning for sites 16A, 16B, 20A, and 20B as a result of the HE Implementation Program can be found in Table 1, *Housing Element Sites Zoning*.

Site	Size (acres)	Current Zoning	Current Density
16A	11.11	Residential (TC-R-30)	Minimum of 30 du/ac, Maximum of 36 du/ac
16B	8.61	Residential (TC-R-14)	Minimum of 14 du/ac, Maximum of 22 du/ac
20A	7.75	Residential (TC-R-22)	Minimum of 22 du/ac, Maximum of 30 du/ac
20B	10.00	Residential (TC-R-30)	Minimum of 30 du/ac, Maximum of 36 du/ac

**Table 1, Housing Element Sites Zoning** 

To further advance the housing production in Santee, City staff applied for a Housing Acceleration Program (HAP) grant from the San Diego Association of Governments (SANDAG). The grant application was awarded to the City. The HAP grant provides funding for project-level analysis of HE sites 16A, 16B, 20A, and 20B. The amended TCSP will include graphics and data that illustrate site planning and development concepts for each of these sites based on the maximum allowable density allowed by zoning. The EIR will analyze these sites at a project-level of detail.

**Discretionary Actions:** Discretionary actions associated with the project include a General Plan Amendment GPA2023-1, Town Center Specific Plan Amendment TCSPA2023-1, Rezone 2023-1, Zoning Ordinance Amendment ZA2023-2, Environmental Impact Report AEIS2023-2.

**Project Alternatives:** The EIR will evaluate a reasonable range of project alternatives, including the required No Project Alternative.

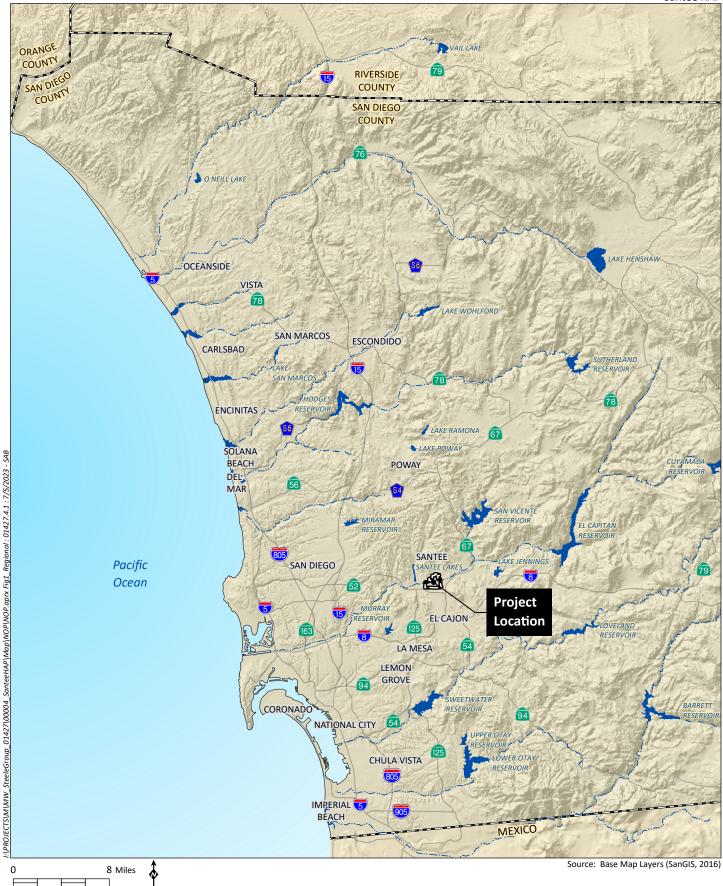
**Potential Environmental Effects:** The EIR will describe the reasonably foreseeable and potentially significant adverse effects of the proposed project (both direct and indirect) at a programmatic level for the TCSP and the AEOD and at a project level for the four Housing Sites. The EIR also will evaluate the cumulative impacts of the project when considered in conjunction with other related past, present, and reasonably foreseeable future projects. The City anticipates that the proposed project could result in potentially

significant environmental impacts in the following topic areas, which will be further evaluated in the EIR:

- Aesthetics/Visual
- Agriculture and Forestry Resources
- 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
- Utilities and Service Systems
- Wildfire
- Cumulative Effects
- Growth Inducing Effects

As environmental documentation for this project is completed, it will be available for review at the City's Planning & Building Department located in Building 4 at Santee City Hall, 10601 Magnolia Avenue, Santee, CA 92071, and online at:

https://www.cityofsanteeca.gov/services/project-environmental-review







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# California Department of Transportation

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October 12, 2023

11-SD-52, 67 PM VAR Santee Town Center Specific Plan Update NOP/SCH# 2023090032

Mr. Michael Coyne Principal Planner City of Santee Department of Development Services 10601 Magnolia Avenue Santee, CA 92701

Governor's Office of Planning & Research

Oct 13 2023

STATE CLEARING HOUSE

Dear Mr. Coyne:

Thank you for including the California Department of Transportation (Caltrans) in the Notice of Preparation (NOP) for a Draft Program Environmental Impact Report (Draft PEIR) for the Town Center Specific Plan Update, located near State Routes 52 (SR-52) and 67 (SR-67), in the city of Santee. The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment. The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with Caltrans' mission and state planning priorities.

Safety is one of Caltrans' strategic goals. Caltrans strives to make the year 2050 the first year without a single death or serious injury on California's roads. We are striving for more equitable outcomes for the transportation network's diverse users. To achieve these ambitious goals, we will pursue meaningful collaboration with our partners. We encourage the implementation of new technologies, innovations, and best practices that will enhance the safety on the transportation network. These pursuits are both ambitious and urgent, and their accomplishment involves a focused departure from the status quo as we continue to institutionalize safety in all our work.

Caltrans is committed to prioritizing projects that are equitable and provide meaningful benefits to historically underserved communities, to ultimately improve transportation accessibility and quality of life for people in the communities we serve. We look forward to working with the City of Santee in areas where the City and Caltrans have joint jurisdiction to improve the transportation network and connections

between various modes of travel, with the goal of improving the experience of those who use the transportation system.

Caltrans has the following comments:

# Traffic Impact Study

- A Vehicle Miles of Travel (VMT) based Traffic Impact Study (TIS) should be provided for this project. Please use the Governor's Office of Planning and Research Guidance to identify VMT related impacts.<sup>1</sup>
- The TIS may also need to identify the proposed project's near-term and longterm safety or operational issues, on or adjacent any existing or proposed State facilities.
- The Draft PEIR should include language that any proposed developments will complete a Local Mobility Analysis as required per the City of Santee regulations.

# **State Route Design Corridor**

There are several Caltrans improvements to SR-52 west of the Town Center that are currently in the planning stage:

- Convert the existing two-way bike path on the north side of SR-52 to a 4.3-mile long westbound truck climbing lane from Mast Boulevard to the summit.
- Restripe westbound SR-52 from 2 lanes to 3 lanes from SR-125 to Mast Boulevard.
- Relocate the existing 4.6-mile long two-way bike path on the north side of SR-52 to the south side including one 10-foot wide light weight cantilevered separated bike path on two existing bridges, respectively.
- Restripe eastbound SR-52 from 2 lanes to 3 lanes from Mast Boulevard to east of the San Diego River Bridge, eliminating the lane drop at Mast Boulevard and maintaining three eastbound through lanes to SR-125.
- Widen the westbound on-ramp from Mast Boulevard to SR-52 to a two-lane ramp.

Another feature being considered is to convert the westbound #1 lane to a High Occupancy Vehicle (HOV) or managed lane and these alternatives will be further studied.

<sup>&</sup>lt;sup>1</sup> California Governor's Office of Planning and Research (OPR) 2018. "Technical Advisory on Evaluating Transportation Impacts in CEQA." <a href="https://opr.ca.gov/docs/20190122-743\_Technical\_Advisory.pdf">https://opr.ca.gov/docs/20190122-743\_Technical\_Advisory.pdf</a>

<sup>&</sup>quot;Provide a safe and reliable transportation network that serves all people and respects the environment"

There are several Caltrans improvements to SR-67 east of the Town Center that are currently in the planning stage:

- Modifications to the SR-67 and Riverford Road interchange are necessary to improve local and regional traffic, facilitate transit services, and improve trail, bicycle and pedestrian connectivity.
- The widening of the existing Bradley Avenue bridge from a two-lane structure to six lanes with new shoulders, and sidewalks.
- The SR-67 Highway Improvements Project proposes operational and safety improvements to travel lanes, shoulders, medians, traffic signals, and emergency access lanes in San Diego County through the City of Poway and unincorporated communities from Mapleview Street in Lakeside to Highland Valley/Dye Road in Ramona.

# Complete Streets and Mobility Network

Caltrans views all transportation improvements as opportunities to improve safety, access, and mobility for all travelers in California and recognizes bicycle, pedestrian and transit modes as integral elements of the transportation network. Caltrans supports improved transit accommodation through the provision of Park and Ride facilities, improved bicycle and pedestrian access and safety improvements, signal prioritization for transit, bus on shoulders, ramp improvements, or other enhancements that promotes a complete and integrated transportation network. Early coordination with Caltrans, in locations that may affect both Caltrans and the City of Santee, is encouraged.

To reduce greenhouse gas emissions and achieve California's Climate Change targets, Caltrans is implementing Complete Streets and Climate Change policies into State Highway Operations and Protection Program (SHOPP) projects to meet multimodal mobility needs. Caltrans looks forward to working with the City to evaluate potential Complete Streets projects.

Bicycle, pedestrian, and public transit access during construction is important. Mitigation to maintain bicycle, pedestrian, and public transit access during construction is in accordance with Caltrans' goals and policies.

#### Land Use and Smart Growth

Caltrans recognizes there is a strong link between transportation and land use. Development can have a significant impact on traffic and congestion on State transportation facilities. In particular, the pattern of land use can affect both local vehicle miles traveled and the number of trips. Caltrans supports collaboration with

local agencies to work towards a safe, functional, interconnected, multi-modal transportation network integrated through applicable "smart growth" type land use planning and policies.

The City should continue to coordinate with Caltrans to implement necessary improvements at intersections and interchanges where the agencies have joint jurisdiction.

#### **Climate Action**

Caltrans supports the City's efforts to reduce GHG emissions as per SB 32, SB 743, SB 375, SB 379 and various Executive orders. As an environmentally conscious agency, Caltrans strives to work with partner agencies in order to reduce GHG emissions and adapt to the impacts of climate change on the state highway system. Caltrans looks forward to reviewing the proposed policies, plans and projects contained in the future Draft PEIR. For additional information regarding Caltrans' policies, plans, guidance and strategies related to climate change impacts please refer to documents such as, but not limited to, Caltrans Climate Change Vulnerability Assessment, Caltrans Climate Change Adaptation Priorities Report, Caltrans Climate Change Adaptation Strategies Report, Caltrans Climate Change Communication Guide and Caltrans GHG Emissions Mitigation Report.

# System Planning

The Coast, Canyons, and Trails Comprehensive Multimodal Corridor Plan (CMCP) should be reviewed and incorporated in the development of the Santee Town Center Specific Plan Update. The final document and appendices are located here: <a href="SANDAG">SANDAG</a> - SR 52 Coast, Canyons, and Trails. Particular attention should be given to the transportation solution strategies listed in Appendix D. There are numerous strategies listed in the document, including:

- Mobility hub enhancements at Santee Town Center
  - o Microtransit (Strategy ID TM06)
  - o EV charging stations (MH16)
  - o Lockers for safe retail deliveries (MH32)
  - Multilingual wayfinding, real-time information, and interactive kiosks (MH39)
  - Parking for shared rideables (MH47)
  - o Pedestrian enhancements within ½ mile of a major mobility hub node: complete missing sidewalks and signalized intersection crossing enhancements such as continental crosswalks, advance stop bars, pedestrian countdown signal heads, LPIs, and signage (MH56)

<sup>&</sup>quot;Provide a safe and reliable transportation network that serves all people and respects the environment"

- Flexible fleet enhancements at Santee Transit Center
  - o Rideshare services (FF18)
  - o Mobile retail services (FF19)
  - o Micromobility shared rideables (FF20)
- Bus route improvements
  - o Route 832 Santee Town Center to North Santee (TR24)
  - o Route 834 Santee Town Center to West Santee (TR25)
- New rapid bus routes
  - o Rapid 870 El Cajon to Torrey Pines via Santee (TR15, TR16, TR17)
  - o Rapid 880 El Cajon to UC San Diego via Santee (TR18, TR19)
  - o Rapid 890 El Cajon to Sorrento Mesa via Santee (TR20, TR21, TR22)
- Active transportation
  - Class I bike paths along the San Diego River (CC122), Fanita Pkwy (CC134), and portions of Mission Gorge Rd (CC123) and Mast Blvd (CC135)
  - o San Diego River Trail Grade Separated (Class I) Crossing (CC136)
  - Class II bike lanes along arterials such as Cottonwood Ave. (CC132),
     Magnolia Ave (CC124), and portions of Prospect Ave. (CC131)
  - o Class III bike route along Mission Greens Road (CC133)
  - Pedestrian hybrid beacons at the San Diego River and Cuyamaca St (CC158), Forester Creek Trail and Mission Gorge Road (CC159), and Forester Creek Trail and Prospect Ave. (CC160)
- Intelligent Transportation Systems (ITS) improvements
  - Mission Gorge Road and Cuyamaca Street Convert general purpose lanes or shoulder/parking to flex lanes to be dynamically reserved for transit, shuttles, rideshare, carshare, and/or electric vehicles to relieve congestion and improve travel times (CC19, NO37, CC20, NO38)
  - Mast Blvd, Mission Gorge Road, and Magnolia Avenue Install smart intersection technology to give priority to transit, freight, and emergency vehicles and reduce intersection conflicts between vehicles, pedestrians, and cyclists, improving safety for vulnerable road users (NO05, NO06, NO17)
  - Physical signage and ITS infrastructure in Santee should be implemented to support flexible curb usage and accommodate for changing demand (NO25)

<sup>&</sup>quot;Provide a safe and reliable transportation network that serves all people and respects the environment"

The San Vicente CMCP study area includes a portion of the City of Santee, but the CMCP document does not feature any projects relevant to the Santee Town Center Specific Plan. The final document and appendices are located here: <u>SANDAG - SR 67 San Vicente</u>.

The SANDAG 2021 Regional Plan (available here: <u>SANDAG - Final 2021 Regional Plan</u>) recommends the following projects near Santee Town Center:

- San Diego River Trail Mast Park to Lakeside baseball park (Project ID AT061)
- Complete Corridors Regional Arterials on Mast Blvd and Magnolia Ave
- Rapid 870 El Cajon to UTC via Santee, SR 52, I-805 (TL50)
- Rapid 890 El Cajon to Sorrento Mesa via Santee, SR 52, I-805 (TL51)
- LRT 530 Green Line Santee to Downtown; double/third tracking and grade separations (TL16, TL17)

#### **Environmental**

Caltrans welcomes the opportunity to be a Responsible Agency under the California Environmental Quality Act (CEQA), as we have some discretionary authority of a portion of the project that is in Caltrans' Right-of-Way (R/W) through the form of an encroachment permit process. We look forward to the coordination of our efforts to ensure that Caltrans can adopt the alternative and/or mitigation measure for our R/W. We would appreciate meeting with you to discuss the elements of the Environmental Document that Caltrans will use for our subsequent environmental compliance.

An encroachment permit will be required for any work within the Caltrans' R/W prior to construction. As part of the encroachment permit process, the applicant must provide approved final environmental documents for this project, corresponding technical studies, and necessary regulatory and resource agency permits. Specifically, CEQA determination or exemption. The supporting documents must address all environmental impacts within the Caltrans' R/W and address any impacts from avoidance and/or mitigation measures.

We recommend that this project specifically identifies and assesses potential impacts caused by the project or impacts from mitigation efforts that occur within Caltrans' R/W that includes impacts to the natural environment, infrastructure including but not limited to highways, roadways, structures, intelligent transportation systems elements, on-ramps and off-ramps, and appurtenant features including but not limited to fencing, lighting, signage, drainage, guardrail, slopes and landscaping. Caltrans is interested in any additional mitigation measures identified for the project's draft Environmental Document.

Should future projects based upon the changes enacted from the General Plan have elements and/or mitigation measures that affect Caltrans' R/W, Caltrans would welcome the opportunity to be a Responsible Agency under CEQA.

#### Broadband

Caltrans recognizes that teleworking and remote learning lessen the impacts of traffic on our roadways and surrounding communities. This reduces the amount of VMT and decreases the amount of greenhouse gas (GHG) emissions and other pollutants. The availability of affordable and reliable, high-speed broadband is a key component in supporting travel demand management and reaching the state's transportation and climate action goals.

# Right-of-Way

- Per Business and Profession Code 8771, perpetuation of survey monuments by a licensed land surveyor is required, if they are being destroyed by any construction.
- Any work performed within Caltrans' R/W will require discretionary review and approval by Caltrans and an encroachment permit will be required for any work within the Caltrans' R/W prior to construction.

If you have any questions, please contact Mark McCumsey at (619) 985-4957 or by email at <a href="mark.mccumsey@dot.ca.gov">mark.mccumsey@dot.ca.gov</a>.

Sincerely,

Maurice A. Eaton

MAURICE EATON
Branch Chief
Local Development and Intergovernmental Review

<sup>&</sup>quot;Provide a safe and reliable transportation network that serves all people and respects the environment"



U.S. FISH AND WILDLIFE SERVICE Carlsbad Fish and Wildlife Office 2177 Salk Avenue, Suite 250 Carlsbad, California 92008



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE South Coast Region 3883 Ruffin Road San Diego, California 92123

In Reply Refer To: FWS/CDFW-2023-0128792-CEQA EIR-SD

#### Michael Coyne

Principal Planner City of Santee 10601 Magnolia Avenue Santee, California 92071



October 16, 2023 Sent Electronically

Subject: Comments on the Notice of Preparation of an Environmental Impact Report for the

Santee Town Center Specific Plan Update (SCH #2023090032)

#### Dear Michael Coyne:

The U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Wildlife (Department), hereafter collectively referred to as the Wildlife Agencies, have reviewed the above-referenced Notice of Preparation (NOP) for the Santee Town Center Specific Plan Update (Project) dated September 5, 2023. Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect biological resources.

The primary concern and mandate of the Service is the protection of fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and threatened and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Federal Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), including habitat conservation plans (HCP) developed under section 10(a)(l) of the Act. The Department is a Trustee Agency with jurisdiction over natural resources affected by the project [California Environmental Quality Act (CEQA) Guidelines §15386] and is a Responsible Agency under CEQA Guidelines Section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA; Fish and Game Code §2050 *et seq.*) and Fish and Game Code Section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning (NCCP) Program, a California regional habitat conservation planning program. The City of Santee (City) participates in the NCCP program through their enrollment in the County of San Diego Subregional Multiple Species Conservation Program (MSCP) and the development of their MSCP Subarea Plan (subarea plan).

The City is preparing a Program Environmental Impact Report (EIR) addressing a comprehensive update to the Santee Town Center Specific Plan (TCSP). Proposed updates to the TCSP would modify or establish new land use designations, land uses, development standards, and conceptual

## Michael Coyne (FWS/CDFW-2023-0128792-CEQA\_EIR-SD)

guidelines for future development in a core area of the City along the San Diego River. The update is also anticipated to expand the TCSP boundaries to incorporate designated open space areas along the San Diego River.

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The Wildlife Agencies offer the following comments and recommendations to assist the City in adequately identifying and/or mitigating the Project's significant, direct and indirect impacts on fish and wildlife (biological) resources and to ensure the Project is consistent with ongoing regional conservation planning efforts.

- 1. Consistency with the Draft Subarea Plan: The Wildlife Agencies are currently working with the City on the development of the City's subarea plan. Compliance with approved habitat plans, such as the MSCP, is required by CEQA. Specifically, section 15125(d) of the CEQA Guidelines requires that an EIR discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. We encourage the City to carefully evaluate the consistency of the proposed Project with the draft subarea plan and request that the draft Program EIR includes an assessment of the Project's consistency with the draft subarea plan. In particular, the NOP describes proposed changes to the Arts and Entertainment Overlay District (AEOD) that may encourage impacts within or near the San Diego River. The San Diego River has habitat that supports important populations of wildlife, including federally listed bird species. In addition, much of the area along the San Diego River within the proposed AEOD is included in the draft subarea plan's open space network either as protected open space, San Diego River conservation opportunity area, or City-owned preserve. Any proposed changes should not lead to new, unanticipated direct or indirect impacts or otherwise compromise the conservation goals developed in the draft subarea plan for this habitat and the species it supports.
- 2. Biological Baseline Assessment: The DEIR should provide a complete assessment of the flora and fauna within the project area, with particular emphasis upon identifying endangered, threatened, sensitive, locally unique species, including any proposed Covered Species under the draft subarea plan, and sensitive habitats. Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. CDFW's California Natural Diversity Data Base<sup>1</sup> (CNDDB) in Sacramento should be consulted to obtain current information on any previously reported sensitive species and habitat. Sensitive species with potential to occur within the Project area include: San Diego ambrosia (Ambrosia pumila), willowy monardella [Monardella viminea (M. linoides subsp. v.)], western spadefoot toad (Spea hammondii), Belding's orange-throated whiptail (Aspidoscelis hyperythra beldingi), and least Bell's vireo (Vireo bellii pusillus). Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, should be conducted. Acceptable species-specific survey procedures should be developed in consultation with the Wildlife Agencies, as needed.

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<sup>&</sup>lt;sup>1</sup> https://wildlife.ca.gov/Data/BIOS.

- 3. <u>Biological Direct, Indirect, and Cumulative Impacts</u>: To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the DEIR:
  - a. Specific acreages of habitat types that will be impacted due to Project-related activities. Details should be provided on whether impacts will be temporary or permanent.
  - b. Potential adverse impacts from lighting, noise, human activity, invasive species, and drainage. Mitigation measures proposed to alleviate such impacts in onsite undeveloped areas and onto adjacent lands should be included.
  - c. Indirect project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with an NCCP or HCP). Impacts on, and maintenance of, wildlife corridors, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR.
  - d. Cumulative effects on biological resources. This analysis should be developed as described under CEQA Guidelines, section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
- 4. Sensitive Bird Species: We recommend that measures be taken to avoid Project-related impacts to nesting birds, such as tricolored blackbird (Agelaius tricolor) and western burrowing owl (Athene cunicularia hypugaea). Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of native birds and their active nests including raptors and other migratory nongame birds (as listed under the MBTA). Project activities including (but not limited to) staging and disturbances to native and nonnative vegetation, structures, and substrates should occur outside of the avian breeding season which generally runs from February 15 through August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, surveys by a qualified biologist with experience in conducting breeding bird surveys should be conducted to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). Project personnel, including all contractors working onsite, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

# Michael Coyne (FWS/CDFW-2023-0128792-CEQA\_EIR-SD)

The following comments (5 and 6) are specific to the Department:

- 5. Wetlands and Riparian Habitats: The Department has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project applicant (or "entity") must provide written notification to the Department pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, the Department determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. The Department's issuance of a LSAA for a Project that is subject to CEOA will require CEOA compliance actions by the Department as a Responsible Agency. To minimize additional requirements by the Department pursuant to section 1600 et seq. and/or under CEQA, the Program EIR should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSAA. Please visit the Department's Lake and Streambed Alteration Program<sup>2</sup> (ca.gov) for more information (CDFW 2021).
- 6. Crotch's Bumble Bee: The California Fish and Game Commission accepted a petition to list the Crotch's bumble bee (*Bombus crotchii*) as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. The Department considers adverse impacts to a species protected by CESA, for the purposes of CEQA, to be significant without mitigation. Therefore, we recommend the Project area be assessed to determine the potential for Crotch's bumble bee to occur onsite. Crotch's bumble bees primarily nest in late February through late October underground in abandoned small mammal burrows (Williams *et al.* 2014; Hatfield *et al.* 2018). Overwintering sites utilized by Crotch's bumble bee queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams *et al.* 2014).

The Department recommends that a qualified entomologist familiar with the species' behavior and life history should conduct surveys within 1 year prior to vegetation removal and/or ground disturbance to determine the presence/absence of Crotch's bumble bee. If bumble bees are detected, the qualified entomologist should notify the Department immediately to avoid take and ensure compliance with CESA. The Department has published a <u>Survey Considerations document for CESA Candidate Bumble Bees</u>. This document describes factors such as evaluating potential for presence, habitat assessment, and survey methods.

We appreciate the opportunity to comment on this NOP. The comments and recommendations provided are based on our knowledge of listed, sensitive, and declining vegetation communities

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<sup>&</sup>lt;sup>2</sup> https://wildlife.ca.gov/Conservation/Environmental-Review/LSA.

<sup>&</sup>lt;sup>3</sup> https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline.

## Michael Coyne (FWS/CDFW-2023-0128792-CEQA\_EIR-SD)

in the City. If you have questions or comments regarding this letter, please contact <u>Eric Porter</u><sup>4</sup> of the Service at 760-431-9440, or <u>Heather Schmalbach</u><sup>5</sup> of the Department.

Sincerely,

JONATHA Digitally signed by JONATHAN SNYDER Date: 2023.10.16 14:25:36 -07'00'

Jonathan D. Snyder Assistant Field Supervisor U.S. Fish and Wildlife Service

cc:

State Clearinghouse, <sup>6</sup> Sacramento. <u>David Mayer</u>, <sup>7</sup> CDFW. <u>Karen Drewe</u>, <sup>8</sup> CDFW. <u>Melanie Burlaza</u>, <sup>9</sup> CDFW. <u>Jonathan D. Snyder</u>, <sup>10</sup> USFWS. DocuSigned by:

David Mayer

D700B4520375406

David Mayer Environmental Program Manager California Department of Fish and Wildlife

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<sup>&</sup>lt;sup>4</sup>Eric\_Porter@fws.gov.

<sup>&</sup>lt;sup>5</sup> Heather.Schmalbach@wildlife.ca.gov.

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<sup>&</sup>lt;sup>10</sup> Jonathan\_D\_Snyder@fws.gov.

## LITERATURE CITED

- [CDFW] California Department of Fish and Wildlife. 2021. Lake and Streambed Alteration Program. Available from: https://wildlife.ca.gov/Conservation/LSA.
- Goulson, D. 2010. Bumblebees: behavior, ecology, and conservation. Oxford University Press, New York.
- Hatfield, R., S. Jepsen, S. Foltz Jordan, M. Blackburn, A. Code. 2018. A Petition to the State of California Fish and Game Commission to List Four Species of Bumblebees as Endangered Species.
- Williams, P.H., R.W. Thorp, L.L. Richardson, and S.R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey.

From: Michael Coyne

Sent: Wednesday, October 11, 2023 12:21 PM

To: 'Lubich, Marcus'

Cc: Tylke, Melanie; Shorb, Elyce; Yara Fisher; Marni Borg

Subject: RE: NOP of DPEIR for Santee Town Center Specific Plan Update I

**County Comments** 

Thank you for your comments.

# Míchael Coyne, AICP

Principal Planner
Planning & Building Department
(619) 258-4100 x 160
mcoyne@cityofsanteeca.gov



From: Lubich, Marcus < Marcus.Lubich@sdcounty.ca.gov>

**Sent:** Wednesday, October 11, 2023 12:12 PM **To:** Michael Coyne <mcoyne@CityofSanteeCa.gov>

Cc: Tylke, Melanie < Melanie. Tylke@sdcounty.ca.gov>; Shorb, Elyce

<Elyce.Shorb@sdcounty.ca.gov>

Subject: NOP of DPEIR for Santee Town Center Specific Plan Update I County Comments

Micheal,

Please find County of San Diego Department of General Services comments below on the NOP of a Draft PEIR for the Santee Town Center Specific Plan Update.

- Housing Element Sites 20A and 20B are owned by the County and the Draft PEIR should analyze project alternatives in which the County develops the property differently than the currently proposed options. Other project alternatives should consider civic uses since this is County-owned property that has yet to be declared surplus property. The NOP does not recognize County ownership of key properties being studied in detailed and a project alternative not subject to the TCSP regulations should be analyzed for the County.
- Since the draft TCSP and PEIR are proposing retail village, performing arts, and dance studio on the Polo Barn site, which is in a FEMA floodplain, the PEIR should analyze the

impacts of locating structures within the floodplain/floodway and identify appropriate mitigation measures.

Don't hesitate to contact me with any questions.

# Thank you, Marcus Lubich, MPA

Project Manager I Asset Management Division Cell: 858-414-4593







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# NATIVE AMERICAN HERITAGE COMMISSION

September 5, 2023

Michael Coyne City of Santee 10601 Magnolia Avenue Santee, CA 92071 **Governor's Office of Planning & Research** 

September 11 2023

**STATE CLEARINGHOUSE** 

Re: 2023090032, Santee Town Center Specific Plan Update Project, San Diego County

Dear Mr. Coyne:

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

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

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

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

**AB 52** 

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

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
  - **a.** A brief description of the project.
  - **b.** The lead agency contact information.
  - **c.** Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
  - **d.** A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
- **2.** Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
  - **a.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
- **3.** <u>Mandatory Topics of Consultation If Requested by a Tribe</u>: 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.** <u>Discretionary Topics of Consultation</u>: 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.** <u>Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:</u> 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)).

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. <u>Tribal Consultation</u>: 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: <a href="http://nahc.ca.gov/resources/forms/">http://nahc.ca.gov/resources/forms/</a>.

#### 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 (https://ohp.parks.ca.gov/?page\_id=30331) 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: <u>Pricilla.Torres-Fuentes@nahc.ca.gov</u>.

Sincerely,

Pricilla Torres-Fuentes Cultural Resources Analyst

Pricilla Torres-Fuentes

cc: State Clearinghouse