

Response to Comments
Marriott AC/Residence Inn
Case Numbers P19-0560 (Conditional Use Permit)
P19-0561 (Variance)
P19-0562 (Variance)

Prepared for:
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April 14, 2021

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Introduction

A Class 32 Infill Development Checklist was prepared for the Greens Group Marriott AC/Residence Inn Project (Proposed Project) and made available for public review with the staff report for the Proposed Project that was published on the City of Riverside website in advance of its Planning Commission Meeting to take place on April 15, 2021 at 9am.

Although CEQA (California Public Resources Code, Section 21000 et seq.) and the CEQA Guidelines (14 CCR 15000 et seq.) do not explicitly require a lead agency to provide written responses to comments received on a proposed Class 32 Infill Development Exemption, the lead agency may do so voluntarily.

Comment letters were received by City Staff, which have been evaluated by the environmental consultant and are summarized in Table 1. A copy of each letter with annotated comment numbers on the right margin is followed by the response for each comment as indexed in the letter. Comment letters and specific comments are given letters and numbers for reference purposes.

Table 1 Comment Roster

ID	Commenting Organization, Person, or Public Agency	Date
A	Greater Riverside Chambers of Commerce	04/13/2021
B	Gustavo Hurtado	04/13/2021
C	Lozeau Drury	04/14/2021
D	Mind and Mill	04/12/2021
E	Raincross Hospitality Corporation	04/14/2021
F	Tom Donahue	04/12/2021

The following responses to comments include a summary statement to identify if the response will introduce “new significant information” under any of the four categories identified in Section 15088 et seq. of the California Environmental Quality Act (CEQA) Guidelines or if it does not introduce “new significant information.” The four general categories are:

- New significant impacts
- Significant increases in the severity of impacts
- Feasible alternatives or mitigation that would reduce significant impacts
- Identification of inadequacies in the analysis

The comments submitted do not invalidate the findings in the Class 32 Infill Development Checklist or require additional analysis or mitigation to be incorporated. No new information, new impacts, or deficiencies are identified that have not been addressed by the Class 32 Infill Development Checklist. Therefore, the Class 32 Infill Exemption remains the appropriate and reasonable determination as determined by the Lead Agency. Responses to comments are provided herein.

Comment Letter A – Greater Riverside Chambers of Commerce



GREATER RIVERSIDE CHAMBERS OF COMMERCE

The Chamber... Building a stronger local economy

April 13, 2021

Chair Richard Kirby
Planning Commission
City of Riverside
3900 Main Street,
Riverside, CA 92501

RE: Conditional Use Permit and Variance Approval for the Construction of a AC Marriott and Residence Inn Hotel Project – SUPPORT

Dear Chair Kirby and Members of the City Planning Commission:

On behalf of the Greater Riverside Chambers of Commerce, representing over 1,200 local employers and 110,000 jobs in the Inland Southern California region, we respectfully request your SUPPORT for the approval of the conditional use permit, variances, and exemption from the California Environmental Quality Act (CEQA) that will facilitate the construction of a dual-brand AC Marriott and Residence Inn Hotel, with a subterranean parking structure; and the adaptive reuse of the former Central Fire Station as office space.

As the City continues to recover from the devastating economic impacts of COVID-19 and the loss of vital tax revenue to public coffers, now is the time and opportunity to position Riverside for stronger economic growth. Once completed, this project will generate approximately \$1.1 million annually in Transient Occupancy Tax (TOT) revenue, which will reinforce the City's ability to deliver vital services to the community. This creates an opportunity to be forward-thinking and prepare for Riverside's upward trajectory of economic vitality post-COVID-19.

A1

This project will construct a dual-branded hotel totaling 226 rooms that will continue to meet the needs of Riverside's tourism, convention, and hospitality growth. It will also complement new projects coming to Riverside soon including The Cheech Marin Center for Chicano Art, Culture & Industry and the expanded Riverside Convention Center. The additional office space converted from the Central Fire Station property will also create additional opportunities in the professional services sector.

The Chamber's Downtown Business Council continues to stay engaged with the proponents of the project and remains in unanimous support for the economic impact and vitality that it will bring to the community. The Chamber respectfully asks for your SUPPORT of the conditional use permit, variances, and exemption from the California Environmental Quality Act (CEQA) that will facilitate the construction of this project.

Thank you for your consideration.

Respectfully,

Cindy Roth
President/CEO

CR/na

Response to Comment A1

Comment A1 is a letter in support of the Proposed Project. This comment does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Comment Letter B – Gustavo Hurtado

From: [Kopaskie-Brown, Mary](#)
To: [Arseo, Eva](#); [Andrade, Frances](#)
Cc: [Welch, David](#); [Norton, Brian](#); [Andrade, Frances](#)
Subject: RE: [External] Public Comment: City Planning Commission Vote on Downtown Hotel
Date: Tuesday, April 13, 2021 5:35:05 PM

Hi Eva

This goes to Planning Commission on Thursday.

We will distribute to our Commissioners.

Thanks.

Mary Kopaskie-Brown
City Planner
City of Riverside
mkopaskie-brown@riversideca.gov
(951) 826-5108

From: Arseo, Eva <EArseo@riversideca.gov>
Sent: Tuesday, April 13, 2021 5:21 PM
To: Andrade, Frances <FANDRADE@riversideca.gov>
Cc: Kopaskie-Brown, Mary <MKopaskie-Brown@riversideca.gov>; Welch, David <DWelch@riversideca.gov>
Subject: FW: [External] Public Comment: City Planning Commission Vote on Downtown Hotel

FYI – has this gone to Planning Commission?

From: Gustavo Hurtado <ghurt002@gmail.com>
Sent: Tuesday, April 13, 2021 5:12 PM
To: Arseo, Eva <EArseo@riversideca.gov>
Subject: [External] Public Comment: City Planning Commission Vote on Downtown Hotel

Hello my name Gustavo Hurtado, I'm a resident of Ward 1 of Riverside, California. I'm writing a public comment to ask the commission to reject this proposed Hotel on the grounds it's absolutely not the type of construction that Downtown needs. Downtown Riverside is already packed with Hotels and is already experiencing a painful housing crisis. Adding another hotel will not only neglect to meet the DIRE housing needs of Riverside in the long term but will make the quality of the elderly and disabled communities of Riverside worse in the short term. The construction would clog up/block the parking near the First Congregational Church, the Arts Building, and the UU church, spaces that have a large number of patrons who have mobility limitations and have accessibility needs. As we are slowly opening back up, they are going to need more accessible parking not less. Putting this project in its current location hurts the city in the long term and the short term.

B1

Response to Comment B1

Comment B1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Comment Letter C – Lozeau Drury



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BY E-MAIL AND OVERNIGHT MAIL

April 14, 2021

Planning Commission
Senior Planner Brian Norton
City of Riverside
3900 Main Street
Riverside, CA 92522
fandrade@riversideca.gov
bnorton@riversideca.gov

**Re: AC Marriott Hotel, 3420-3482 Mission Inn Avenue
Planning Cases P19-0560 (CUP); P19-0561 (VR); P19-0562 (VR)
Objection to CEQA Exemption**

Honorable Members of the Planning Commission:

I am writing on behalf of the Supporters Alliance for Environmental Responsibility ("SAFER") to request environmental review under the California Environmental Quality Act ("CEQA") for the proposed AC Marriott and Residence Inn ("Marriott") hotel proposed to be constructed at 3420-3482 Mission Inn Avenue (APNs 213281006; 213281007; 213281009) ("Project"). As discussed below, the City's proposed CEQA Infill Exemption is legally improper and CEQA review is required. A CEQA document is required to analyze and mitigate the Project's significant environmental impacts.

C1

I. PROJECT DESCRIPTION

The developer proposes to construct a 226-room, 93-foot tall dual branded Marriott Hotel in the City's Mission Inn Historic District. The Project requires a conditional use permit and two variances. The Project's height of 93 feet vastly exceeds the 60-foot height limit. The Project's floor area ratio of 3.73 exceeds the applicable 3.0 FAR. The Project requires a variance to encroach 14 feet into the required 15-foot front setback along Mission Inn Avenue. A second variance is required to allow 144 parking spaces, which is far less than the 226 parking spaces required by the Code.

C2

The City is proposing to exempt the Project entirely from all CEQA review pursuant to the CEQA Infill Exemption, CEQA Guidelines section 15332.

II. CEQA

A. Legal Standards.

1. CEQA Structure.

CEQA mandates that “the long-term protection of the environment . . . shall be the guiding criterion in public decisions” throughout California. PRC § 21001(d). A “project” is “the whole of an action” directly undertaken, supported, or authorized by a public agency “which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” PRC § 21065; CEQA Guidelines, 14 CCR § 15378(a). For this reason, CEQA is concerned with an action’s ultimate “impact on the environment.” *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283. CEQA requires environmental factors to be considered at the “earliest possible stage . . . before [the project] gains irreversible momentum,” *Id.* 13 Cal.3d at 277, “at a point in the planning process where genuine flexibility remains.” *Sundstrom v. Mendocino County* (1988) 202 Cal.App.3d 296, 307.

C3

To achieve its objectives of environmental protection, CEQA has a three-tiered structure. 14 CCR § 15002(k); *Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86 (“*Hollywoodland*”). First, if a project falls into an exempt category, or it can be seen with certainty that the activity in question will not have a significant effect on the environment, no further agency evaluation is required. *Id.* Second, if there is a possibility the project will have a significant effect on the environment, the agency must perform an initial threshold study. *Id.*; 14 CCR § 15063(a). If the study indicates that there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment the agency may issue a negative declaration. *Id.*, 14 CCR §§ 15063(b)(2), 15070. Finally, if the project will have a significant effect on the environment, an environmental impact report (“EIR”) is required. *Id.* Here, since the City exempted the Project from CEQA entirely, we are at the first step of the CEQA process.

2. CEQA Exemptions.

CEQA identifies certain classes of projects which are exempt from the provisions of CEQA. These are called categorical exemptions. 14 CCR §§ 15300, 15354. “Exemptions to CEQA are narrowly construed and “[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.” *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125.

The determination as to the appropriate scope of a categorical exemption is a question of law subject to independent, or de novo, review. *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*, (2006) 139 Cal. App. 4th 1356, 1375 (“[Q]uestions of interpretation or application of the requirements of CEQA are matters of law. (Citations.) Thus, for example, interpreting

C4

the scope of a CEQA exemption presents ‘a question of law, subject to de novo review by this court.’ (Citations).”

The City asserts the Project is categorically exempt from the requirements of CEQA as an “in-fill” project (Class 32).

3. Exceptions to CEQA Exemptions.

a. Exceptions in the Infill Exemption.

The Class 32 In-Fill exemption can only be applied when (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations... and (d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. 14 Cal. Code Regs. 15332.

C5

b. Projects with Significant Impacts.

No project may be exempted from CEQA review if:

- (1) Significant Effects. A project may never be exempted from CEQA if there is a “fair argument” that the project may have significant environmental impacts due to “unusual circumstances.” 14 CCR §15300.2(c). The Supreme Court has held that since the agency may only exempt activities that do not have a significant effect on the environment, a fair argument that a project will have significant effects precludes an exemption. *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 204.
(14 CCR § 15300.2)

C6

CEQA and its regulations provide that certain projects may be exempt. However, “[a]n activity that may have a significant effect on the environment cannot be categorically exempt.” *Salmon Protectors v. County of Marin* (2004) 125 Cal.App.4th 1098, 1107; *Azusa Land Reclamation v. Main San Gabriel Basin* (1997) 52 Cal.App.4th 1165, 1191, 1202. CEQA’s unique “fair argument” standard applies when reviewing a CEQA exemption. Under the “fair argument” standard, an agency is precluded from relying on a categorical exemption when there is a fair argument that a project will have a significant effect on the environment. *Banker’s Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego (“Bankers Hill”)* (2006) 139 Cal. App. 4th 249, 266. In other words, “where there is any reasonable possibility that a project or activity may have a significant effect on the environment, an exemption would be improper.” *Id.*; *Dunn-Edwards Corp.*, 9 Cal.App.4th at 654-655.

c. Historic Resources

CEQA Section 21084(e) expressly prohibits reliance on a categorical exemption for “a project that may cause a substantial adverse change in the significance of an historical resource.” PRC § 21084(e). For historical resources, a “Substantial adverse change in

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the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.” *Committee to Save Hollywoodland v. LA* (2008) 161 Cal.App.4th 1168, 1187 (presence of historic wall was unusual circumstance precluding CEQA exemption); *Orinda Association v. Board*, 182 Cal.App.3d 1145 (1986) (demolition of building eligible for listing on historic registry triggers CEQA review and precludes exemption. Cannot piecemeal demolition for rest of project).

B. Analysis.

1. The Project Fails to Comply with Applicable General Plan and Zoning Requirements. Therefore the CEQA Exemption is Improper.

The CEQA Infill exemption is only allowed if “The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.” 14 CCR 15332(a). The Marriott Project does not comply with the applicable zoning designation, and general plan policies. The proposed hotel would vastly exceed the 60-foot height limit. It will obliterate the required 15-foot front setback – extending 14 feet into the required setback area. It fails to provide the required parking. It exceeds the 3.0 floor area ratio allowed in the general plan area. As a result, the Project requires two variances and a conditional use permit.

C8

Since the Project fails to comply with the applicable general plan and zoning designations, the CEQA Infill exemption is improper. A CEQA document is therefore required to analyze the Project and mitigate its impacts.

2. The Project Will Have Significant Air Quality Impacts Therefore the City May not Exempt the Project from CEQA Review.

The City may not rely on the CEQA Infill Exemption because the City cannot show that, “[a]pproval of the project would not result in any significant effects relating to ... air quality.” 14 CCR § 15332(c), (d). Note that this exception to the exemption does not require “unusual circumstances.”

Indoor air quality specialist, Francis “Bud” Offermann, P.E., concludes that the Project will have significant human health impacts due to indoor air contaminants. In particular, Mr. Offermann concludes that composite wood building materials are likely to create a cancer risk from formaldehyde off-gassing of 112 per million. This is eleven times above the South Coast Air Quality Management District’s (“SCAQMD”) CEQA significance threshold of ten per million. (Exhibit A).

Mr. Offermann explains that many composite wood products used in modern apartment home construction contain formaldehyde-based glues which off-gas formaldehyde over a very long time period. He states, “The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials

are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.” Offermann, pp. 2-3.

Formaldehyde is a known human carcinogen. Mr. Offermann states that there is a fair argument that future residents of the Project will be exposed to a cancer risk from formaldehyde of approximately 112 per million, assuming all materials are compliant with the California Air Resources Board’s formaldehyde airborne toxics control measure. *Id.*, p. 3-4. This more than 11 times the South Coast Air Quality Management District’s (“SCAQMD”) CEQA significance threshold for airborne cancer risk of 10 per million. In addition, Mr. Offermann concludes that people working the commercial spaces of the Project will be exposed to an increased cancer risk from formaldehyde of 16.4 per million, which also exceeds the threshold of significance. *Id.* at 5. Mr. Offermann concludes that these significant environmental impacts must be analyzed in the EIR and mitigation measures should be imposed to reduce the risk of formaldehyde exposure. *Id.*, p. 4-5.

Mr. Offermann identifies mitigation measures that are available to reduce these significant health risks, including the preferred mitigation measure that would require the applicant use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins or ultra-low emitting formaldehyde (ULEF) resins in the buildings’ interiors. *Id.* at 12-13. Proposed mitigation also includes the installation of air filters and outdoor air ventilation. *Id.*

The City has a duty to investigate issues relating to a project’s potential environmental impacts, especially those issues raised by an expert’s comments. See *Cty. Sanitation Dist. No. 2 v. Cty. of Kern*, (2005) 127 Cal.App.4th 1544, 1597–98 (“under CEQA, the lead agency bears a burden to investigate potential environmental impacts”). In addition to assessing the Project’s potential health impacts to residents, Mr. Offermann identifies the investigatory path that the City should be following in developing an EIR to more precisely evaluate the Projects’ future formaldehyde emissions and establishing mitigation measures that reduce the cancer risk below the SCAQMD level. *Id.*, pp. 5-10. Such an analysis would be similar in form to the air quality modeling and traffic modeling typically conducted as part of a CEQA review.

C9

The failure to address the project’s formaldehyde emissions is contrary to the California Supreme Court’s decision in *California Building Industry Ass’n v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 386 (“*CBIA*”). At issue in *CBIA* was whether the Air District could enact CEQA guidelines that advised lead agencies that they must analyze the impacts of adjacent environmental conditions on a project. The Supreme Court held that CEQA does not generally require lead agencies to consider the environment’s effects on a project. *CBIA*, 62 Cal.4th at 800-801. However, to the extent a project may exacerbate existing adverse environmental conditions at or near a project site, those would still have to be considered pursuant to CEQA. *Id.* at 801 (“CEQA calls upon an agency to evaluate existing conditions in order to assess whether a project could exacerbate hazards that are already present”). In so holding, the Court expressly held that CEQA’s statutory language required lead agencies to disclose and analyze “impacts on **a project’s users or residents** that arise **from the project’s effects** on the

environment.” *Id.* at 800 (emphasis added).

The carcinogenic formaldehyde emissions identified by Mr. Offermann are not an existing environmental condition. Those emissions to the air will be from the Project. Residents and workers will be users of the Project. Currently, there is presumably little if any formaldehyde emissions at the site. Once the project is built, emissions will begin at levels that pose significant health risks. Rather than excusing the City from addressing the impacts of carcinogens emitted into the indoor air from the project, the Supreme Court in *CBIA* expressly finds that this type of effect by the project on the environment and a “project’s users and residents” must be addressed in the CEQA process.

The Supreme Court’s reasoning is well-grounded in CEQA’s statutory language. CEQA expressly includes a project’s effects on human beings as an effect on the environment that must be addressed in an environmental review. “Section 21083(b)(3)’s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects *on human beings*, either directly or indirectly.” *CBIA*, 62 Cal.4th at 800 (emphasis in original). Likewise, “the Legislature has made clear—in declarations accompanying CEQA’s enactment—that public health and safety are of great importance in the statutory scheme.” *Id.*, citing e.g., §§ 21000, subds. (b), (c), (d), (g), 21001, subds. (b), (d). It goes without saying that the hundreds of future residents and employees of the Project are human beings and the health and safety of those individuals is as important to CEQA’s safeguards as nearby residents currently living and working near the project site.

Mr. Offermann’s expert comments constitute substantial evidence of a fair argument of a significant environmental impact to future users of the project, but this potentially significant impact is not analyzed in the EIR. A revised EIR must be prepared to disclose and mitigate those impacts.

3. The Project will have Significant Impacts Due to Inconsistencies with the General Plan and Zoning.

The Project is inconsistent with several provisions of the General Plan and Zoning Code. These inconsistencies are significant impacts pursuant to CEQA. As such the Project may not be exempted from CEQA review.

Where a local or regional policy of general applicability, such as an ordinance, is adopted in order to avoid or mitigate environmental effects, a conflict with that policy in itself indicates a potentially significant impact on the environment. (*Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903; *Kutzke v. City of San Diego* (2017) 11 Cal.5th 1034.) Indeed, any inconsistencies between a proposed project and applicable plans must be discussed in an EIR. (14 CCR § 15125(d); *City of Long Beach v. Los Angeles Unif. School Dist.* (2009) 176 Cal. App. 4th 889, 918; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal. App. 4th 859, 874 (EIR inadequate when Lead Agency failed to identify relationship of project to relevant local plans).) A Project’s inconsistencies with local plans and policies constitute significant impacts under CEQA.

(*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4; see also, *County of El Dorado v. Dept. of Transp.* (2005) 133 Cal.App.4th 1376 (fact that a project may be consistent with a plan, such as an air plan, does not necessarily mean that it does not have significant impacts).) *Californians for Alternatives to Toxics v. Department of Food and Agriculture* (2005) 136 Cal.App.4th 1, 17 (“[c]ompliance with the law is not enough to support a finding of no significant impact under the CEQA.”). The recent decision in *Georgetown Preservation Society v. County of El Dorado* (2018) 30 Cal.App.5th 358 echoes *Pocket Protectors*. These both apply the fair argument standard to a potential inconsistency with a plan adopted for environmental protection. *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099 says an EIR needs to analyze any topic for which a fair argument of significant impact is raised.

The Project is inconsistent with numerous provisions of the General Plan and Zoning, including provisions limiting height to 60 feet, requiring 15-foot front set-back, requiring adequate parking, limiting floor area ratio to 3.0, and other requirements. These are significant impacts under CEQA that must be analyzed and mitigated in a CEQA document.

4. The Project May Not Be Exempted from CEQA Because It May Adversely Affect Historic Resources.

CEQA Section 21084(e) expressly prohibits reliance on a categorical exemption for “a project that may cause a substantial adverse change in the significance of an historical resource.” PRC § 21084(e). For historical resources, a “Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.” *Committee to Save Hollywoodland v. LA* (2008) 161 Cal.App.4th 1168, 1187 (presence of historic wall was unusual circumstance precluding CEQA exemption); *Orinda Association v. Board*, 182 Cal.App.3d 1145 (1986) (demolition of building eligible for listing on historic registry triggers CEQA review and precludes exemption. Cannot piecemeal demolition for rest of project).

There is no dispute that the Project is located in the City’s Mission Inn Historic District. The Project requires a conditional use permit and two variances. The Project’s height of 93 feet exceeds the 60-foot height limit. The Project’s floor area ratio of 3.73 exceeds the applicable 3.0 FAR. The Project requires a variance to encroach 14 feet into the required 15-foot front setback along Mission Inn Avenue. A second variance is required to allow 144 parking spaces, which is far less than the 226 parking spaces required by the Code. These height limits, setback requirements, and floor area ratio requirements are critical to maintaining the historic character of the Mission Inn Historic District. By failing to comply with these policies, the Project will adversely affect the Historic District. *Georgetown Pres. Soc’y v. Cty. of El Dorado*, 30 Cal. App. 5th 358, 365 (2018); *Kutzke v. City of San Diego* (2017) 11 Cal.5th 1034 (proposed project was incompatible with conserving the character of the existing neighborhood and therefore inconsistent with local community plan in violation of CEQA).

Since the Project may have an adverse impact on the Mission Inn Historic District, it may not be exempted from CEQA review. CEQA review is required to analyze the Project's significant historic impacts and to propose feasible mitigation measures and alternatives to reduce the Project's impacts to historic resources.

III. VARIANCES SHOULD NOT BE GRANTED.

The Project proponent seeks two variances for the Project to avoid compliance with the 15-foot front setback requirement the parking requirement. It appears that a variance would also be necessary for the project to exceed the floor area ratio and height limits, but it appears the developer is not seeking such variances. As discussed below, the Project fails to meet the criteria for a variance.

1. There are no exceptional or extraordinary circumstances applying to this property that do not apply generally to other properties or uses in the same class of district. C12

There are no exceptional or extraordinary circumstances that preclude the Project from providing the required amount of parking or the required setback. The parking will be provided underground. It would be feasible to simply dig an additional level of underground parking. The Applicant's variance justification does not even argue that it is infeasible to provide the required parking. It merely argues that the required level of parking is unnecessary. This argument does not even attempt to meet the legal criteria required for a variance.

Similarly, there is no reason that the Project cannot comply with the 15-foot setback requirement. There is ample space on the property and other buildings in the district have complied with the requirement. There are no unusual circumstances that would preclude compliance.

Caselaw supports this point. In the case of *Broadway Laguna Vallejo v. San Fran. Bd. of Permit Appeals*, a project applicant claimed it needed a variance based on extraordinary and exceptional circumstances due to unusual subsoil conditions at the site and "attractive architectural features" for the structure.¹ The project design incorporated "superior building standards" as a supporting fact.² The California Supreme Court was having none of it, and held that neither of the circumstances satisfied the Code for a variance.³ The architectural limitations incorporated into the proposed structure did not support a finding of extraordinary conditions. Likewise, here there are no exception or unusual circumstances that would preclude compliance with the parking and setback requirements (or height and floor area ratio). To give special treatment here opens the City up to every property owner assuming

¹ *Broadway, Laguna, Vallejo Assoc. v. Board of Appeals and City of San Francisco* (1967) 66 Cal.2d 767, 774.

² *Id.* at 777.

³ *Id.* at 774

they are entitled to assert exceptional circumstances justifying the grant of a variance because compliance with the code may be inconvenient.⁴

2. There are no exceptional or extraordinary circumstances, under which the literal enforcement of the Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property.

There are no exception or extraordinary circumstances that would cause under which literal enforcement of the code would create unnecessary hardship. Requiring the Applicant to comply with setback, parking (height and floor area ratio) requirements would create no unnecessary hardship. There is nothing unique about the Project or the property that would preclude compliance with the code requirements. There is no evidence that compliance with parking or setback requirements would be physically impossible or even difficult.

The law on practical difficulty/unnecessary hardship is well settled.⁵ First, courts have been clear that unnecessary hardship occurs when the natural condition or topography of the land places the landowner at a disadvantage vis-à-vis other landowners in the area, such as peculiarities of the size, shape or grade of the parcel.⁶ Put differently, the project sponsor must suffer from some “external circumstance, but not self-induced-hardship.”⁷ **“One who purchases property in anticipation of procuring a variance to enable him to use it for a purpose forbidden at the time of sale cannot complain of hardship ensuing from a denial of the desired variance.”** (*Id.*) “If singular and related topographical features are lacking, [the Board] may not find the circumstances which plague the applicant are different from those which affect the land of his neighbors.”⁸ In addition, courts do not focus on the prejudicial difference between one’s property and the neighbor’s to justify a finding of hardship; rather the disadvantage must be substantial.⁹

One example of substantial hardship supporting a variance was the need of a landowner to build special fencing absent the required three-foot setback because the subject property was 15 feet below street level.¹⁰ The record showed that enforcement of the code would have created a safety hazard. (*Id.*) Neighboring parcels were not subject to this

⁴ *Cow Hollow v. DiBene* (1966) 245 Cal.App.2d 160, 176 (all property owners suffered the same circumstances alleged by this owner so City erred in finding exceptional circumstances).

⁵ Courts combine “practical difficulty or unnecessary hardship” as a single standard. See *Zakessian v. City of Sausalito*, 28 Cal.App.3d 794 (1972) (“Of these two terms, “the essential requirement is “unnecessary hardship.”); *Walnut Acres Neighborhood Assoc. v. City of Los Angeles* (2015) Cal.App.4th 1303.

⁶ *Committee to Save the Hollywoodland Plan v. Los Angeles* (2008) 161 Cal.App.4th 1168, 1183; *Zakessian* 28 Cal.App.3d at 800.

⁷ *City of San Marino v. Roman Catholic Archbishop of Los Angeles* (2008) 180 Cal.App.2d 657, 673.

⁸ *Zakessian*, 28 Cal.App.3d at 800.

⁹ *Id.* at 801.

¹⁰ *Committee to Save Hollywoodland*, 161 Cal.App.4th at 1184.

particular topographical feature. Conversely, a court found no hardship when a landowner wanted to continue using a parcel zoned R-1 as a parking lot for their neighboring rectory.¹¹ The property had long been used for parking in violation of the zoning code. The court held that continued use for parking would have benefited the owner, but the lot was purchased with “full knowledge of its restrictions, and furthermore, the expansion program undertaken by the defendants was promulgated in the face of those same restrictions.”¹² While some hardship would occur, the owner’s own expansion program was not enough to entitle them to a variance. Such self-induced hardship could not be a factor in support of a variance.¹³

Finally, there is a clear benefit to the public in maintaining open space in the Mission Inn Historic District, and providing adequate parking, hence the existence of this City-wide mandate in the first place. A City sanctioned policy to allow every property owner to over-build their lots, as is proposed here, is not consistent with the spirit of the General Plan’s policy to keep the city livable. It is the City’s duty to keep rampant density in check and respect the historic district’s unique character – consistent with the Code.

As the foregoing shows, the Applicant cannot support the second prong of the variance test because any alleged hardship or practical difficulty is of the project sponsor’s own making, and there is nothing distinct about the parcel.

3. The variance is not necessary for the preservation and enjoyment of a substantial property right, possessed by other property in the same class of district.

The Applicant does not even attempt to show that the variance is required to preserve a right possessed by other property owners in the same district. The Applicant fails to point to a single other property that has been allowed to violate the City’s parking requirements or setback requirements. Therefor the Applicant simply cannot make this required showing.

The issue is whether a variance is *necessary* to bring the subject property into substantial parity with property within the zone and not a race to see who can build the largest building with the least amount of open space or parking. “Speculation about neighboring land will not support the award of a variance. The party seeking the variance must shoulder the burden of demonstrating before the zoning agency that the subject property satisfies the requirements.”¹⁴ The project sponsor has not shown that they are unable to use their property in the same way as others within the zone.

¹¹ *City of San Marino*, 180 Cal.App.2d at 665.

¹² *Id.* at 672.

¹³ *Id.* at 673.

¹⁴ *Orinda Ass’n v. Bd. of Sup.*, (1986) 182 Cal.App.3d 1145, 1166.

4. The granting of the variance will be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

The variance will be materially detrimental to the public welfare and materially injurious to property in the vicinity. The Project is proposed to be constructed in the Mission Inn Historic District. Requirements for adequate setback, height limits, parking and floor area ratio are critical to maintaining the historic qualities of the district and protecting nearby historic buildings from effects such as loss of light of air, shadow and excessive massing. By violating those requirements, the Project would be materially detrimental to the historic district and nearby buildings.

5. The granting of the variance will not be in harmony with the general purpose and intent of the Planning Code and will adversely affect the General Plan.

The variances will not be in harmony with the purpose and intent of the planning code and the general plan. The planning code contains requirements for setback, parking, height and floor area ratio for a reason. These requirements protect the historic nature of the Mission Inn Historic District, as well as the quality of life in the city.

In fact, the City is required to conduct a CEQA analysis for the proposed project because it is not eligible for an exemption. If a project may cause a substantial adverse change in the significance of a historical resource, that project **shall not be exempted** from CEQA review.¹⁵ Once the property has been established as an historical resource under CEQA,¹⁶ as is the case here, then the evaluation moves on to whether the proposed project would cause a "substantial adverse change" to the historical resource. CEQA defines a "substantial adverse change" as the physical demolition, destruction, relocation or alteration of the historical resource or its immediate surroundings such that the significance of the historical resource would be materially impaired. CEQA goes on to define "materially impaired" as work that materially alters, in an adverse manner, those physical characteristics that convey the resource's historical significance.¹⁷

The proposed variance would materially impair the features that make the district historically significant. The City is required to fully investigate and then disclose to the public whether there are feasible alternatives or mitigation measures that would not degrade the significance of this historical district.

IV. CONCLUSION

For the above reasons, the CEQA Analysis for the Project and its reliance on the CEQA infill exemption should be withdrawn, an EIR should be prepared, and the draft EIR should be circulated for public review and comment in accordance with CEQA. The City

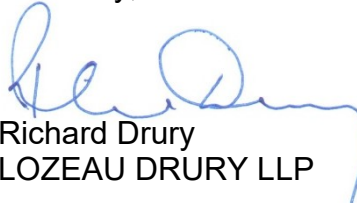
¹⁵ CEQA § 21084.1.

¹⁶CEQA Guidelines Section 15064.5(a)(3).

¹⁷ CEQA Guidelines 15064.5(b), Bulletin 16, p. 9.

should also not grant the requested variances since the Applicant fails to meet the five findings required for a variance. Thank you for considering these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Drury", with a long horizontal flourish extending to the right.

Richard Drury
LOZEAU DRURY LLP

EXHIBIT A



INDOOR ENVIRONMENTAL ENGINEERING



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Date: April 12, 2021

To: Richard Drury
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, California 94612

From: Francis J. Offermann PE CIH

Subject: Indoor Air Quality: AC Marriott – Residence Inn, Riverside, CA
(IEE File Reference: P-4441)

Pages: 19

Indoor Air Quality Impacts

Indoor air quality (IAQ) directly impacts the comfort and health of building occupants, and the achievement of acceptable IAQ in newly constructed and renovated buildings is a well-recognized design objective. For example, IAQ is addressed by major high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014). Indoor air quality in homes is particularly important because occupants, on average, spend approximately ninety percent of their time indoors with the majority of this time spent at home (EPA, 2011). Some segments of the population that are most susceptible to the effects of poor IAQ, such as the very young and the elderly, occupy their homes almost continuously. Additionally, an increasing number of adults are working from home at least some of the time during the workweek. Indoor air quality also is a serious concern for workers in hotels, offices and other business establishments.

The concentrations of many air pollutants often are elevated in homes and other buildings relative to outdoor air because many of the materials and products used indoors contain

and release a variety of pollutants to air (Hodgson et al., 2002; Offermann and Hodgson, 2011). With respect to indoor air contaminants for which inhalation is the primary route of exposure, the critical design and construction parameters are the provision of adequate ventilation and the reduction of indoor sources of the contaminants.

Indoor Formaldehyde Concentrations Impact. In the California New Home Study (CNHS) of 108 new homes in California (Offermann, 2009), 25 air contaminants were measured, and formaldehyde was identified as the indoor air contaminant with the highest cancer risk as determined by the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), No Significant Risk Levels (NSRL) for carcinogens. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000 (i.e., ten in one million cancer risk) and for formaldehyde is 40 µg/day. The NSRL concentration of formaldehyde that represents a daily dose of 40 µg is 2 µg/m³, assuming a continuous 24-hour exposure, a total daily inhaled air volume of 20 m³, and 100% absorption by the respiratory system. All of the CNHS homes exceeded this NSRL concentration of 2 µg/m³. The median indoor formaldehyde concentration was 36 µg/m³, and ranged from 4.8 to 136 µg/m³, which corresponds to a median exceedance of the 2 µg/m³ NSRL concentration of 18 and a range of 2.3 to 68.

Therefore, the cancer risk of a resident living in a California home with the median indoor formaldehyde concentration of 36 µg/m³, is 180 per million as a result of formaldehyde alone. The CEQA significance threshold for airborne cancer risk is 10 per million, as established by the South Coast Air Quality Management District (SCAQMD, 2015).

Besides being a human carcinogen, formaldehyde is also a potent eye and respiratory irritant. In the CNHS, many homes exceeded the non-cancer reference exposure levels (RELs) prescribed by California Office of Environmental Health Hazard Assessment (OEHHA, 2017b). The percentage of homes exceeding the RELs ranged from 98% for the Chronic REL of 9 µg/m³ to 28% for the Acute REL of 55 µg/m³.

The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and

particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

In January 2009, the California Air Resources Board (CARB) adopted an airborne toxics control measure (ATCM) to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products (California Air Resources Board 2009). While this formaldehyde ATCM has resulted in reduced emissions from composite wood products sold in California, they do not preclude that homes built with composite wood products meeting the CARB ATCM will have indoor formaldehyde concentrations below cancer and non-cancer exposure guidelines.

A follow up study to the California New Home Study (CNHS) was conducted in 2016-2018 (Singer et. al., 2019), and found that the median indoor formaldehyde in new homes built after 2009 with CARB Phase 2 Formaldehyde ATCM materials had lower indoor formaldehyde concentrations, with a median indoor concentrations of $22.4 \mu\text{g}/\text{m}^3$ (18.2 ppb) as compared to a median of $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS. Unlike in the CNHS study where formaldehyde concentrations were measured with pumped DNPH samplers, the formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true indoor formaldehyde concentrations by approximately 7.5%. Applying this correction to the HENGH indoor formaldehyde concentrations results in a median indoor concentration of $24.1 \mu\text{g}/\text{m}^3$, which is 33% lower than the $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS.

Thus, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, the median lifetime cancer risk is still 120 per million for homes built with CARB compliant composite wood products. This median lifetime cancer risk is more than 12 times the OEHHHA 10 in a million cancer risk threshold (OEHHHA, 2017a).

With respect to the AC Marriott – Residence Inn Project in Riverside, CA, the buildings consist of hotel and office buildings.

The employees of the hotel and office spaces are expected to experience significant indoor exposures (e.g., 40 hours per week, 50 weeks per year). These exposures for employees are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in offices, warehouses, residences and hotels.

Because these hotel and office spaces will be constructed with CARB Phase 2 Formaldehyde ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of $24.1 \mu\text{g}/\text{m}^3$ (Singer et. al., 2020)

Assuming that the hotel and office space employees work 8 hours per day and inhale 20 m^3 of air per day, the formaldehyde dose per work-day at the offices is $161 \mu\text{g}/\text{day}$.

Assuming that these employees work 5 days per week and 50 weeks per year for 45 years (start at age 20 and retire at age 65) the average 70-year lifetime formaldehyde daily dose is $70.9 \mu\text{g}/\text{day}$.

This is 1.77 times the NSRL (OEHHA, 2017a) of $40 \mu\text{g}/\text{day}$ and represents a cancer risk of 17.7 per million, which exceeds the CEQA cancer risk of 10 per million (SCAQMD, 2015) This impact should be analyzed in an environmental impact report (“EIR”), and the agency should impose all feasible mitigation measures to reduce this impact. Several feasible mitigation measures are discussed below and these and other measures should be analyzed in an EIR.

Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

The following describes a method that should be used, prior to construction in the environmental review under CEQA, for determining whether the indoor concentrations resulting from the formaldehyde emissions of specific building materials/furnishings selected exceed cancer and non-cancer guidelines. Such a design analyses can be used to identify those materials/furnishings prior to the completion of the City's CEQA review and project approval, that have formaldehyde emission rates that contribute to indoor concentrations that exceed cancer and non-cancer guidelines, so that alternative lower emitting materials/furnishings may be selected and/or higher minimum outdoor air ventilation rates can be increased to achieve acceptable indoor concentrations and incorporated as mitigation measures for this project.

Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment

This formaldehyde emissions assessment should be used in the environmental review under CEQA to assess the indoor formaldehyde concentrations from the proposed loading of building materials/furnishings, the area-specific formaldehyde emission rate data for building materials/furnishings, and the design minimum outdoor air ventilation rates. This assessment allows the applicant (and the City) to determine, before the conclusion of the environmental review process and the building materials/furnishings are specified, purchased, and installed, if the total chemical emissions will exceed cancer and non-cancer guidelines, and if so, allow for changes in the selection of specific material/furnishings and/or the design minimum outdoor air ventilations rates such that cancer and non-cancer guidelines are not exceeded.

1.) Define Indoor Air Quality Zones. Divide the building into separate indoor air quality zones, (IAQ Zones). IAQ Zones are defined as areas of well-mixed air. Thus, each ventilation system with recirculating air is considered a single zone, and each room or group of rooms where air is not recirculated (e.g. 100% outdoor air) is considered a separate zone. For IAQ Zones with the same construction material/furnishings and design minimum outdoor air ventilation rates. (e.g. hotel rooms, apartments, condominiums, etc.) the formaldehyde emission rates need only be assessed for a single IAQ Zone of that type.

2.) Calculate Material/Furnishing Loading. For each IAQ Zone, determine the building material and furnishing loadings (e.g., m^2 of material/ m^2 floor area, units of furnishings/ m^2 floor area) from an inventory of all potential indoor formaldehyde sources, including flooring, ceiling tiles, furnishings, finishes, insulation, sealants, adhesives, and any products constructed with composite wood products containing urea-formaldehyde resins (e.g., plywood, medium density fiberboard, particleboard).

3.) Calculate the Formaldehyde Emission Rate. For each building material, calculate the formaldehyde emission rate ($\mu\text{g}/\text{h}$) from the product of the area-specific formaldehyde emission rate ($\mu\text{g}/\text{m}^2\text{-h}$) and the area (m^2) of material in the IAQ Zone, and from each furnishing (e.g. chairs, desks, etc.) from the unit-specific formaldehyde emission rate ($\mu\text{g}/\text{unit-h}$) and the number of units in the IAQ Zone.

NOTE: As a result of the high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014), most manufacturers of building materials furnishings sold in the United States conduct chemical emission rate tests using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), or other equivalent chemical emission rate testing methods. Most manufacturers of building furnishings sold in the United States conduct chemical emission rate tests using ANSI/BIFMA M7.1 Standard Test Method for Determining VOC Emissions (BIFMA, 2018), or other equivalent chemical emission rate testing methods.

CDPH, BIFMA, and other chemical emission rate testing programs, typically certify that a material or furnishing does not create indoor chemical concentrations in excess of the maximum concentrations permitted by their certification. For instance, the CDPH emission rate testing requires that the measured emission rates when input into an office, school, or residential model do not exceed one-half of the OEHHA Chronic Exposure Guidelines (OEHHA, 2017b) for the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017). These certifications themselves do not provide the actual area-specific formaldehyde emission rate (i.e., $\mu\text{g}/\text{m}^2\text{-h}$) of the product, but rather provide data that the formaldehyde emission rates do not exceed the maximum rate allowed for the certification. Thus, for example, the data for a certification of a specific type of flooring may be used to calculate that the area-specific emission rate of formaldehyde is less than $31 \mu\text{g}/\text{m}^2\text{-h}$, but not the actual measured specific emission rate, which may be 3, 18, or $30 \mu\text{g}/\text{m}^2\text{-h}$. These area-specific emission rates determined from the product certifications of CDPH, BIFA, and other certification programs can be used as an initial estimate of the formaldehyde emission rate.

If the actual area-specific emission rates of a building material or furnishing is needed (i.e. the initial emission rates estimates from the product certifications are higher than desired), then that data can be acquired by requesting from the manufacturer the complete chemical emission rate test report. For instance if the complete CDPH emission test report is requested for a CDHP certified product, that report will provide the actual area-specific emission rates for not only the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017), but also all of the cancer and reproductive/developmental chemicals listed in the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), all of the toxic air contaminants (TACs) in the California Air Resources Board Toxic Air Contamination List (CARB, 2011), and the 10 chemicals with the greatest emission rates.

Alternatively, a sample of the building material or furnishing can be submitted to a chemical emission rate testing laboratory, such as Berkeley Analytical Laboratory (<https://berkeleyanalytical.com>), to measure the formaldehyde emission rate.

4.) Calculate the Total Formaldehyde Emission Rate. For each IAQ Zone, calculate the total formaldehyde emission rate (i.e. µg/h) from the individual formaldehyde emission rates from each of the building material/furnishings as determined in Step 3.

5.) Calculate the Indoor Formaldehyde Concentration. For each IAQ Zone, calculate the indoor formaldehyde concentration (µg/m³) from Equation 1 by dividing the total formaldehyde emission rates (i.e. µg/h) as determined in Step 4, by the design minimum outdoor air ventilation rate (m³/h) for the IAQ Zone.

$$C_{in} = \frac{E_{total}}{Q_{oa}} \text{ (Equation 1)}$$

where:

C_{in} = indoor formaldehyde concentration (µg/m³)

E_{total} = total formaldehyde emission rate (µg/h) into the IAQ Zone.

Q_{oa} = design minimum outdoor air ventilation rate to the IAQ Zone (m³/h)

The above Equation 1 is based upon mass balance theory, and is referenced in Section 3.10.2 “Calculation of Estimated Building Concentrations” of the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017).

6.) Calculate the Indoor Exposure Cancer and Non-Cancer Health Risks. For each IAQ Zone, calculate the cancer and non-cancer health risks from the indoor formaldehyde concentrations determined in Step 5 and as described in the OEHHA Air Toxics Hot Spots Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments (OEHHA, 2015).

7.) Mitigate Indoor Formaldehyde Exposures of exceeding the CEQA Cancer and/or Non-Cancer Health Risks. In each IAQ Zone, provide mitigation for any formaldehyde exposure risk as determined in Step 6, that exceeds the CEQA cancer risk of 10 per million or the CEQA non-cancer Hazard Quotient of 1.0.

Provide the source and/or ventilation mitigation required in all IAQ Zones to reduce the

health risks of the chemical exposures below the CEQA cancer and non-cancer health risks.

Source mitigation for formaldehyde may include:

- 1.) reducing the amount materials and/or furnishings that emit formaldehyde
- 2.) substituting a different material with a lower area-specific emission rate of formaldehyde

Ventilation mitigation for formaldehyde emitted from building materials and/or furnishings may include:

- 1.) increasing the design minimum outdoor air ventilation rate to the IAQ Zone.

NOTE: Mitigating the formaldehyde emissions through use of less material/furnishings, or use of lower emitting materials/furnishings, is the preferred mitigation option, as mitigation with increased outdoor air ventilation increases initial and operating costs associated with the heating/cooling systems.

Further, we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), and use the procedure described earlier above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Impact. Another important finding of the CNHS, was that the outdoor air ventilation rates in the homes were very low. Outdoor air ventilation is a very important factor influencing the indoor concentrations of air contaminants, as it is the primary removal mechanism of all indoor air generated contaminants. Lower outdoor air exchange rates cause indoor generated air contaminants to accumulate to higher indoor air

concentrations. Many homeowners rarely open their windows or doors for ventilation as a result of their concerns for security/safety, noise, dust, and odor concerns (Price, 2007). In the CNHS field study, 32% of the homes did not use their windows during the 24-hour Test Day, and 15% of the homes did not use their windows during the entire preceding week. Most of the homes with no window usage were homes in the winter field session. Thus, a substantial percentage of homeowners never open their windows, especially in the winter season. The median 24-hour measurement was 0.26 air changes per hour (ach), with a range of 0.09 ach to 5.3 ach. A total of 67% of the homes had outdoor air exchange rates below the minimum California Building Code (2001) requirement of 0.35 ach. Thus, the relatively tight envelope construction, combined with the fact that many people never open their windows for ventilation, results in homes with low outdoor air exchange rates and higher indoor air contaminant concentrations.

According to the City of Riverside Planning Commission Memorandum (City of Riverside, 2021), the AC Marriott – Residence Inn Project – Riverside, CA is close to roads with moderate to high traffic (e.g., Riverside Freeway (91), University Avenue, Mission Inn Avenue etc.). Additional noise is generated by air traffic at the Flabob Airport (RIR).

As a result of the outdoor vehicle traffic noise, the Project site is likely a sound impacted site and will require a mechanical supply of outdoor air ventilation to allow for a habitable interior environment with closed windows and doors. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

PM_{2.5} Outdoor Concentrations Impact. An additional impact of the nearby motor vehicle traffic associated with this project, are the outdoor concentrations of PM_{2.5}. According to the City of Riverside Planning Commission Memorandum (City of Riverside, 2021), the Project is located in the South Coast Air Basin, which is a State and Federal non-attainment area for PM_{2.5}.

An air quality analyses should to be conducted to determine the concentrations of PM_{2.5} in the outdoor and indoor air that people inhale each day. This air quality analyses needs to consider the cumulative impacts of the project related emissions, existing and projected future emissions from local PM_{2.5} sources (e.g. stationary sources, motor vehicles, and airport traffic) upon the outdoor air concentrations at the Project site. If the outdoor concentrations are determined to exceed the California and National annual average PM_{2.5} exceedence concentration of 12 µg/m³, or the National 24-hour average exceedence concentration of 35 µg/m³, then the buildings need to have a mechanical supply of outdoor air that has air filtration with sufficient removal efficiency, such that the indoor concentrations of outdoor PM_{2.5} particles is less than the California and National PM_{2.5} annual and 24-hour standards.

It is my experience that based on the projected high traffic noise levels, the annual average concentration of PM_{2.5} will exceed the California and National PM_{2.5} annual and 24-hour standards and warrant installation of high efficiency air filters (i.e. MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems.

Indoor Air Quality Impact Mitigation Measures

The following are recommended mitigation measures to minimize the impacts upon indoor quality:

Indoor Formaldehyde Concentrations Mitigation. Use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins (CARB, 2009). CARB Phase 2 certified composite wood products, or ultra-low emitting formaldehyde (ULEF) resins, do not insure indoor formaldehyde concentrations that are below the CEQA cancer risk of 10 per million. Only composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHHA cancer risk of 10 per million is met (see Appendix A).

Alternatively, conduct the previously described Pre-Construction Building Material/Furnishing Chemical Emissions Assessment, to determine that the combination of formaldehyde emissions from building materials and furnishings do not create indoor formaldehyde concentrations that exceed the CEQA cancer and non-cancer health risks.

It is important to note that we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017), and use the procedure described above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Mitigation. Provide each habitable room with a continuous mechanical supply of outdoor air that meets or exceeds the California 2016 Building Energy Efficiency Standards (California Energy Commission, 2015) requirements of the greater of 15 cfm/occupant or 0.15 cfm/ft² of floor area. Following installation of the system conduct testing and balancing to insure that required amount of outdoor air is entering each habitable room and provide a written report documenting the outdoor airflow rates. Do not use exhaust only mechanical outdoor air systems, use only balanced outdoor air supply and exhaust systems or outdoor air supply only systems. Provide a manual for the occupants or maintenance personnel, that describes the purpose of the mechanical outdoor air system and the operation and maintenance requirements of the system.

PM_{2.5} Outdoor Air Concentration Mitigation. Install air filtration with sufficient PM_{2.5} removal efficiency (e.g. MERV 13 or higher) to filter the outdoor air entering the mechanical outdoor air supply systems, such that the indoor concentrations of outdoor PM_{2.5} particles are less than the California and National PM_{2.5} annual and 24-hour standards. Install the air filters in the system such that they are accessible for replacement

by the occupants or maintenance personnel. Include in the mechanical outdoor air ventilation system manual instructions on how to replace the air filters and the estimated frequency of replacement.

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APPENDIX A

INDOOR FORMALDEHYDE CONCENTRATIONS AND THE CARB FORMALDEHYDE ATCM

With respect to formaldehyde emissions from composite wood products, the CARB ATCM regulations of formaldehyde emissions from composite wood products, do not assure healthful indoor air quality. The following is the stated purpose of the CARB ATCM regulation - *The purpose of this airborne toxic control measure is to “reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California”*. In other words, the CARB ATCM regulations do not “assure healthful indoor air quality”, but rather “reduce formaldehyde emissions from composite wood products”.

Just how much protection do the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products? Definitely some, but certainly the regulations do not “*assure healthful indoor air quality*” when CARB Phase 2 products are utilized. As shown in the Chan 2019 study of new California homes, the median indoor formaldehyde concentration was of $22.4 \mu\text{g}/\text{m}^3$ (18.2 ppb), which corresponds to a cancer risk of 112 per million for occupants with continuous exposure, which is more than 11 times the CEQA cancer risk of 10 per million.

Another way of looking at how much protection the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products is to calculate the maximum number of square feet of composite wood product that can be in a residence without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy.

For this calculation I utilized the floor area (2,272 ft²), the ceiling height (8.5 ft), and the number of bedrooms (4) as defined in Appendix B (New Single-Family Residence Scenario) of the Standard Method for the Testing and Evaluation of Volatile Organic Chemical

Emissions for Indoor Sources Using Environmental Chambers, Version 1.1, 2017, California Department of Public Health, Richmond, CA. <https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/VOC.aspx>.

For the outdoor air ventilation rate I used the 2019 Title 24 code required mechanical ventilation rate (ASHRAE 62.2) of 106 cfm (180 m³/h) calculated for this model residence. For the composite wood formaldehyde emission rates I used the CARB ATCM Phase 2 rates.

The calculated maximum number of square feet of composite wood product that can be in a residence, without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 15 ft² (0.7% of the floor area), or
Particle Board – 30 ft² (1.3% of the floor area), or
Hardwood Plywood – 54 ft² (2.4% of the floor area), or
Thin MDF – 46 ft² (2.0 % of the floor area).

For offices and hotels the calculated maximum amount of composite wood product (% of floor area) that can be used without exceeding the CEQA cancer risk of 10 per million for occupants, assuming 8 hours/day occupancy, and the California Mechanical Code minimum outdoor air ventilation rates are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 3.6 % (offices) and 4.6% (hotel rooms), or
Particle Board – 7.2 % (offices) and 9.4% (hotel rooms), or
Hardwood Plywood – 13 % (offices) and 17% (hotel rooms), or
Thin MDF – 11 % (offices) and 14 % (hotel rooms)

Clearly the CARB ATCM does not regulate the formaldehyde emissions from composite wood products such that the potentially large areas of these products, such as for flooring,

baseboards, interior doors, window and door trims, and kitchen and bathroom cabinetry, could be used without causing indoor formaldehyde concentrations that result in CEQA cancer risks that substantially exceed 10 per million for occupants with continuous occupancy.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

If CARB Phase 2 compliant or ULEF composite wood products are utilized in construction, then the resulting indoor formaldehyde concentrations should be determined in the design phase using the specific amounts of each type of composite wood product, the specific formaldehyde emission rates, and the volume and outdoor air ventilation rates of the indoor spaces, and all feasible mitigation measures employed to reduce this impact (e.g. use less formaldehyde containing composite wood products and/or incorporate mechanical systems capable of higher outdoor air ventilation rates). See the procedure described earlier (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Alternatively, and perhaps a simpler approach, is to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins.

Response to Comment C1

Comment C1 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C2

Comment C2 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C3

Comment C3 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C4

Comment C4 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C5

Comment C5 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C6

Comment C6 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C7

Comment C7 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C8

Comment C8 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

The Project Site is located within the Downtown Specific Plan – Raincross District and Cultural Resources (Mission Inn Historic District and Seventh Street Historic District) Overlay Zones. The Proposed Project is not inconsistent with any plan or policy or the City’s zoning code.

A. Conditional Use Permits:

1. The Downtown Specific Plan, Chapter 6, Section 6.5.1(B)(2) specifically states that within the Mission Inn Historic District, floor area ratio may be increased up to 4.5 with the approval of a Conditional Use Permit (CUP), provided the proposed use supports the purpose and intent of the Raincross District and is compatible with surrounding development and design as detailed below (in response to **Comment Letter C – Comments II(A)(3)(c) and II(B)(4) on Historic Resources**). The Proposed Project requests a CUP to exceed the base FAR, and proposes a 3.73 FAR, where a maximum 4.5 is permitted through the CUP process.
2. The Downtown Specific Plan, Chapter 6, Section 6.5.3(B) specifically states the maximum building height in the Raincross District, within the Mission Inn Historic District, shall be 100 feet, provided that anything over 60 feet requires the approval of a Conditional Use Permit and must support the purpose and intent of the Raincross District and be compatible with surrounding development and design as detailed below (in response to **Comment Letter C – Comments II(A)(3)(c) and II(B)(4) on Historic Resources**). The Proposed Project requests a CUP to exceed the 60-foot base height limit and proposes a maximum height of 93-feet 4-inches, where a maximum of 100-feet is permitted through the CUP process.
 - a. Riverside Municipal Code (RMC) Section 19.640.040(C) states the City Planning Commission is the designated approving authority for discretionary permits and actions, including Conditional Use Permits. RMC Section 19.760.040 states the Planning Commission may grant a conditional use permit in whole or in part, and including appropriate conditions of approval if, from the evidence presented at the public hearing, written findings can be made, which are outlined under RMC Section 19.760.040(A)-(C). As stated in Exhibit 1 – *Staff Recommended Findings* of the staff report, the Proposed Project meets the aforementioned required findings. Therefore, the Proposed Project is not inconsistent with the zoning designation and regulations.

The Proposed Project supports the purpose and intent of the Raincross District and is compatible with surrounding development in the District and is consistent with the Raincross District of the Downtown Specific Plan. Hotel developments with a floor area ratio greater than 3.0 and a building height greater than 60 feet are permitted in the Mission Inn Historic District of the Raincross District, subject to the approval of a Conditional Use Permit. The proposed building height is similar in height and massing to surrounding buildings within the Raincross District, such as the Hyatt Place and Marriott Hotels, the Hampton Inn Hotel, the Fox Theatre, the Riverside Metro Center office building, and the Riverside Municipal Auditorium. The Proposed Project provides a dynamic mix of uses in an urban downtown area, directly supporting existing businesses such as; the Riverside Convention Center, the Riverside Community Hospital, University of California Riverside, California Air Resources Board, year-round festivals, downtown attractions and entertainment and community services. Therefore, the Proposed Project height would be in character with existing patterns

of development within the Mission Inn Historic Overlay of the Raincross District. The proposed FAR is a result of the constrained lot size in relation to the size of the proposed building. As stated above, the Proposed Project's height and scale are consistent with the development pattern of the Mission Inn Historic Overlay within the Raincross District, and thus, so is the accompanying FAR. No new information, new impacts, or deficiencies are identified that have not been addressed by the Class 32 Infill Development Checklist. Therefore, the categorical exemption remains the appropriate and reasonable determination as determined by the Lead Agency.

B. Variances:

1. Downtown Specific Plan, Chapter 5, Section 5.3.6 specifically states variances may be granted from the development standards contained in the Downtown Specific Plan pursuant to the procedures set forth in Chapter 19.64 of the Zoning Code, unless otherwise specified. The Proposed Project requests to deviate from the 15-foot required front yard setback for sites fronting on Mission Inn Avenue, and from the City's parking standards that would require 226 parking spaces.
 - a. RMC Section 19.720.040(A) states the Planning Commission may approve a variance if it makes all of the findings listed under RMC Section 19.720.040(A)(1)-(4). As stated in Exhibit 1 – *Staff Recommended Findings* of the staff report, the Proposed Project meets the aforementioned required findings. RMC Section 19.720.020(B) specifically states that variances may not be approved for uses or activities not otherwise expressly authorized by the Zoning Code. Here, both allowances are expressly authorized by RMC Section 5.3.6. A variance is not a substitute for a zone change, zone text amendment, or conditional use permit. The Planning Commission has express authority to grant a variance if it meets the required findings, resulting in the project's consistency with the Zoning Code. Therefore, the Proposed Project is not inconsistent with the zoning designation and regulations.

The purpose of the Downtown Specific Plan is to encourage, classify, designate, regulate, restrict and segregate the highest and best location and use of buildings, structures and land uses; to regulate and limit the height, number of stories and size of buildings and other structures hereafter erected or altered; to regulate and determine the size of yards and other open spaces; and, to regulate and limit the density of population; and to divide the City into zones of such number, shape and area as may be deemed best suited to carry out these regulations and provide for their enforcement. The regulations are deemed necessary to promote the public health, safety, and general welfare, all as part of the General Plan of the City. The 0.95-acre downtown Project Site is fully surrounded by public-right-of-way. The Proposed Project has been designed to achieve the most efficient use of space on the site, while still complying with most development standards. Existing buildings, including a portion of the historic Central Fire Station, have been designed to feature zero-lot-line construction. Increasing the front setback for compliance with the Code would not only result in reduction

of guest rooms and building footprint but would further reduce the number of parking spaces and further impact the parking condition. The resulting loss of building footprint and potential parking spaces would constitute an unnecessary hardship inconsistent with the policies of the Raincross District of the Downtown Specific Plan. The strict application of the provisions of the Downtown Specific Plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Specific Plan.

The goals and policies of the Raincross District of the Downtown Specific Plan include an emphasis on a mixture of residential, entertainment, restaurant, cultural and other uses in a compact, walkable, high-activity pedestrian environment with a strong sense of place. Compliance with the parking requirements would apply parking standards to an urban infill project that are not suitable to the context. Strict compliance with parking requirements would necessitate adding additional parking spaces, resulting in a reduction in the amount of guest rooms or the acquisition of additional property, each of which would constitute a practical difficulty due to the uniquely constrained nature of the site.

The parking ratio required for a hotel does not consider the location of the hotel, proximity to job centers, convention centers, entertainment, attractions, and community services. Nor does it account for the proximity to shared mobility with 13 RTA bus lines within proximity to the Project Site and shared ride services from Ontario International Airport. The requirement for additional parking contradicts the intent of the Downtown Specific Plan to create a sense of place and foster a more compact pedestrian environment within the Raincross District. Other buildings and uses within the vicinity generally have limited or reduced parking and depend upon shared public parking, which is within walking distance to the hotel. An amenity of the hotel is valet parking, reducing the need for guests to self-park.

Chapter 16 of the Downtown Specific Plan recognizes that “Off-street parking demand in the downtown area is generally below capacity...” and “The current parking requirements require parking supply for buildings to be located on-site. This is an impediment to new land uses in downtown.” The Downtown Specific Plan recognizes the site constraints and the impediment that strict application the Code would cause.

The Project Site’s design is consistent with the urban context of the neighborhood and engages existing patterns of development by situating the hotel building along the front property line. Placement of the building at the property line connects with the streetscape, consistent with the adjacent building, and activates the project’s frontage. Section 6.6.2 of the Downtown Specific Plan specifically lists site planning recommendations, which include, but are not limited to:

- Commercial buildings should generally have a direct interface with public sidewalks with no intervening setback.
- Buildings should have a strong street presence, with public entrances and activity areas oriented toward the street.
- The size and mass of a new building should blend with the surrounding district.

The Proposed Project meets the site design guidelines outlined in the Downtown Specific Plan. The site is constrained due to multiple street frontages and rear alley. There is no opportunity to acquire additional property to provide the required 15-foot front yard setback without heavily impacting the development that could potentially result in additional Variances. The constraint of the Project Site and its location in a historic urban setting, presents a special circumstance or condition applicable to the property involved or to the intended use or development of the property that does not apply generally to other property in the vicinity and under the identical zoning classification. Properties to the north, east and west, which are fully within the Mission Inn Historic District, are not surrounded by public rights-of-way on all four frontages, which impair the ability to acquire more land for development purposes.

The development standards for the Raincross District are designed to create a place of daytime, evening, and weekend activity by providing a high activity pedestrian environment with a storefront emphasis at the street level. The requirement for a 15-foot front yard setback is contrary to the desired character and unique sense of identity for this District. Within the Raincross District, there are numerous local and national historic landmarks that define the District's character with zero or reduced front yard setbacks, including the Mission Inn Hotel and Spa, Fox Theater, Stalder Building, Post Office, Loring Building, and the former Central Fire Station. The proposed front yard setback will be consistent with established reduced front setbacks and contribute to the District's unique sense of identity.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C9

Comment C9 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

The Proposed Project would be required to comply with local, regional, and state regulatory conditions, including those from SCAQMD. These rules and regulations would be applicable, but not limited to the Proposed Project, and include, but are not limited to: Rule 402 Nuisance – Controls the emissions of odors and other air contaminants; Rule 403 Fugitive Dust – Controls the emissions of fugitive dust; CCR Title 13, Section 2025 – On-Road Diesel Truck Fleets; and CCR Title 24 Part 6 – California Building Energy Standards. As illustrated in the project specific Air Quality and Greenhouse Gas Emissions Impact Analysis, there would be no significant environmental impacts to air quality as a result of the Proposed Project.

Impacts of the environment on a project (as opposed to impacts of a project on the environment) are beyond the scope of required California Environmental Quality Act (CEQA) review. “[T]he purpose of [CEQA] is to identify the significant effects of a project on the environment, not the significant effects of the environment on the project.” (*Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 473 (Ballona).) Further, the California Supreme Court recently held that “CEQA does not generally require an agency to consider the effects of existing environmental conditions on a Proposed Project’s future users or residents. What CEQA does mandate... is an analysis of how a project might exacerbate existing environmental hazards.” (*California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 392; see also *Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) 6 Cal.App.5th 160, 197 [“identifying the effects on the project and its users of locating the project in a particular environmental setting is neither consistent with CEQA’s legislative purpose nor required by the CEQA statutes”], quoting Ballona, supra, 201 Cal.App.4th at p. 474.) Contrary to the commenter’s assertion, the Proposed Project will not “exacerbate” any existing condition regarding any alleged indoor air quality emissions. This is because the “exacerbation” issue is very much akin to a cumulative impact. So, if we are not adding onto an existing problem, then the project cannot exacerbate anything--as no existing condition exists which can be exacerbated. CEQA requires you to look at the impacts of the project on the environment, it is not required to examine the significant effects of the environment on the project as the commenter suggests.

The Proposed Project entails the construction of a hotel use, which is a transitory facility and would not be occupied on a long-term basis equivalent to a primary residence. Short-term exposures from construction materials of the project would not translate to long-term health risks or impacts. Hotel guests and employees would only be onsite for temporary periods of time not equivalent to living within a residence.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C10

Comment C10 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

As discussed in Response to Comment C8, the Proposed Project is not inconsistent with any plan or policy or the City’s zoning code. The requirement for conditional use permits and variances are expressly listed within the City’s zoning code and are subject to the Planning Commission’s decision. The Proposed Project meets the required findings as detailed in the Staff Report, Exhibit 1 – *Staff Recommended Findings*. Therefore, the Proposed Project is not inconsistent with the zoning designation and regulations.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C11

Comment C11 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

CEQA Guidelines Section 15064.5(b)(3) states that a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer, shall not constitute a significant impact on the historical resource.

The project specific Historic Resource Evaluation Assessment Report (*Class 32 Infill Development Exemption Checklist, Appendix A*) details a design development analysis of significant character-defining architectural and historical cultural resource features present in the Central Fire Station that have informed the design character of the proposed hotel structure. The Proposed Project does not materially alter in an adverse manner the physical characteristics of the Central Fire Station that conveys its historical significance and that substantially justify its inclusion in the California Register of Historical Resources. The Central Fire Station has limited character-defining features present within the interior spaces, stemming from multiple alterations of the non-public interior spaces. The alterations proposed to the Project Site preserve the primary character-defining features, especially the north Mission Inn Avenue and East Line Street facades of the Central Fire Station. The Proposed Project include aspects of rehabilitation, consisting of minor exterior improvements such as a change out of existing roll up garage doors from solid metal roll up doors to divided lite glass doors on the south and north elevations, removal of one exterior doorway on the north elevation, and exterior paint color change on the stucco portion of the historic structure, as detailed in the Project Description. These proposed modifications comprise a rehabilitation approach which confirm with the standard of care specified in the Public Resource Code and Secretary of the Interior's Standards as referenced in project specific Historic Resource Evaluation Assessment Report. Additionally, project specific Historic Resource Evaluation Assessment Report demonstrates that the construction and operation of the Proposed Project would not cause a substantial adverse change in the significance of the Mission Inn Historic District.

The hotel building elevations and the modifications to the former Central Fire Station building will be considered by the Cultural Heritage Board on April 21, 2021, under Planning Case P19-0563 (Certificate of Appropriateness). RMC Section 20.25.050, Item G states that Staff shall make findings of the following standards, specifically:

The Secretary of the Interior's Standards for Rehabilitation:

- 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*
- 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*
- 3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

Guidelines for Rehabilitating Historic Buildings (1990) state:

Some exterior and interior alterations to the historic building are generally needed to assure its continued use, but it is most important that such alterations do not radically change, obscure, or destroy character-defining spaces, materials, features, or finishes. Alterations may include providing additional parking space on an existing historic building site; cutting new entrances or windows on secondary elevations; inserting an additional floor; installing an entirely new mechanical system; or creating an atrium or light well. Alteration may also include the selective removal of buildings or other features of the environment that are intrusive and therefore detract from the overall historic character.

The proposed addition to, and adaptive reuse of the Central Fire Station structure conforms with this standard of care. An addition of this proposed seven and eight-story, approximately 89-foot-high structure at the northwest corner of Mission Inn Boulevard and Lemon Street is compatible with buildings defined as contributors to the local historic environment. Specifically, these buildings include, but are not limited to, the following structures:

- The Walling Building (Historical name, Former First National Bank of Riverside) at the southeast corner of 3800 Main at University, which is a tall five story structure with a deeply projecting neoclassical-styled cornice;
- The celebrated Mission Inn, which occupies a large urban block footprint with building volumes composed of varying heights. The Mission Inn is generally five and six stories in height, with projecting domes and towers in some areas equating to approximately seven to eight stories in height;
- New construction of the Stalder Plaza located behind G. Stanley Wilson's 1926 Stalder Building, which is a 74-foot-high structure of seven stories with a 94-foot-high mechanical equipment area. This project was approved by Riverside's Cultural Heritage Board and Planning department in 2017.
- The Imperial Hardware Lofts project, a similar project type with a historical façade rehabilitation and a new adaptive reuse construction on the remainder of the site. This 68-foot-high structure of seven stories was approved by Riverside's Cultural Heritage Board in 2015.

The proposed setback variance is necessitated because of the unusual nature of the Central Fire Station building – a fact that differentiates it from surrounding uses. Specifically, the Central Fire Station is listed as a resource under the California State Historic Register. To meet the required 15-foot setback, substantial modification to the face of the existing historic fire station would need to occur. That modification, in itself, would create a new, significant impact to a historic resource, which is exactly what the Project is designed to avoid. Specifically, the proposed variance to reduce the setback would allow the new use to emulate the existing historic structure and maintain consistency with the historic fire station design. Historic buildings within the broader project area have setbacks similar to the Proposed Project. The existing structure itself does not meet the 15-foot setback. Therefore, if the reduced setback were to constitute a significant impact to the historic resource, it would not be expressly permitted through the variance process, which is allowed within the Downtown Specific Plan.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C12

Comment C12 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

As discussed in Response to Comment C8, the Proposed Project is not inconsistent with any plan or policy or the City's zoning code. The requirements for variances are expressly listed within the City's zoning code and are subject to the Planning Commission's decision. The Proposed Project meets the required findings as detailed in the Staff Report, Exhibit 1 – *Staff Recommended Findings*. Therefore, the Proposed Project is not inconsistent with the zoning designation and regulations.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Response to Comment C13

Comment C13 does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Comment Letter D – Mind and Mill

Monday, April 12, 2021

Brian Norton

Senior Planner | City of Riverside
3900 Main Street
Riverside, CA 92522

Re: AC & Residence Inn by Marriott

Dear Brian.

With this letter, I hope to express support on behalf of myself and Mind & Mill for the proposed dual-branded AC & Residence Inn by Marriott hotel project. This project will provide much needed hospitality services in our downtown core in a manner that preserves and modernizes one of the City's most iconic structures: the historic fire station.

The project has taken careful and tasteful steps to preserve and enhance the fire station's artistic and cultural aspects. The developers have architecturally integrated the new hotel with the station, paying homage to the international modern design queues. We especially appreciate the developer's vision to commission public and locally created art installations, as we often curate local and national art exhibitions. As the foremost marketing agency in the Inland Empire, representing hundreds of local firms, we understand the importance that aesthetic, tone, and culture offer to engross a client, and I can confidently say that this project will be integral in spotlighting Riverside as a modern city with authenticity and respect for its roots which is becoming increasingly important in the day and age of remote work. In operating collaborative workspaces, it has become ever more clear that today's professionals can choose where they live, regardless of where they are employed. If we hope to become a community of industry professionals and community leaders, cultivating Riverside as a city that can be identified with and valued is more crucial than ever.

If the City of Riverside wants to continue to evolve into Southern California's premier market and municipality, it needs thoughtful, vibrant, and economically stimulating projects with quality, elegance, and character. I firmly support the AC & Residence Inn project and believe **it will become an icon for our city.**

Cheers,

Timothy Jackson

Timothy Jackson

D1

Response to Comment D1

Comment D1 is a letter in support of the Proposed Project. This comment does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Comment Letter E – Raincross Hospitality Corporation

From: Scott Megna <SMegna@riv-cc.com>
Sent: Wednesday, April 14, 2021 4:43 PM
To: bnorton@riversideca.gov
Subject: Dual Brand AC by Marriott / Residence Inn by Marriott

Subject: Dual Brand AC by Marriott / Residence Inn by Marriott Hotel
City of Riverside Community Development Department
3900 Main St, Riverside, CA 92501

ATTN: Planning Commission

On behalf of Raincross Hospitality Corporation and myself, I would like to acknowledge our support of the proposed dual branded Marriott hotel development in downtown Riverside. The additions of the Residence Inn and AC Marriott flags will alleviate the constant pressure of securing the needed room supply for our convention center guests. The project will also help with attracting future convention business as it offers our guests an extended stay product that is not available in the immediate area as well as offering a more contemporary/luxury option with the AC Hotel.

E1

The proposed project will be a positive catalyst to the city and as we see the world re-open, downtown will benefit greatly with the project going forward. We are supportive of new high-quality developments such as this project and it's anticipated boost to Riverside's general fund through increased transient occupancy tax revenues.

Respectfully Submitted,

SCOTT MEGNA
President – Raincross Hospitality Corporation
General Manager – Riverside Convention Center
IAVM – Research Committee Chair



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SMegna@Riv-CC.com | www.Riv-CC.com



Response to Comment E1

Comment E1 is a letter in support of the Proposed Project. This comment does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.

Comment Letter F – Tom Donahue

April 12, 2021

Richard Kirby Ward 1 – Chair Planning Commission

Re: Marriott AC – Residence Inn Hotel Project Item #2 April 15 Agenda
Letter of support

Chair Kirby , members of the Planning Commission and staff. I am writing to you as a Ward 1 resident to give my support for the Marriott AC-Residence Inn project and the variances requested by the local Riverside developer, Overland Development Company.

This project has been reviewed extensively by the Cultural Heritage Board, downtown businesses, local community, and business organizations. This is a win -win for Downtown Riverside.

In my previous employment, I was the general manager for the Marriott Riverside at the Convention Center for 8 years. There is a strong need for hotel rooms in the downtown core to attract large corporate and association business. Riverside with a historic and walkable downtown is an attractive option for meeting planners IF there are sufficient hotel rooms for their organization. TOT tax is the tip of the iceberg for its economic impact. For every TOT dollar, convention guests spend on average \$26/day in the local economy. Having TWO additional Marriott brands in the downtown is not taking away business from the existing Marriott Hotel. It enhances the attraction by creating options for the very local Marriott business and leisure customer.

F1

I am not speaking for the local neighborhood organizations, DANA downtown area neighborhood alliance and ORF old riverside foundation, but this project was presented to these organizations over two years ago. Comments received were listened to and incorporated into their project design. Blending the new with the Mission Inn Historic District was a neighborhood priority. This project meets that threshold and in general is supported by the members of these organizations.

I make these comments to provide background on the vetting of this project, its design, and inclusion in the Mission Inn Historic District. The key to any good project is the team behind it willing to listen and design a project that meets the social, environmental, and economic interests of Riverside.

Overland Development Company and their team have met these criteria.

I ask for your support for the variances requested and to give your approval for this project.

Thank you, Chair Kirby, and all the members of the Planning Commission for your time and commitment to serve the residents of Riverside as members of this City board.

Tom Donahue | Ward 1 resident
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Response to Comment F1

Comment F1 is a letter in support of the Proposed Project. This comment does not identify any deficiencies in the environmental document or identify any significant new information requiring revisions to the Class 32 Infill Development Checklist. The project is proposed to be developed in accordance with the City General Plan and zoning code and no significant, unavoidable impacts will occur.

Conclusion

No new significant information identifying a potentially significant impact or inadequacy in the analysis has been identified. No changes to the Class 32 Infill Development Checklist are required as a result of this comment.