

NOTICE OF PREPARATION – JANUARY 27, 2016

To: Distribution List
Subject: **NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT**

Lead Agency:
Agency Name: City of Chula Vista
Street Address: 276 Fourth Avenue
City/State/Zip: Chula Vista, CA 91910
Fax: (619) 409-5913
Contact: Jeff Steichen, Project Planner

The City of Chula Vista publicly announces its intent to initiate preparation of an Environmental Impact Report (EIR) for the following “project” as defined by the California Environmental Quality Act (CEQA) and set forth in Public Resources Code Section 21065.

The City of Chula Vista is the Lead Agency that will prepare the EIR. A description of the proposed project and an explanation of its potential environmental impacts are provided in this Notice of Preparation (NOP).

Please provide your written comments including specific statutory responsibilities of your agency, as applicable. Written comments must be received at the earliest possible date, but no later than 30 days after the receipt of this notice.

Please send your response and the name of the contact person to: Jeff Steichen, Project Planner, at the address shown above. A public scoping meeting will be held on February 11, 2016 at 2 p.m., Building A, Executive Conference Room 103 (located adjacent to the City Council chambers).

Project Title: **Environmental Impact Report (EIR-15-0002) for the Sharp Ocean View Tower (DR-15-0030, CUP-15-0025, MPA-15-0021)**

Project Location: City of Chula Vista, within the County of San Diego.

Project Description: The “project” consists of a Design Review Permit and Conditional Use Permit to allow for a new 7-story hospital tower to be constructed on the existing 16.49-acre hospital campus located within the East Planning Area (Public/Quasi Public Land Use Designation) of the City’s General Plan. The request also includes a Major Planning Application to allow for an increase in the allowable building height of the Administrative and Professional Office (CO) zone from 45 to 110 feet.

Date: January 27, 2016


Jeff Steichen
Project Planner
(619) 585-5778

**NOTICE OF PREPARATION OF A DRAFT
ENVIRONMENTAL IMPACT REPORT FOR A DESIGN
REVIEW (DR), CONDITIONAL USE PERMIT (CUP),
AND MAJOR PLANNING APPLICATION (MPA)**

PROJECT LOCATION

The proposed project is located within the City of Chula Vista, in southwestern San Diego County approximately one mile east of Interstate 805 (I-805) and one-quarter of a mile south of Telegraph Canyon Road. Figure 1 depicts the project's location. Figures 2 and 3 illustrate an aerial photo of the project area and the proposed site plan, respectively.

PROJECT SETTING

The project area is located on the U.S. Geological Survey 7.5-minute series Imperial Beach quadrangle. The topography consists of a relatively flat (ranging from 435 to 455 feet mean sea level) area bounded to the north/northeast by Loop Road. North-facing and east-facing manufactured cut and fill slopes are located north/northeast of Loop Road. There are multiple existing buildings (Sharp Chula Vista Medical Center and Birch Patrick Skilled Nursing Facility), as well as two medical office buildings and one new parking structure on the property that will remain.

PROJECT BACKGROUND

The 343-bed Sharp Chula Vista Hospital has grown over the years to accommodate increased demand and need for services. The East Tower was the first major facility, opening in 1975, and was supplemented by the construction of Birch Patrick in 1989, which included 100 skilled nursing and long-term care beds. An additional 104 beds were added in 1991 when the West Tower was constructed; then the Douglas and Nancy Barnhart Cancer Center and medical offices opened in 2012. However, the hospital experiences shortages of 25 to 30 beds every day, resulting in diversions of patients to other facilities and the shortage is anticipated to increase as the population in the South Bay continues to expand. In 2012 Sharp began planning for this growth by developing a new Master Plan which provides a comprehensive solution to both the current overcrowding situation and the need to meet the requirements of the Senate Bill (SB) 1953 seismic requirements.

The City of Chula Vista approved "Make Ready" work which was completed in late 2015. The Make Ready phase included relocations and reorganization of existing utilities, cooling towers, and surface parking; as well as construction of a new parking structure and loop road. The current proposal is for a new 7-floor hospital tower (see Project Description below).

PROJECT DESCRIPTION

The proposed project would include construction of a new hospital tower (Ocean View Tower) within the existing Sharp Chula Vista hospital campus. The new tower would be constructed immediately adjacent to the existing Sharp Chula Vista Hospital and would be seven stories in height to include 138 beds, 6 operating rooms with pre- and post-operational support, sterile processing, dietary services, material management, dock, morgue, and pharmacy; as well as a rooftop ocean view café. The proposed tower would be adjacent to the existing hospital; with the first two floors interfacing directly with the East

Tower. The proposed 192,883 square-foot Ocean View Tower would be seven floors, six above grade and on mostly sub-grade (subterranean on three sides; above ground on one side). Total height would be 95 feet for the 7-story tower itself; reaching a maximum height of 110 feet when including the elevator enclosure.

EIR CONTENTS

POTENTIAL ENVIRONMENTAL EFFECTS OF THE PROJECT

The City of Chula Vista has determined that the project may cause significant adverse environmental effects and potentially significant indirect, direct and cumulative environmental effects. An EIR is, therefore, required in order to comply with CEQA Guidelines Section 15060 and 15081.

In accordance with the CEQA Guidelines and the City of Chula Vista's Environmental Procedures, the environmental impact analysis will describe the environmental setting of the project, identify potential environmental impacts, address the significance of potential impacts, identify mitigation measures to address potentially significant environmental impacts, and determine the significance of impacts after mitigation.

The scope of the EIR for the project will be based in part on comments received in response to this NOP and public input received during the public scoping meeting. The EIR will address each of the environmental issues summarized herein. A Mitigation Monitoring and Reporting Program (MMRP) will be prepared to document implementation of the required mitigation measures. For each mitigation measure, the timing of implementation will be identified and tied to a specific project action. Responsible parties will be identified to implement and monitor the satisfaction of each mitigation measure. The following environmental issues will be analyzed in the EIR.

Aesthetics

With respect to visual character, the project improvements would take place within an existing hospital campus. The EIR will analyze the potential effects of the proposed new 7-story, 138-bed tower with a decorative spire that reaches a maximum height of 110 feet.

Pursuant to the General Plan, there are no designated scenic vistas within the project vicinity that would be affected by the proposed project; nor are any of the City's scenic resources (e.g., the Chula Vista greenbelt) located near the project area. While there are no scenic viewsheds, corridors, or resources identified within the area, it would appear that the hospital, due to topography and trees, is generally not readily visible from the public vantage points. For example, the existing 5-story towers are not visible from surrounding roadways such as Telegraph Canyon Road, East Palomar Street, Medical Center Drive, nor is it visible from Veterans Park or Greg Rogers Park. From Paseo Ladera, the towers are only visible while directly within the intersection at Givens Street. Nevertheless, the EIR will analyze the potential for the project to obstruct any vistas or scenic views or to be incompatible with surrounding development in terms of bulk, scale, materials, or style. The analysis will be supported by the text and illustrations in the Master Plan for the Ocean View Towers as well as architectural elevations, cross sections, photosimulations, and other graphics as applicable.

Air Quality and Greenhouse Gas

The proposed project would result in an additional 138 beds; thus, additional traffic compared to the existing condition. However, the new building would be constructed to current standards of efficiency, and the replacement cooling towers and replacement gas-fired boilers would reach a greater level of efficiency than those currently in operation.

The EIR will analyze potential impacts from construction emissions, operation of the new tower and cooling towers/boilers, and vehicle emission sources. In addition, the EIR will determine whether the project's potential air quality impacts would hinder or help the San Diego Air Basin to meet the regional air quality strategies. Project-generated greenhouse gas (GHG) emissions resulting from both construction activities related to the project as well as ongoing operation of the project will be quantified. The analysis will include, but is not limited to, the five primary sources of GHG emissions: vehicular traffic, generation of electricity, natural gas consumption/combustion, solid waste generation, and water usage.

Geology and Soils

Any structure operating acute care services must be at SPC-3 or higher to continue providing service past 2030. The assessment of potential impacts related to geologic hazards and soil conditions would be addressed. The EIR will describe the geologic and subsurface conditions on the project site and discuss the general setting in terms of existing topography, geology (surface and subsurface), tectonics, and soil types. The discussion will include issues such as the potential for liquefaction, slope instability, and other hazards as well as mitigation (if appropriate) that would reduce the potential for future adverse impacts resulting from on-site soils or geologic hazards. Further, the EIR will discuss the project's consistency with Office of Statewide Health Planning and Development requirements as well as the Seismic Element of the City's General Plan.

Hydrology/Water Quality

The EIR will provide a discussion and analysis focusing on the project's impact on the existing drainage patterns, as well as how the project could potentially affect water quality within the project area and downstream. As applicable, the EIR will discuss the need for Best Management Practices and Low Impact Development practices, in order to ensure that hydrology and water quality impacts would be below a level of significance.

Land Use and Planning

The EIR section will discuss the project's consistency with the General Plan and Master Plan, as well as the CUP and Precise Plan.

Noise

As the project involves generally replacing existing uses (e.g., new coolers and boilers) and providing additional space at an existing hospital, new impacts related to operations would be relatively limited. However, there are single-family residential uses to the south and northeast and multi-family residential uses to the southeast. Accordingly, and because there would ultimately be 138 additional beds (increasing the overall capacity), the EIR will identify and analyze the potential noise sources, including potential construction activities that could result in ground borne vibration, for the construction of the new tower, and provide an analysis of any potential effects and mitigating solutions as appropriate.

Transportation, Access, and Parking

Construction of the proposed Ocean View Tower would intensify the land use slightly due to the additional 138 beds within the new tower. A detailed traffic impact study has been prepared by LLG in conjunction with the EIR. The traffic report includes an analysis of the new tower's pedestrian and vehicular circulation patterns and parking requirements within the context of the loop road and parking improvements that are not part of the proposed project but were recently completed.

The EIR section will identify potential impacts to the traffic and circulation system. The discussion will focus on segment and intersection conditions for existing, near-term, and future conditions, with or without the project. The cumulative analysis will incorporate any past, present and reasonably foreseeable future developments in the community that may impact or contribute to local and regional street and circulation systems. This section of the EIR will also describe any required modifications and/or improvements to the existing circulation system, including City streets, intersections, freeways, and interchanges, as applicable. If the project would result in a significant impact, the study and EIR will describe what measures would be required to mitigate traffic/circulation impacts to below a level of significance. The section will describe the walkability, pedestrian, and bicycle connectivity within the project and off-site areas.

Utilities

The proposed project's ultimate infrastructure requirements would be determined through preparation of both water and sewer demand studies. The EIR will address and discuss what additional infrastructure improvements (e.g., upsizing piping, installing a new meter, etc.) would be needed, if any.

Alternatives

The EIR will consider a range of project alternatives that may eliminate or reduce significant adverse environmental impacts to a level of less than significant. CEQA requires the No Project Alternative to be analyzed in an EIR. A discussion of other alternatives that were considered and supporting rationale indicating why they were determined infeasible will also be provided. For each alternative, the EIR will provide a description of the alternative, consideration of the alternative's feasibility in relationship to the Statement of the Project Objectives, and a comparative analysis of the environmental impacts of the alternative versus the impacts as a result of the project.

Other Environmental Considerations

Other environmental considerations that will be addressed in the EIR include: cumulative impacts (combined environmental effects) associated with related past, present and reasonably foreseeable future projects; significant irreversible environmental changes; growth-inducing impacts; and effects found not to be significant.

LIST OF FIGURES

- Figure 1: Regional Location Map
- Figure 2: Project Location on Aerial Photograph
- Figure 3: Site Plan




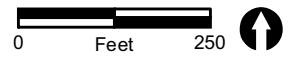
 Project Location

FIGURE 1
Regional Location



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-  Project Parcel
-  New Tower Footprint

FIGURE 2
Project Location on Aerial Photograph

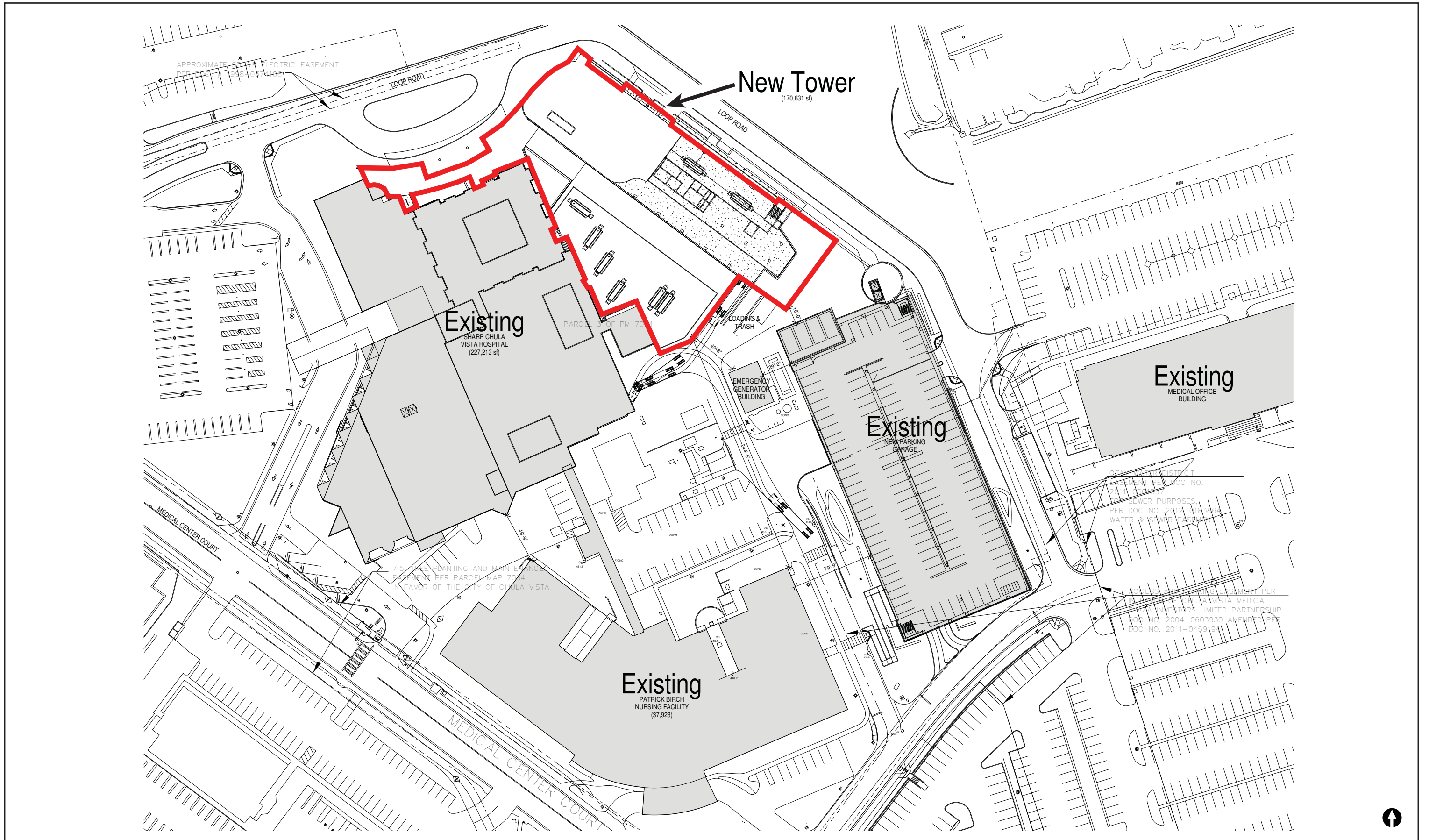


FIGURE 3
Site Plan



EDMUND G. BROWN JR
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX
DIRECTOR

Notice of Preparation

February 2, 2016

To: Reviewing Agencies

Re: Sharp Ocean View Tower (DR-15-0030, CUP-15-0025, MPA-15-0021)
SCH# 2016021010

Attached for your review and comment is the Notice of Preparation (NOP) for the Sharp Ocean View Tower (DR-15-0030, CUP-15-0025, MPA-15-0021) draft Environmental Impact Report (EIR)

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Jeff Steichen
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Attachments
cc: Lead Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2016021010
Project Title Sharp Ocean View Tower (DR-15-0030, CUP-15-0025, MPA-15-0021)
Lead Agency Chula Vista, City of

Type NOP Notice of Preparation
Description The project consists of a Design Review Permit and Conditional Use Permit to allow for a new 7-story hospital tower to be constructed on the existing 16.49 acre hospital campus located within the East Planning Area (Public/Quasi Public Land Use Designation) of the City's General Plan. The request also includes a Major Planning Application to allow for an increase in the allowable building height of the Administrative and Professional Office (CO) zone from 45 to 110 feet

Lead Agency Contact

Name Jeff Steichen
Agency City of Chula Vista
Phone (619) 585-5778 **Fax**
email
Address 276 Fourth Avenue
City Chula Vista **State** CA **Zip** 91910

Project Location

County San Diego
City Chula Vista
Region
Cross Streets Telegraph Canyon Road
Lat / Long
Parcel No.

Township	Range	Section	Base
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Proximity to:

Highways I-805
Airports
Railways
Waterways Imperial Beach
Schools
Land Use Multiple existing buildings, as well as two medical office buildings and one new parking structure on the property that will remain

Project Issues Aesthetic/Visual; Air Quality; Geologic/Seismic; Water Quality; Landuse; Noise; Traffic/Circulation; Public Services; Growth Inducing; Cumulative Effects; Other Issues

Reviewing Agencies Resources Agency; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Wildlife, Region 5; Native American Heritage Commission; California Highway Patrol; Caltrans, District 11; Air Resources Board; Regional Water Quality Control Board, Region 9; Statewide Health Planning

Date Received 02/02/2016 **Start of Review** 02/02/2016 **End of Review** 03/02/2016

NOP Distribution List

County: San Diego

SCH# 2016021010

sources Agency

- Resources Agency
Nadell Gayou
- Dept. of Boating & Waterways
Denise Peterson
- California Coastal Commission
Elizabeth A. Fuchs
- Colorado River Board
Lisa Johansen
- Dept. of Conservation
Elizabeth Carpenter
- California Energy Commission
Eric Knight
- Cal Fire
Dan Foster
- Central Valley Flood Protection Board
James Herota
- Office of Historic Preservation
Ron Parsons
- Dept of Parks & Recreation
Environmental Stewardship Section
- California Department of Resources, Recycling & Recovery
Sue O'Leary
- S.F. Bay Conservation & Dev't. Comm.
Steve McAdam
- Dept. of Water Resources
Resources Agency
Nadell Gayou

- Fish & Wildlife Region 1E
Laurie Harnsberger
- Fish & Wildlife Region 2
Jeff Drongesen
- Fish & Wildlife Region 3
Charles Armor
- Fish & Wildlife Region 4
Julie Vance
- Fish & Wildlife Region 5
Leslie Newton-Reed
Habitat Conservation Program
- Fish & Wildlife Region 6
Tiffany Ellis
Habitat Conservation Program
- Fish & Wildlife Region 6 I/M
Heidi Calvert
Inyo/Mono, Habitat Conservation Program
- Dept. of Fish & Wildlife M
George Isaac
Marne Region

Other Departments

- Food & Agriculture
Sandra Schubert
Dept. of Food and Agriculture
- Depart. of General Services
Public School Construction
- Dept. of General Services
Anna Garbeff
Environmental Services Section
- Delta Stewardship Council
Kevan Samsam
- Housing & Comm. Dev.
CEQA Coordinator
Housing Policy Division

Independent Commissions, Boards

- Delta Protection Commission
Michael Machado

Fish and Game

- Depart. of Fish & Wildlife
Scott Flint
Environmental Services Division
- Fish & Wildlife Region 1
Curt Babcock

- OES (Office of Emergency Services)
Marcia Scully
- Native American Heritage Comm.
Debbie Treadway
- Public Utilities Commission
Supervisor
- Santa Monica Bay Restoration
Guangyu Wang
- State Lands Commission
Jennifer Deleong
- Tahoe Regional Planning Agency (TRPA)
Cherry Jacques

Cal State Transportation Agency CalSTA

- Caltrans - Division of Aeronautics
Philip Crimmins
- Caltrans - Planning
HQ LD-IGR
Terri Pencovic
- California Highway Patrol
Suzann Ikeuchi
Office of Special Projects

Dept. of Transportation

- Caltrans, District 1
Rex Jackman
- Caltrans, District 2
Marcelino Gonzalez
- Caltrans, District 3
Eric Federicks - South
Susan Zanchi - North
- Caltrans, District 4
Patricia Maurice
- Caltrans, District 5
Larry Newland
- Caltrans, District 6
Michael Navarro
- Caltrans, District 7
Dianna Watson

- Caltrans, District 8
Mark Roberts
- Caltrans, District 9
Gayle Rosander
- Caltrans, District 10
Tom Dumas
- Caltrans, District 11
Jacob Armstrong
- Caltrans, District 12
Maureen El Harake

Cal EPA

Air Resources Board

- All Other Projects
Cathi Slaminski
- Transportation Projects
Nesamani Kalandiyur
- Industrial/Energy Projects
Mike Tollstrup
- State Water Resources Control Board
Regional Programs Unit
Division of Financial Assistance
- State Water Resources Control Board
Karen Larsen
Division of Drinking Water
- State Water Resources Control Board
Student Intern, 401 Water Quality Certification Unit
Division of Water Quality
- State Water Resources Control Board
Phil Crader
Division of Water Rights
- Dept. of Toxic Substances Control
CEQA Tracking Center
- Department of Pesticide Regulation
CEQA Coordinator

Regional Water Quality Control Board (RWQCB)

- RWQCB 1
Cathleen Hudson
North Coast Region (1)
- RWQCB 2
Environmental Document Coordinator
San Francisco Bay Region (2)
- RWQCB 3
Central Coast Region (3)
- RWQCB 4
Teresa Rodgers
Los Angeles Region (4)
- RWQCB 5S
Central Valley Region (5)
- RWQCB 5F
Central Valley Region (5)
Fresno Branch Office
- RWQCB 5R
Central Valley Region (5)
Redding Branch Office
- RWQCB 6
Lahontan Region (6)
- RWQCB 6V
Lahontan Region (6)
Victorville Branch Office
- RWQCB 7
Colorado River Basin Region (7)
- RWQCB 8
Santa Ana Region (8)
- RWQCB 9
San Diego Region (9)

Other Office of Statewide ~~Health~~ Health Planning & Development

Conservancy

RECEIVED

FEB 25 2016



County of San Diego

DEPARTMENT OF ENVIRONMENTAL HEALTH
HAZARDOUS MATERIALS DIVISION
P.O. BOX 129261, SAN DIEGO, CA 92112-9261
Phone: (858) 505-6700 or (800) 253-9933 Fax: (858) 505-6786
www.sdcdeh.org

AMY HARBERT
ASSISTANT DIRECTOR

February 11, 2016

City of Chula Vista
Attn: Jeff Steichen, Project Manager
276 Fourth Avenue
Chula Vista, CA 91910

RE: Notice of Preparation of a Draft Environmental Impact Report for the Sharp Ocean View Tower

Dear Mr. Steichen,

Thank you for the opportunity to review and comment on the Notice of Preparation for the above referenced project. The County of San Diego Hazardous Materials Division (HMD) is responsible for the protection of the environment and human health through regulation of businesses that handle hazardous material, generate hazardous and biohazardous waste, or operate aboveground or underground storage tanks.

The Sharp Ocean View Tower project will expand the current hospital facility in Chula Vista by constructing an additional 7 story 193,000 square feet tower, adjacent to the current hospital. The added tower will be connected to the existing facility and will include 138 additional beds, 6 operating rooms and a pharmacy. The current hospital is already permitted by HMD, under a ministerial permit.

The HMD cordially requests that the Environmental Impact Report address the requirement of enrolling in DEH's AB 3205 plan check review. That review process will focus on storage of any additional hazardous materials inventory, any additional hazardous and medical waste accumulation areas, and any underground or above ground storage tanks for petroleum products or hazardous materials. Tanks may not be placed in service until approved by DEH. Additionally, the operator will also need to update information reported in the California Environmental Reporting System including the facility site map and hazardous material, medical waste and hazardous waste inventory information.

For your reference, guidance and information for the Hazardous Materials Division requirements can be found at http://www.sandiegocounty.gov/content/sdc/deh/hazmat/hmd_permits.html.

Thank you again for the opportunity to provide input on the scope and content of the environmental document. Please add us to the interested parties list for future notifications and documents including the Draft EIR for this project. If you have any questions regarding the above comments, please contact me at (858) 495-5213

Sincerely,

A handwritten signature in black ink, appearing to read "Danny Martinez".

Danny Martinez
Supervising Environmental Health Specialist
County of San Diego Hazardous Material Division

NATIVE AMERICAN HERITAGE COMMISSION

1550 Harbor Blvd., Suite 100
 West Sacramento, CA 95691
 Phone (916) 373-3710
 Fax (916) 373-5471
 Email: nahc@nahc.ca.gov
 Website: <http://www.nahc.ca.gov>
 Twitter: @CA_NAHC



February 4, 2016

Jeff Steichen
 City of Chula Vista
 276 Fourth Avenue
 Chula Vista, CA 91910

RE: SCH# 2016021010, Sharp Ocean View Tower (DR-15-0030, CUP-15-0025, MPA-15-0021), City of Chula Vista, San Diego County, California

Dear Mr. Steichen:

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

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

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

AB 52

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

1. **Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code § 21080.3.1 (d)).

- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code § 21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code § 21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. (Pub. Resources Code § 21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18). (Pub. Resources Code § 21080.3.1 (b)).
 3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code § 21080.3.2 (a)).
 4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code § 21080.3.2 (a)).
 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code § 21082.3 (c)(1)).
 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code § 21082.3 (b)).
 7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
 - a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code § 21080.3.2 (b)).
 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code § 21082.3 (a)).
 9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code section 21084.3 (b). (Pub. Resources Code § 21082.3 (e)).
 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
 - a. Avoidance and preservation of the resources in place, including, but not limited to:

- i. Planning and construction to avoid the resources and protect the cultural and natural context.
- ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
- c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- d. Protecting the resource. (Pub. Resource Code § 21084.3 (b)).
- e. Please note that a federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code § 815.3 (c)).
- f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code § 5097 991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An environmental impact report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
 - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code § 21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at:
http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code § 65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at:
https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code § 65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code section 65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction. (Gov. Code § 65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have been already recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

Sincerely,



Gayle Totton
Associate Governmental Program Analyst
Gayle.totton@nahc.ca.gov

cc: State Clearinghouse

From: Susan Watry [mailto:S_WATRY@COX.NET]

Sent: Thursday, February 04, 2016 3:13 PM

To: Jeff Steichen

Subject: Per the upcoming E.I.R.

Jeff: This concerns: Environmental Impact Report (EIR:15-0002) for the Sharp Ocean View Tower (DR-15-0030, CUP-15-0025, MPA-15-0021)

Please make sure they do a "shadow study." It seems like it is going to cast shadows on the condo units to the northeast of the site.

Thanks,

Peter Watry

Crossroads II

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Gloria Cazares

Gus Chavez

Helen Thompson

Jeff Steichen, Project Planner
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910

re: EIR15-0002 (Sharp Ocean View Tower)

Dear Sir:

We request that a shadow-effect study of this new Tower building be included in the preparation of the Environmental Impact Report for this project. We are particularly interested in the shadow-effects in, say, December on the condos on neighboring Caminito Cumbres and Caminito Linares streets to the east. The level of these streets seem to be about 60 feet below the level of the hospital streets, so the new buildings might be some 155 feet above the condos (95' + 60').

Thank you,



Peter Watry

RECEIVED

FEB 22 2016

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